

## **Part 2**

### **Local Sales and Use Tax Act**

#### **59-12-201 Title.**

This part is known as the "Local Sales and Use Tax Act."

Amended by Chapter 21, 1999 General Session

#### **59-12-202 Purpose and intent.**

- (1) It is the purpose of this part to provide the counties, cities, and towns of the state with an added source of revenue and to thereby assist them to meet their growing financial needs. It is the legislative intent that this added revenue be used to the greatest possible extent by the counties, cities, and towns to finance their capital outlay requirements and to service their bonded indebtedness.
- (2) It is the purpose of this part to provide an orderly and efficient system of administering, operating, and enforcing the state and local option sales and use tax. The Legislature finds that intervention by counties, cities, and towns into the administration, operation, and enforcement of the local sales and use tax, particularly in the hearing and appeal process, increases the cost of administering both the local option sales and use tax and the state sales and use tax proceedings, and substantially delays the receipt of revenues for counties, cities, towns, and the state. The Legislature finds that the interests and concerns of counties, cities, and towns can be adequately protected through the commission's enforcement efforts. It is therefore the Legislature's intent to grant the commission exclusive authority to administer, operate, and enforce the local option sales and use tax, without interference from counties, cities, and towns and to allow intervention by any county, city, or town only in the limited circumstances where a particular hearing or appeal may result in a significant lessening of the revenues of any single county, city, or town.

Amended by Chapter 259, 1994 General Session

#### **59-12-203 County, city, or town may levy tax -- Contracts pursuant to Interlocal Cooperation Act.**

- (1) As used in this section, "converted municipality" means the same as that term is defined in Section 10-1-201.5.
- (2) A county, city, or town may impose a sales and use tax under this part.
- (3)
  - (a) Except as provided in Subsection (3)(b), if a converted municipality imposes a tax under this part, the State Tax Commission shall distribute the amount that the State Tax Commission calculates under Section 59-12-205 to the converted municipality.
  - (b) The State Tax Commission shall transfer the amount that would otherwise be distributed to a converted municipality under this part to a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act, if the converted municipality:
    - (i) provides written notice to the State Tax Commission requesting the transfer; and
    - (ii) designates the municipal services district to which the converted municipality requests the State Tax Commission to transfer the revenues.
- (4) A county, city, or town that imposes a sales and use tax under this part may:
  - (a) enter into agreements authorized by Title 11, Chapter 13, Interlocal Cooperation Act; and

- (b) use any or all of the revenue collected from the tax for the mutual benefit of local governments that elect to contract with one another pursuant to Title 11, Chapter 13, Interlocal Cooperation Act.

Amended by Chapter 438, 2024 General Session

**59-12-204 Sales and use tax ordinance provisions -- Tax rate -- Distribution of tax revenues -- Commission requirement to retain an amount to be deposited into the Qualified Emergency Food Agencies Fund.**

- (1) The tax ordinance adopted pursuant to this part shall impose a tax upon those transactions listed in Subsection 59-12-103(1).
- (2)
  - (a) The tax ordinance under Subsection (1) shall include a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within a county, including areas contained within the cities and towns located in the county:
    - (i) at the rate of 1% of the purchase price paid or charged; and
    - (ii) if the location of the transaction is within the county as determined under Sections 59-12-211 through 59-12-215.
  - (b) Notwithstanding Subsection (2)(a), a tax ordinance under this Subsection (2) shall include a provision prohibiting a county, city, or town from imposing a tax under this section on 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.
- (3) Such tax ordinance shall include provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the name of the county as the taxing agency shall be substituted for that of the state where necessary for the purpose of this part and that an additional license is not required if one has been or is issued under Section 59-12-106.
- (4) Such tax ordinance shall include a provision that the county shall contract, prior to the effective date of the ordinance, with the commission to perform all functions incident to the administration or operation of the ordinance.
- (5) Such tax ordinance shall include a provision that the sale, storage, use, or other consumption of tangible personal property, the purchase price or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county, city, or town in any other county in this state, shall be exempt from the tax due under this ordinance.
- (6) Such tax ordinance shall include a provision that any person subject to the provisions of a city or town sales and use tax shall be exempt from the county sales and use tax if the city or town sales and use tax is levied under an ordinance including provisions in substance as follows:
  - (a) a provision imposing a tax upon every transaction listed in Subsection 59-12-103(1) made within the city or town at the rate imposed by the county in which it is situated pursuant to Subsection (2);
  - (b) notwithstanding Subsection (2)(a), a provision prohibiting the city or town from imposing a tax under this section on 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;
  - (c) provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales and use taxes, except that the name of the city or town as the taxing agency shall be substituted for that of the state where necessary for the purposes of this part;

