

1                                   **ITEMIZING SALES AND USE TAX RATES**

2   2003 GENERAL SESSION

3   STATE OF UTAH

4                                   **Sponsor: Glenn A. Donnelson**

5 **This act modifies the Sales and Use Tax Act to require vendors that collect sales or use**  
6 **tax to provide the purchaser an itemized receipt indicating the taxing jurisdictions that**  
7 **impose the sales or use tax. This act provides an effective date of July 1, 2003.**

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

9 AMENDS:

10           **59-12-107**, as last amended by Chapter 104, Laws of Utah 2001

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

12           Section 1. Section **59-12-107** is amended to read:

13           **59-12-107. Collection, remittance, and payment of tax by vendors or other**  
14 **persons -- Returns -- Direct payment by purchaser of vehicle -- Other liability for**  
15 **collection -- Credits -- Deposit and sale of security -- Penalties.**

16           (1) (a) Each vendor shall pay or collect and remit the sales and use taxes imposed by  
17 this chapter if within this state the vendor:

18           (i) has or utilizes:

19           (A) an office;

20           (B) a distribution house;

21           (C) a sales house;

22           (D) a warehouse;

23           (E) a service enterprise; or

24           (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

25           (ii) maintains a stock of goods;

26           (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the  
27 state, unless the vendor's only activity in the state is:



- 28 (A) advertising; or
- 29 (B) solicitation by:
- 30 (I) direct mail;
- 31 (II) electronic mail;
- 32 (III) the Internet;
- 33 (IV) telephone; or
- 34 (V) a means similar to Subsections (1)(a)(iii)(A) or (B);
- 35 (iv) regularly engages in the delivery of property in the state other than by:
- 36 (A) common carrier; or
- 37 (B) United States mail; or
- 38 (v) regularly engages in an activity directly related to the leasing or servicing of
- 39 property located within the state.
- 40 (b) If a vendor does not meet one or more of the criteria provided for in Subsection
- 41 (1)(a), the vendor:
- 42 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
- 43 (A) collect a tax as provided in Subsection 59-12-103(2)(c) on a transaction described
- 44 in Subsection 59-12-103(1); and
- 45 (B) remit the tax to the commission as provided in this part; or
- 46 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax as provided in Subsection
- 47 59-12-103(2)(c) on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1
- 48 requires the vendor to collect the tax.
- 49 (c) A person shall pay a use tax imposed by this chapter on a transaction described in
- 50 Subsection 59-12-103(1) if:
- 51 (i) the vendor did not collect a use tax imposed by this chapter on the transaction; and
- 52 (ii) the person:
- 53 (A) stores the tangible personal property in the state;
- 54 (B) uses the tangible personal property in the state; or
- 55 (C) consumes the tangible personal property in the state.
- 56 (d) Notwithstanding the provisions of Subsection (1)(a), the ownership of property that
- 57 is located at the premises of a printer's facility with which the retailer has contracted for
- 58 printing and that consists of the final printed product, property that becomes a part of the final

59 printed product, or copy from which the printed product is produced, shall not result in the  
60 retailer being considered to have or maintain an office, distribution house, sales house,  
61 warehouse, service enterprise, or other place of business, or to maintain a stock of goods,  
62 within this state.

63 (2) (a) Each vendor shall collect the sales or use tax from the purchaser.

64 (b) A vendor may not collect as tax an amount, without regard to fractional parts of one  
65 cent, in excess of the tax computed at the rates prescribed by this chapter.

66 (c) (i) Each vendor shall:

67 (A) give the purchaser a receipt for the use tax collected; or

68 (B) bill the use tax as a separate item and declare the name of this state and the  
69 vendor's use tax license number on the invoice for the sale.

70 (ii) The receipt or invoice is prima facie evidence that the vendor has collected the use  
71 tax and relieves the purchaser of the liability for reporting the use tax to the commission as a  
72 consumer.

73 (d) (i) In accordance with Subsection (2)(d)(ii), each vendor that collects sales or use  
74 tax under this chapter shall give the purchaser a receipt itemizing the sales or use tax collected  
75 by the vendor.

76 (ii) The receipt described in Subsection (2)(d)(i) shall list as separate items the amounts  
77 collected under each tax imposed by this chapter.

78 (iii) This Subsection (2)(d) applies only to a vendor that prints receipts electronically.

79 (iv) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
80 the commission may make rules defining receipts that are printed electronically.

81 [~~(d)~~] (e) A vendor is not required to maintain a separate account for the tax collected,  
82 but is considered to be a person charged with receipt, safekeeping, and transfer of public  
83 moneys.

84 [~~(e)~~] (f) Taxes collected by a vendor pursuant to this chapter shall be held in trust for  
85 the benefit of the state and for payment to the commission in the manner and at the time  
86 provided for in this chapter.

