

1                   **AMENDMENTS TO TOURISM, RECREATION,**  
2                   **CULTURAL, CONVENTION, AND AIRPORT**  
3                   **FACILITIES TAX ACT**

4                   2009 GENERAL SESSION

5                   STATE OF UTAH

6                   **Chief Sponsor: Wayne A. Harper**

7                   Senate Sponsor: Wayne L. Niederhauser

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9                   **LONG TITLE**

10                  **General Description:**

11                  This bill amends the Tourism, Recreation, Cultural, Convention, and Airport Facilities  
12                  Tax Act to address the taxation of sales by a restaurant.

13                  **Highlighted Provisions:**

14                  This bill:

- 15                  ▶ provides that sales of alcoholic beverages sold by a restaurant are subject to
- 16                  taxation within a county that imposes a tax on certain sales by a restaurant; and
- 17                  ▶ makes technical changes.

18                  **Monies Appropriated in this Bill:**

19                  None

20                  **Other Special Clauses:**

21                  This bill provides an immediate effective date.

22                  This bill has retrospective operation to January 1, 2007.

23                  **Utah Code Sections Affected:**

24                  AMENDS:

25                  **59-12-603**, as last amended by Laws of Utah 2008, Chapters 286 and 384

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

28                  Section 1. Section **59-12-603** is amended to read:

29                  **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**

30 **ordinance required -- Advisory board -- Administration -- Collection -- Distribution --**  
31 **Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

32 (1) (a) In addition to any other taxes, a county legislative body may, as provided in  
33 this part, impose a tax as follows:

34 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%  
35 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases  
36 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor  
37 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

38 (B) beginning on or after January 1, 1999, a county legislative body of any county  
39 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under  
40 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals  
41 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made  
42 for the purpose of temporarily replacing a person's motor vehicle that is being repaired  
43 pursuant to a repair or an insurance agreement;

44 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of  
45 all sales of the following that are sold by a restaurant:

46 [~~(A) prepared food; or~~]

47 (A) alcoholic beverages;

48 (B) food and food ingredients; [and] or

49 (C) prepared food; and

50 (iii) a county legislative body of a county of the first class may impose a tax of not to  
51 exceed .5% on charges for the accommodations and services described in Subsection  
52 59-12-103(1)(i).

53 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section  
54 17-31-5.5.

55 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided  
56 for in Subsections (1)(a)(i) through (iii) may be used for:

57 (i) financing tourism promotion; and

58 (ii) the development, operation, and maintenance of:

59 (A) an airport facility;

60 (B) a convention facility;

61 (C) a cultural facility;

62 (D) a recreation facility; or

63 (E) a tourist facility.

64 (b) A county of the first class shall expend at least \$450,000 each year of the revenues  
65 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a  
66 marketing and ticketing system designed to:

67 (i) promote tourism in ski areas within the county by persons that do not reside within  
68 the state; and

69 (ii) combine the sale of:

70 (A) ski lift tickets; and

71 (B) accommodations and services described in Subsection 59-12-103(1)(i).

72 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other  
73 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14,  
74 Local Government Bonding Act, or a community development and renewal agency under Title  
75 17C, Chapter 1, Part 5, Agency Bonds, to finance:

76 (a) an airport facility;

77 (b) a convention facility;

78 (c) a cultural facility;

79 (d) a recreation facility; or

80 (e) a tourist facility.

81 (4) (a) In order to impose the tax under Subsection (1), each county legislative body  
82 shall adopt an ordinance imposing the tax.

83 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the  
84 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on  
85 those items and sales described in Subsection (1).

86 (c) The name of the county as the taxing agency shall be substituted for that of the  
87 state where necessary, and an additional license is not required if one has been or is issued  
88 under Section 59-12-106.

89 (5) In order to maintain in effect its tax ordinance adopted under this part, each county  
90 legislative body shall, within 30 days of any amendment of any applicable provisions of Part  
91 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable  
92 amendments to Part 1, Tax Collection.

93 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory  
94 board in accordance with Section 17-31-8, the county legislative body of the county of the first  
95 class shall create a tax advisory board in accordance with this Subsection (6).