- (d) a provision that the city or town shall contract prior to the effective date of the city or town sales and use tax ordinance with the commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city or town;
  - (e) a provision that the sale, storage, use, or other consumption of tangible personal property, the gross receipts from the sale of or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county other than the county in which the city or town is located, or city or town in this state, shall be exempt from the tax; and
  - (f) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not be included as a part of the purchase price paid or charged for a taxable item.
- (7)
- (a) Notwithstanding any other provision of this section, beginning on July 1, 2009, the commission shall calculate and retain a portion of the sales and use tax collected under this part as provided in this Subsection (7).
  - (b) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall calculate a percentage each month by dividing the sales and use tax collected under this part for that month within the boundaries of that city, town, or unincorporated area of a county by the total sales and use tax collected under this part for that month within the boundaries of all of the cities, towns, and unincorporated areas of the counties that impose a tax under this part.
  - (c) For a city, town, or unincorporated area of a county that imposes a tax under this part, the commission shall retain each month an amount equal to the product of:
    - (i) the percentage the commission determines for the month under Subsection (7)(b) for the city, town, or unincorporated area of a county; and
    - (ii) \$25,417.
  - (d) The commission shall deposit an amount the commission retains in accordance with this Subsection (7) into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009.
  - (e) An amount the commission deposits into the Qualified Emergency Food Agencies Fund shall be expended as provided in Section 35A-8-1009.

Amended by Chapter 258, 2014 General Session

**59-12-205 Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.**

- (1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:
  - (a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and
  - (b) as required to conform to the amendments to Part 1, Tax Collection.
- (2)
  - (a) Except as provided in Subsections (3) and (4) and subject to Subsection (5):
    - (i) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and
    - (ii)

- (A) except as provided in Subsections (2)(a)(ii)(B), (C), and (D), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;
  - (B) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201;
  - (C) beginning July 1, 2024, 20% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201; and
  - (D) 50% of each dollar collected from the sales and use tax authorized by this part within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter following the creation of the Utah Lake Authority.
- (b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.
- (3)
- (a) As used in this Subsection (3):
    - (i) "Eligible county, city, or town" means a county, city, or town that:
      - (A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (3)(b) equal to the amount described in Subsection (3)(b)(ii); and
      - (B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.
    - (ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.
  - (b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:
    - (i) the payment required by Subsection (2); or
    - (ii) the minimum tax revenue distribution.
- (4)
- (a) For purposes of this Subsection (4):
    - (i) "Annual local contribution" means the lesser of \$275,000 or an amount equal to 2.55% of the participating local government's tax revenue distribution amount under Subsection (2)(a)(i) for the previous fiscal year.
    - (ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality certified in accordance with Section 35A-16-404.
  - (b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a)(i) to a participating local government, shall:
    - (i) adjust a participating local government's tax revenue distribution under Subsection (2)(a)(i) by:
      - (A) subtracting an amount equal to one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution; and

