

1 **SALES AND USE TAX AMENDMENTS**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: David Litvack**

5 **This act modifies the Sales and Use Tax Act to address the circumstances under which a**
6 **person is required to remit sales and use taxes to the State Tax Commission on a monthly**
7 **basis, and provides procedures and requirements for remitting these sales and use taxes.**

8 **The act modifies provisions allowing a person that is required to remit state sales and use**
9 **taxes to the State Tax Commission on a monthly basis to retain a portion of the state sales**
10 **and use tax revenues the person is required to remit to the State Tax Commission to**
11 **cover the costs of remitting those sales and use tax revenues on a monthly basis. The act**
12 **makes technical changes. The act takes effect on July 1, 2003.**

13 This act affects sections of Utah Code Annotated 1953 as follows:

14 AMENDS:

15 **59-12-108**, as last amended by Chapter 289, Laws of Utah 1998

16 *Be it enacted by the Legislature of the state of Utah:*

17 Section 1. Section **59-12-108** is amended to read:

18 **59-12-108. Monthly payment -- Penalty.**

19 (1) ~~[Any] (a) Notwithstanding Section 59-12-107, a person [whose] that has a tax~~
20 ~~liability under this [part, Part 2, The Local Sales and Use Tax Act, Part 5, Public Transit Tax,~~
21 ~~Part 10, Highways Tax, Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act,~~
22 ~~Subsection 59-12-603(1)(a)(i), and Subsection 59-12-603(1)(a)(ii), was] chapter of \$50,000 or~~
23 ~~more for the previous calendar year shall[, on or before the last day of the month next~~
24 ~~succeeding each calendar month,];~~

25 (i) file a return with the commission [a return];

26 (A) monthly on or before the last day of the month immediately following the current
27 month; and



28 (B) for the preceding [monthly period. The vendor shall] month; and
 29 (ii) remit with the return required by Subsection (1)(a)(i) the amount [of the state and
 30 local tax required under this part, Part 2, The Local Sales and Use Tax Act, Part 5, Public
 31 Transit Tax, Part 10, Highways Tax, Title 10, Chapter 1, Part 3, Municipal Energy Sales and
 32 Use Tax Act, Subsection 59-12-603(1)(a)(i), and Subsection 59-12-603(1)(a)(ii), to be
 33 collected or paid for the period covered by the return. The] the person is required to remit to
 34 the commission for each tax, fee, or charge described in Subsection (1)(b):

35 (A) if that person's tax liability under this chapter for the previous calendar year is less
 36 than \$96,000, by any method permitted by the commission; or

37 (B) if that person's tax liability under this chapter for the previous calendar year is
 38 \$96,000 or more, by electronic funds transfer.

39 (b) Subsection (1)(a)(ii) applies to the following taxes, fees, or charges:

40 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

41 (ii) a fee under Section 19-6-716;

42 (iii) a charge under Section 69-2-5.5; or

43 (iv) a tax under this chapter.

44 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 45 commission shall establish by rule [the] procedures and [guidelines in] requirements for
 46 determining the [tax liability] amount a person is required to remit to the commission under
 47 this [section] Subsection (1).

48 ~~[(2) Any person whose tax liability under this part, Part 2, The Local Sales and Use~~
 49 ~~Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10, Chapter 1, Part 3,~~
 50 ~~Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i), and Subsection~~
 51 ~~59-12-603(1)(a)(ii), was \$96,000 or more for the previous year shall remit the monthly amount~~
 52 ~~of state and local tax payment due under this section to the tax commission by electronic funds~~
 53 ~~transfer.]~~

54 ~~[(3)] (2) (a) Except as provided in Subsection [(3)] (2)(b), a [vendor who is required to~~
 55 ~~remit taxes monthly under this section] person subject to Subsection (1) or a person described~~
 56 ~~in Subsection (3) may retain each month an amount not to exceed [1.5% of the total monthly~~
 57 ~~sales tax collected under Part 1 of this chapter, and];~~

58 (i) for an amount a person is required to remit to the commission under this part:

59 (A) if the amount the person was required to remit to the commission under this part
60 for the previous calendar year was \$71,250 or less, 1.75% of the amount the person remits to
61 the commission:

62 (I) under this part; and

63 (II) for the month for which the person is filing a return in accordance with Subsection
64 (1); or

65 (B) if the amount the person was required to remit to the commission under this part
66 for the previous calendar year was more than \$71,250, 1% of the amount the person remits to
67 the commission:

68 (I) under this part; and

69 (II) for the month for which the person is filing a return in accordance with Subsection
70 (1); and

71 (ii) 1% of [the total monthly sales tax collected under Part 2, The Local Sales and Use
72 Tax Act, Part 5, Public Transit Tax, Part 10, Highways Tax, Title 10, Chapter 1, Part 3,
73 Municipal Energy Sales and Use Tax Act, Subsection 59-12-603(1)(a)(i), and Subsection
74 59-12-603(1)(a)(ii), for the cost to it of collecting and remitting sales and use taxes to the
75 commission on a monthly basis.] any amounts the person is required to remit to the
76 commission for:

77 (A) the month for which the person is filing a return in accordance with Subsection (1);
78 and

79 (B) under:

80 (I) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

81 (II) Part 2, Local Sales and Use Tax Act;

82 (III) Part 5, Public Transit Tax;

83 (IV) Part 10, Highways or Public Transit System Tax;

84 (V) Subsection 59-12-603(1)(a)(i); or

85 (VI) Subsection 59-12-603(1)(a)(ii).

86 (b) [A] Notwithstanding Subsection (2)(a), a state government entity that is required to
87 remit taxes monthly [under this chapter] in accordance with Subsection (1) may not retain [any
88 portion of the taxes it collects to cover the costs of collecting and remitting sales and use taxes
89 to the commission] any amount under Subsection (2)(a).

90 (3) A person that has a tax liability under this chapter for the previous calendar year of
91 less than \$50,000 may:

92 (a) voluntarily meet the requirements of Subsection (1); and

93 (b) if the person voluntarily meets the requirements of Subsection (1), retain the
94 amounts allowed by Subsection (2)(a).

95 (4) Penalties for late payment shall be as provided in Section 59-1-401.

96 Section 2. **Effective date.**

97 This act takes effect on July 1, 2003.

Legislative Review Note
as of 1-29-03 5:42 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0151

Sales and Use Tax Amendments

31-Jan-03

9:31 AM

State Impact

Passage of this bill could increase the General Fund by \$5,690,000 beginning in FY 2004. The Tax Commission would require an appropriation of \$51,600 in FY 2004 to implement the provision of the bill and an appropriation of \$4,500 in FY 2005

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
General Fund	\$51,600	\$4,500	\$5,690,000	\$5,690,000
TOTAL	\$51,600	\$4,500	\$5,690,000	\$5,690,000

Individual and Business Impact

Some business will receive smaller vendor discounts and others will receive greater vendor discounts. Total impact depends on the levels currently remitted to the State.

Office of the Legislative Fiscal Analyst