96 (b) The tax advisory board shall be composed of nine members appointed as follows:

97 (i) four members shall be appointed by the county legislative body of the county of the  
98 first class as follows:

99 (A) one member shall be a resident of the unincorporated area of the county;

100 (B) two members shall be residents of the incorporated area of the county; and

101 (C) one member shall be a resident of the unincorporated or incorporated area of the  
102 county; and

103 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or  
104 towns within the county of the first class appointed by an organization representing all mayors  
105 of cities and towns within the county of the first class.

106 (c) Five members of the tax advisory board constitute a quorum.

107 (d) The county legislative body of the county of the first class shall determine:

108 (i) terms of the members of the tax advisory board;

109 (ii) procedures and requirements for removing a member of the tax advisory board;

110 (iii) voting requirements, except that action of the tax advisory board shall be by at  
111 least a majority vote of a quorum of the tax advisory board;

112 (iv) chairs or other officers of the tax advisory board;

113 (v) how meetings are to be called and the frequency of meetings; and

114 (vi) the compensation, if any, of members of the tax advisory board.

115 (e) The tax advisory board under this Subsection (6) shall advise the county legislative  
116 body of the county of the first class on the expenditure of revenues collected within the county  
117 of the first class from the taxes described in Subsection (1)(a).

118 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part  
119 shall be administered, collected, and enforced in accordance with:

120 (A) the same procedures used to administer, collect, and enforce the tax under:

121 (I) Part 1, Tax Collection; or

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

123 (B) Chapter 1, General Taxation Policies.

124 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or  
125 Subsections 59-12-205(2) through (6).

126 (b) Except as provided in Subsection (7)(c):

127 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the  
128 commission shall distribute the revenues to the county imposing the tax; and

129 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the  
130 revenues according to the distribution formula provided in Subsection (8).

131 (c) The commission shall deduct from the distributions under Subsection (7)(b) an  
132 administrative charge for collecting the tax as provided in Section 59-12-206.

133 (8) The commission shall distribute the revenues generated by the tax under  
134 Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according  
135 to the following formula:

136 (a) the commission shall distribute 70% of the revenues based on the percentages  
137 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by  
138 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

139 (b) the commission shall distribute 30% of the revenues based on the percentages  
140 generated by dividing the population of each county collecting a tax under Subsection  
141 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection

142 (1)(a)(i)(B).

143 (9) (a) For purposes of this Subsection (9):

144 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
145 Annexation to County.

146 (ii) "Annexing area" means an area that is annexed into a county.

147 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county  
148 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or  
149 change shall take effect:

150 (A) on the first day of a calendar quarter; and

151 (B) after a 90-day period beginning on the date the commission receives notice  
152 meeting the requirements of Subsection (9)(b)(ii) from the county.

153 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

154 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

155 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

156 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

157 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
158 (9)(b)(ii)(A), the rate of the tax.

159 (c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of  
160 the first billing period:

161 (A) that begins after the effective date of the enactment of the tax or the tax rate  
162 increase; and

163 (B) if the billing period for the transaction begins before the effective date of the  
164 enactment of the tax or the tax rate increase imposed under Subsection (1).

165 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
166 billing period:

167 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

168 and

169 (B) if the billing period for the transaction begins before the effective date of the

170 repeal of the tax or the tax rate decrease imposed under Subsection (1).

171 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or  
172 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a  
173 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

174 (A) on the first day of a calendar quarter; and

175 (B) after a 90-day period beginning on the date the commission receives notice  
176 meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing  
177 area.

178 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

179 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,  
180 repeal, or change in the rate of a tax under this part for the annexing area;

181 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

182 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

183 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
184 (9)(d)(ii)(A), the rate of the tax.

185 (e) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of  
186 the first billing period:

187 (A) that begins after the effective date of the enactment of the tax or the tax rate  
188 increase; and

189 (B) if the billing period for the transaction begins before the effective date of the  
190 enactment of the tax or the tax rate increase imposed under Subsection (1).

191 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
192 billing period:

193 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
194 and

195 (B) if the billing period for the transaction begins before the effective date of the  
196 repeal of the tax or the tax rate decrease imposed under Subsection (1).

197 **Section 2. Effective date -- Retrospective operation.**

198           This bill:

199           (1) if approved by two-thirds of all the members elected to each house, takes effect  
200 upon approval by the governor, or the day following the constitutional time limit of Utah  
201 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
202 the date of veto override; and

203           (2) has retrospective operation to January 1, 2007.