- (B) if applicable, reducing the amount described in Subsection (4)(b)(i)(A) by an amount equal to one-twelfth of \$250 for each bed that is available at all homeless shelters located within the boundaries of the participating local government, as reported to the commission by the Office of Homeless Services in accordance with Section 35A-16-405; and
  - (ii) deposit the resulting amount described in Subsection (4)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.
  - (c) For a participating local government that qualifies to receive a distribution described in Subsection (3), the commission shall apply the provisions of this Subsection (4) after the commission applies the provisions of Subsection (3).
- (5)
- (a) As used in this Subsection (5):
    - (i) "Annual dedicated sand and gravel sales tax revenue" means an amount equal to the total revenue an establishment described in NAICS Code 327320, Ready-Mix Concrete Manufacturing, of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, collects and remits under this part for a calendar year.
    - (ii) "Sand and gravel" means sand, gravel, or a combination of sand and gravel.
    - (iii) "Sand and gravel extraction site" means a pit, quarry, or deposit that:
      - (A) contains sand and gravel; and
      - (B) is assessed by the commission in accordance with Section 59-2-201.
    - (iv) "Ton" means a short ton of 2,000 pounds.
    - (v) "Tonnage ratio" means the ratio of:
      - (A) the total amount of sand and gravel, measured in tons, sold during a calendar year from all sand and gravel extraction sites located within a county, city, or town; to
      - (B) the total amount of sand and gravel, measured in tons, sold during the same calendar year from sand and gravel extraction sites statewide.
  - (b) For purposes of calculating the ratio described in Subsection (5)(a)(v), the commission shall:
    - (i) use the gross sales data provided to the commission as part of the commission's property tax valuation process; and
    - (ii) if a sand and gravel extraction site operates as a unit across municipal or county lines, apportion the reported tonnage among the counties, cities, or towns based on the percentage of the sand and gravel extraction site located in each county, city, or town, as approximated by the commission.
  - (c)
    - (i) Beginning July 2023, and each July thereafter, the commission shall distribute from total collections under this part an amount equal to the annual dedicated sand and gravel sales tax revenue for the preceding calendar year to each county, city, or town in the same proportion as the county's, city's, or town's tonnage ratio for the preceding calendar year.
    - (ii) The commission shall ensure that the revenue distributed under this Subsection (5)(c) is drawn from each jurisdiction's collections in proportion to the jurisdiction's share of total collections for the preceding 12-month period.
  - (d) A county, city, or town shall use revenue described in Subsection (5)(c) for class B or class C roads.
- (6)
- (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.
  - (b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

- (c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Amended by Chapter 535, 2024 General Session

**59-12-206 Collection of taxes by commission -- Administrative charge.**

- (1) The commission shall transmit the sales and use tax revenues the commission collects in accordance with a contract with any county, city, or town monthly by electronic funds transfer.
- (2) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenues the commission collects from a tax under this part.

Amended by Chapter 309, 2011 General Session

**59-12-208.1 Enactment or repeal of tax -- Effective date -- Notice requirements.**

- (1) For purposes of this section:
  - (a) "Annexation" means an annexation to:
    - (i) a county under Title 17, Chapter 2, County Consolidations and Annexations; or
    - (ii) a city or town under Title 10, Chapter 2, Part 4, Annexation.
  - (b) "Annexing area" means an area that is annexed into a county, city, or town.
- (2)
  - (a) Except as provided in Subsection (2)(c) or (d), if, on or after July 1, 2004, a county, city, or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the county, city, or town.
  - (b) The notice described in Subsection (2)(a)(ii) shall state:
    - (i) that the county, city, or town will enact or repeal a tax under this part;
    - (ii) the statutory authority for the tax described in Subsection (2)(b)(i);
    - (iii) the effective date of the tax described in Subsection (2)(b)(i); and
    - (iv) if the county, city, or town enacts the tax described in Subsection (2)(b)(i), the rate of the tax.
  - (c)
    - (i) The enactment of a tax takes effect on the first day of the first billing period:
      - (A) that begins on or after the effective date of the enactment of the tax; and
      - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.
    - (ii) The repeal of a tax 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 imposed under Section 59-12-204.
  - (d)
    - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (2)(a) takes effect:
      - (A) on the first day of a calendar quarter; and
      - (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (2)(a).
    - (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