87 [~~(f)~~] (g) If any vendor, during any reporting period, collects as a tax an amount in  
88 excess of the lawful state and local percentage of total taxable sales allowed under this part and  
89 Part 2, Local Sales and Use Tax Act, the vendor shall remit to the commission the full amount

90 of the tax imposed under this part and Part 2, Local Sales and Use Tax Act, plus any excess.

91 ~~(g)~~ (h) If the accounting methods regularly employed by the vendor in the transaction  
92 of the vendor's business are such that reports of sales made during a calendar month or  
93 quarterly period will impose unnecessary hardships, the commission may accept reports at  
94 intervals that will, in its opinion, better suit the convenience of the taxpayer or vendor and will  
95 not jeopardize collection of the tax.

96 (3) (a) Except as provided in Subsection (4) and in Section 59-12-108, the sales or use  
97 tax imposed by this chapter is due and payable to the commission quarterly on or before the  
98 last day of the month next succeeding each calendar quarterly period.

99 (b) (i) Each vendor shall, on or before the last day of the month next succeeding each  
100 calendar quarterly period, file with the commission a return for the preceding quarterly period.

101 (ii) The vendor shall remit with the return under Subsection (3)(b)(i) the amount of the  
102 tax required under this chapter to be collected or paid for the period covered by the return.

103 (c) Each return shall contain information and be in a form the commission prescribes  
104 by rule.

105 (d) The sales tax as computed in the return shall be based upon the total nonexempt  
106 sales made during the period, including both cash and charge sales.

107 (e) The use tax as computed in the return shall be based upon the total amount of sales  
108 or purchases for storage, use, or other consumption in this state made during the period,  
109 including both by cash and by charge.

110 (f) The commission may by rule extend the time for making returns and paying the  
111 taxes. No extension may be for more than 90 days.

112 (g) The commission may require returns and payment of the tax to be made for other  
113 than quarterly periods if it considers it necessary in order to ensure the payment of the tax  
114 imposed by this chapter.

115 (4) On each vehicle sale made by other than a regular licensed vehicle dealer, the  
116 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to  
117 titling or registration under the laws of this state. The commission shall collect the tax when  
118 the vehicle is titled or registered.

119 (5) If any sale of tangible personal property or any other taxable transaction under  
120 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not

121 responsible for the collection or payment of the tax imposed on the sale if the retailer  
122 represents that the personal property is purchased by the retailer for resale and the personal  
123 property thereafter is not resold. Instead, the retailer is solely liable for the tax.

124 (6) If any sale of property or service subject to the tax is made to a person prepaying  
125 sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or to a  
126 contractor or subcontractor of that person, the person to whom such payment or consideration  
127 is payable is not responsible for the collection or payment of the sales or use tax if the person  
128 prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not  
129 been fully credited against sales or use tax due and payable under the rules promulgated by the  
130 commission. Instead, the person prepaying the sales or use tax is solely liable for the tax.

131 (7) Credit is allowed for prepaid taxes and for taxes paid on that portion of an account  
132 determined to be worthless and actually charged off for income tax purposes or on the portion  
133 of the purchase price remaining unpaid at the time of a repossession made under the terms of a  
134 conditional sales contract.

135 (8) (a) The commission may require any person subject to the tax imposed under this  
136 chapter to deposit with it security as the commission determines, if the commission considers it  
137 necessary to ensure compliance with this chapter.

138 (b) The commission may sell the security at public sale if it becomes necessary to do so  
139 in order to recover any tax, interest, or penalty due.

140 (c) (i) The commission shall serve notice of the sale upon the person who deposited the  
141 securities.

142 (ii) Notice under Subsection (8)(c)(i) sent to the last-known address as it appears in the  
143 records of the commission is sufficient for the purposes of this requirement.

144 (d) The commission shall return to the person who deposited the security any amount  
145 of the sale proceeds that exceed the amounts due under this chapter.

146 (9) (a) A vendor may not, with intent to evade any tax, fail to timely remit the full  
147 amount of tax required by this chapter.

148 (b) A violation of this section is punishable as provided in Section 59-1-401.

149 (c) Each person who fails to pay any tax to the state or any amount of tax required to be  
150 paid to the state, except amounts determined to be due by the commission under Sections  
151 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any

152 return as required by this chapter, shall pay, in addition to the tax, penalties and interest as  
153 provided in Section 59-12-110.

154 (d) For purposes of prosecution under this section, each quarterly tax period in which a  
155 vendor, with intent to evade any tax, collects a tax and fails to timely remit the full amount of  
156 the tax required to be remitted, constitutes a separate offense.

157 Section 2. **Effective date.**

158 This act takes effect on July 1, 2003.

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**Legislative Review Note**  
**as of 1-7-03 3:14 PM**

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

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0220**

**Itemizing Sales and Use Tax Rates**

*29-Jan-03*

*4:50 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

There could be some significant programming costs for retailers to implement the provisions of the bill.

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**Office of the Legislative Fiscal Analyst**