

Part 21
City or Town Option Sales and Use Tax Act

59-12-2101 Title.

This part is known as the "City or Town Option Sales and Use Tax Act."

Enacted by Chapter 323, 2008 General Session

59-12-2102 Definitions.

As used in this part:

- (1) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.
- (2) "Annexing area" means an area that is annexed into a city or town.

Enacted by Chapter 323, 2008 General Session

59-12-2103 Imposition of tax -- Base -- Rate -- Expenditure of revenue collected from the tax -- Administration, collection, and enforcement of tax by commission -- Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.

- (1)
 - (a) Subject to the other provisions of this section and except as provided in Subsection (2) or (3), beginning on January 1, 2009 and ending on June 30, 2016, if a city or town receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or town would have received a tax revenue distribution of less than .75% of the taxable sales within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or town legislative body may impose a sales and use tax of up to .20% on the transactions:
 - (i) described in Subsection 59-12-103(1); and
 - (ii) within the city or town.
 - (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall expend the revenue collected from the tax for the same purposes for which the city or town may expend the city's or town's general fund revenue.
 - (c) For purposes of this Subsection (1), the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (2)
 - (a) A city or town legislative body may not impose a tax under this section on:
 - (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt from taxation under Section 59-12-104; and
 - (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food ingredients.
 - (b) A city or town legislative body imposing a tax under this section shall impose the tax on amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.
- (3)
 - (a) Beginning on January 1, 2009, and ending on June 30, 2016, to impose a tax under this part, a city or town legislative body shall obtain approval from a majority of the members of the city or town legislative body.

- (b) If, on June 30, 2016, a city or town is not imposing a tax under this part, the city or town legislative body may not impose a tax under this part beginning on or after July 1, 2016.
- (c)
 - (i) If, on June 30, 2016, a city or town imposes a tax under this part, the city or town shall repeal the tax on July 1, 2016, unless, on or after July 1, 2012, but on or before March 31, 2016, the city or town legislative body obtains approval from a majority vote of the members of the city or town legislative body to continue to impose the tax.
 - (ii) If a city or town obtains approval under Subsection (3)(c)(i) from a majority vote of the members of the city or town legislative body to continue to impose a tax under this part on or after July 1, 2016, the city or town may impose the tax until no later than June 30, 2030.
- (4) The commission shall transmit revenue collected within a city or town from a tax under this part:
 - (a) to the city or town legislative body;
 - (b) monthly; and
 - (c) by electronic funds transfer.
- (5)
 - (a) Except as provided in Subsection (5)(b), the commission shall administer, collect, and enforce a tax under this part in accordance with:
 - (i) the same procedures used to administer, collect, and enforce the tax under:
 - (A) Part 1, Tax Collection; or
 - (B) Part 2, Local Sales and Use Tax Act; and
 - (ii) Chapter 1, General Taxation Policies.
 - (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).
- (6) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.
- (7)
 - (a)
 - (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(a)(i) from the city or town.
 - (ii) The notice described in Subsection (7)(a)(i)(B) shall state:
 - (A) that the city or town will enact or repeal a tax or change the rate of the tax under this part;
 - (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
 - (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and
 - (D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.
 - (b)
 - (i) If the billing period for a transaction begins before the enactment of the tax or the tax rate increase under Subsection (1), the enactment of the tax or the tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.
 - (ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.
 - (c)

- (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(a)(i) takes effect:
 - (A) on the first day of a calendar quarter; and
 - (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (7)(a)(i).
 - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (d)
- (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
 - (A) on the first day of a calendar quarter; and
 - (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.
 - (ii) The notice described in Subsection (7)(d)(i)(B) shall state:
 - (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the enactment, repeal, or change in the rate of a tax under this part for the annexing area;
 - (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);
 - (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and
 - (D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (7)(d)(ii)(A), the rate of the tax.
- (e)
- (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the enactment of the tax or the tax rate increase.
 - (ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease.
- (f)
- (i) If a tax due under this part on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (7)(d)(i) takes effect:
 - (A) on the first day of a calendar quarter; and
 - (B) beginning 60 days after the effective date of the enactment, repeal, or change under Subsection (7)(d)(i).
 - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

Amended by Chapter 364, 2016 General Session

59-12-2104 Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this part if the seller's or certified service provider's failure to collect the tax is as a result of

the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

- (1) containing tax rates, boundaries, or local taxing jurisdiction assignments; or
- (2) indicating the taxability of tangible personal property, a product transferred electronically, or a service.

Amended by Chapter 203, 2009 General Session

59-12-2105 Certified service provider or model 2 seller reliance on commission certified software.

- (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this part if:
 - (a) the certified service provider or model 2 seller relies on software the commission certifies; and
 - (b) the certified service provider's or model 2 seller's failure to collect a tax required under this part is as a result of the seller's or certified service provider's reliance on incorrect data:
 - (i) provided by the commission; or
 - (ii) in the software the commission certifies.
- (2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.
- (3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:
 - (a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and
 - (b) state in the notice required by Subsection (3)(a) that the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the incorrectly classified product category if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice.
- (4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this part on the item or transaction.

Enacted by Chapter 323, 2008 General Session

59-12-2106 Purchaser relief from liability.

- (1)
 - (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if:
 - (i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:
 - (A) on a tax rate;
 - (B) on a boundary;
 - (C) on a taxing jurisdiction; or
 - (D) in the taxability matrix the commission provides in accordance with the agreement; or
 - (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

- (A) on a tax rate;
 - (B) on a boundary;
 - (C) on a taxing jurisdiction; or
 - (D) in the taxability matrix the commission provides in accordance with the agreement.
- (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this part or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:
- (i) fraudulent;
 - (ii) intentional; or
 - (iii) willful.
- (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this part or an underpayment if:
- (a) the purchaser's seller or certified service provider relies on:
- (i) incorrect data provided by the commission:
 - (A) on a tax rate;
 - (B) on a boundary; or
 - (C) on a taxing jurisdiction; or
 - (ii) an erroneous classification by the commission:
 - (A) in the taxability matrix the commission provides in accordance with the agreement; and
 - (B) with respect to a term:
 - (I) in the library of definitions; and
 - (II) that is:
 - (Aa) listed as taxable or exempt;
 - (Bb) included in or excluded from "sales price"; or
 - (Cc) included in or excluded from a definition; or
- (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:
- (i) incorrect data provided by the commission:
 - (A) on a tax rate;
 - (B) on a boundary; or
 - (C) on a taxing jurisdiction; or
 - (ii) an erroneous classification by the commission:
 - (A) in the taxability matrix the commission provides in accordance with the agreement; and
 - (B) with respect to a term:
 - (I) in the library of definitions; and
 - (II) that is:
 - (Aa) listed as taxable or exempt;
 - (Bb) included in or excluded from "sales price"; or
 - (Cc) included in or excluded from a definition.

Enacted by Chapter 323, 2008 General Session