- (3)
  - (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment or repeal of a tax under this part for an annexing area, the enactment or repeal shall take effect:
    - (i) on the first day of a calendar quarter; and
    - (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from the county, city, or town that annexes the annexing area.
  - (b) The notice described in Subsection (3)(a)(ii) shall state:
    - (i) that the annexation described in Subsection (3)(a) will result in an enactment or repeal of a tax under this part for the annexing area;
    - (ii) the statutory authority for the tax described in Subsection (3)(b)(i);
    - (iii) the effective date of the tax described in Subsection (3)(b)(i); and
    - (iv) the rate of the tax described in Subsection (3)(b)(i).
  - (c)
    - (i) The enactment of a tax takes effect on the first day of the first billing period:
      - (A) that begins on or after the effective date of the enactment of the tax; and
      - (B) if the billing period for the transaction begins before the effective date of the enactment of the tax under Section 59-12-204.
    - (ii) The repeal of a tax 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 imposed under Section 59-12-204.
  - (d)
    - (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in Subsection (3)(a) takes effect:
      - (A) on the first day of a calendar quarter; and
      - (B) beginning 60 days after the effective date of the enactment or repeal under Subsection (3)(a).
    - (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 254, 2012 General Session

**59-12-209 Participation of qualifying jurisdictions in administration and enforcement of certain local sales and use taxes -- Petition for reconsideration relating to the redistribution of certain sales and use tax revenues.**

- (1) As used in this section, "qualifying jurisdiction" means the same as that term is defined in Section 59-1-403.
- (2) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, a qualifying jurisdiction does not have the right to any of the following, except as specifically allowed by Subsection (3) and Section 59-12-210:
  - (a) to inspect, review, or have access to any taxpayer sales and use tax records; or
  - (b) to be informed of, participate in, intervene in, or appeal from any adjudicative proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any taxpayer for sales and use taxes imposed pursuant to this chapter.
- (3)

- (a) A qualifying jurisdiction shall have access to records and information on file with the commission, and shall have the right to notice of, and rights to intervene in or to appeal from, a proposed final agency action of the commission as provided in this Subsection (3).
- (b) If the commission, following a formal adjudicative proceeding commenced pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final agency action that would reduce the amount of sales and use tax liability alleged in the notice of deficiency, the commission shall provide notice of a proposed agency action to each qualifying jurisdiction if the proposed final agency action reduces a tax under this chapter distributable to that qualifying jurisdiction by more than \$10,000 below the amount of the tax that would have been distributable to that qualifying jurisdiction had a notice of deficiency, as described in Section 59-1-1405, not been reduced.
- (c) A qualifying jurisdiction that receives notice described in Subsection (3)(b) may designate a representative who shall have the right to review the record of the formal hearing and any other commission records relating to a proposed final agency action subject to the confidentiality provisions of Section 59-1-403.
- (d) No later than 10 days after receiving the notice of the commission's proposed final agency action, a qualifying jurisdiction may file a notice of intervention with the commission.
- (e) No later than 20 days after filing a notice of intervention, if a qualifying jurisdiction objects to the proposed final agency action, that qualifying jurisdiction may file a petition for reconsideration with the commission and shall serve copies of the petition on the taxpayer and the appropriate division in the commission.
- (f) The taxpayer and appropriate division in the commission may each file a response to the petition for reconsideration within 20 days of receipt of the petition for reconsideration.
- (g)
  - (i) After consideration of the petition for reconsideration and any response, and any additional proceeding the commission considers appropriate, the commission may affirm, modify, or amend its proposed final agency action.
  - (ii) A taxpayer and any qualifying jurisdiction that has filed a petition for reconsideration may appeal the final agency action.
- (h)
  - (i) Notwithstanding Subsections (3)(a) through (g) and subject to Subsection (3)(h)(ii), the following may file a petition for reconsideration with the commission:
    - (A) an original recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2); or
    - (B) a secondary recipient political subdivision as defined in Section 59-12-210.1 that receives a notice from the commission in accordance with Subsection 59-12-210.1(2).
  - (ii) An original recipient political subdivision or secondary recipient political subdivision that files a petition for reconsideration with the commission under Subsection (3)(h)(i) shall file the petition no later than 20 days after the later of:
    - (A) the date the original recipient political subdivision or secondary recipient political subdivision receives the notice described in Subsection (3)(h)(i) from the commission; or
    - (B) the date the commission makes the redistribution as defined in Section 59-12-210.1 that is the subject of the notice described in Subsection (3)(h)(i).

Amended by Chapter 367, 2021 General Session  
Amended by Chapter 367, 2021 General Session, (Coordination Clause)  
Amended by Chapter 414, 2021 General Session  
Amended by Chapter 29, 2020 General Session, (Coordination Clause)

**59-12-210 Commission to provide data to counties.**

- (1) As used in this section, "qualifying jurisdiction" means the same as that term is defined in Section 59-1-403.
- (2)
  - (a) The commission shall provide to each qualifying jurisdiction the sales and use tax collection data necessary to verify that sales and use tax revenues collected by the commission are distributed to each qualifying jurisdiction in accordance with Sections 59-12-211 through 59-12-215.
  - (b) The data described in Subsection (2)(a) shall include the commission's reports of seller sales, sales and use tax distribution reports, and a breakdown of local revenues.
- (3)
  - (a) In addition to the access to information provided in Subsection (1) and Section 59-12-109, the commission shall provide a qualifying jurisdiction with copies of returns and other information required by this chapter relating to a tax under this chapter.
  - (b) The information described in Subsection (3)(a) is available only in official matters and must be requested in writing by the chief executive officer or the chief executive officer's designee.
  - (c) The request described in Subsection (3)(b) shall specifically indicate the information being sought and how the information will be used.
  - (d) Information received pursuant to the request described in Subsection (3)(b) shall be:
    - (i) classified as private or protected under Section 63G-2-302 or 63G-2-305; and
    - (ii) subject to the confidentiality provisions of Section 59-1-403.

Amended by Chapter 367, 2021 General Session

Amended by Chapter 367, 2021 General Session, (Coordination Clause)

Amended by Chapter 414, 2021 General Session

Amended by Chapter 29, 2020 General Session, (Coordination Clause)

**59-12-210.1 Commission redistribution of certain sales and use tax revenues.**

- (1) As used in this section:
  - (a) "Eligible portion of qualifying sales and use tax revenues" means the portion of qualifying sales and use tax revenues that:
    - (i) were part of an original distribution; and
    - (ii) the commission determines should have been transmitted:
      - (A) to a secondary recipient political subdivision; and
      - (B) during the redistribution period.
  - (b) "Original distribution" means that the commission:
    - (i) collects an amount of qualifying sales and use tax revenues; and
    - (ii) transmits the amount of qualifying sales and use tax revenues to an original recipient political subdivision.
  - (c) "Original recipient political subdivision" means a county, city, or town to which the commission makes an original distribution.
  - (d) "Qualifying sales and use tax revenues" means revenues the commission collects from a tax under this chapter except for a tax imposed under:
    - (i) Part 1, Tax Collection;
    - (ii) Part 3, Transient Room Tax, if a county, city, or town:
      - (A) collects the tax; and
      - (B) does not contract with the commission to collect the tax;

- (iii) Part 12, Motor Vehicle Rental Tax; or
  - (iv) Part 18, Additional State Sales and Use Tax Act.
  - (e) "Redistribution" means that the commission:
    - (i) makes an original distribution of qualifying sales and use tax revenues to an original recipient political subdivision;
    - (ii) after the commission makes the original distribution of qualifying sales and use tax revenues to the original recipient political subdivision, determines that an eligible portion of qualifying sales and use tax revenues should have been transmitted to a secondary recipient political subdivision as a result of:
      - (A) a county, city, or town providing written notice to the commission that qualifying sales and use tax revenues that the commission distributed to an original recipient political subdivision should have been transmitted to a secondary recipient political subdivision; or
      - (B) the commission finding that an extraordinary circumstance, as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exists that requires the commission to make a redistribution without receiving the notice described in Subsection (1)(e)(ii)(A); and
    - (iii) in accordance with this section, transmits to the secondary recipient political subdivision the eligible portion of qualifying sales and use tax revenues for the redistribution period.
  - (f) "Redistribution determination date" means the date the commission determines that a secondary recipient political subdivision should have received a redistribution, regardless of the date the commission actually transmits the redistribution to the secondary recipient political subdivision.
  - (g) "Redistribution period" means the time period:
    - (i) if the commission determines that an eligible portion of qualifying sales and use tax revenues should have been transmitted to a secondary recipient political subdivision beginning on a date that is 90 or more days before the redistribution determination date:
      - (A) beginning 90 days before the redistribution determination date; and
      - (B) ending on the redistribution determination date; or
    - (ii) if the commission determines that an eligible portion of qualifying sales and use tax revenues should have been transmitted to a secondary recipient political subdivision beginning on a date that is less than 90 days before the redistribution determination date:
      - (A) beginning on the date the eligible portion of qualifying sales and use tax revenues should have been transmitted to the secondary recipient political subdivision; and
      - (B) ending on the redistribution determination date.
  - (h) "Secondary recipient political subdivision" means a county, city, or town that the commission determines should receive a redistribution.
- (2) Subject to Subsection (3), the commission may make a redistribution to a secondary recipient political subdivision in an amount equal to the eligible portion of qualifying sales and use tax revenues if:
- (a) the commission provides written notice to the following within 15 days after the commission determines to make the redistribution:
    - (i) the original recipient political subdivision; and
    - (ii) the secondary recipient political subdivision; and
  - (b) the commission obtains:
    - (i) an amended return from each seller that reports a transaction that will be subject to the redistribution; or
    - (ii) if the commission determines that an amended return described in Subsection (2)(b)(i) is not required to make the redistribution, information:

- (A) supporting the redistribution; and
- (B) supplied by:
  - (I) a seller;
  - (II) a county, city, or town; or
  - (III) the commission.
- (3) The commission shall make a redistribution within 60 days after the requirements of Subsection (2) are met.
- (4) This section does not limit the commission's authority to make a distribution of revenues under this chapter for a time period other than the redistribution period.

Enacted by Chapter 240, 2009 General Session

**59-12-211 Definitions -- Location of certain transactions -- Reports to commission -- Direct payment provision for a seller making certain purchases -- Exceptions.**

- (1) As used in this section:
  - (a)
    - (i) "Receipt" and "receive" mean:
      - (A) taking possession of tangible personal property;
      - (B) making first use of a service; or
      - (C) for a product transferred electronically, the earlier of:
        - (I) taking possession of the product transferred electronically; or
        - (II) making first use of the product transferred electronically.
    - (ii) "Receipt" and "receive" do not include possession by a shipping company on behalf of a purchaser.
  - (b) "Transportation equipment" means:
    - (i) a locomotive or rail car that is used to carry a person or property in interstate commerce;
    - (ii) a truck or truck-tractor:
      - (A) with a gross vehicle weight rating of 10,001 pounds or more;
      - (B) registered under Section 41-1a-301; and
      - (C) operated under the authority of a carrier authorized and certificated:
        - (I) by the United States Department of Transportation or another federal authority; and
        - (II) to engage in carrying a person or property in interstate commerce;
    - (iii) a trailer, semitrailer, or passenger bus that is:
      - (A) registered under Section 41-1a-301; and
      - (B) operated under the authority of a carrier authorized and certificated:
        - (I) by the United States Department of Transportation or another federal authority; and
        - (II) to engage in carrying a person or property in interstate commerce;
    - (iv) an aircraft that is operated by an air carrier authorized and certificated:
      - (A) by the United States Department of Transportation or another federal or foreign authority; and
      - (B) to engage in carrying a person or property in interstate commerce; or
    - (v) a container designed for use on, or a component part attached or secured on, an item of equipment listed in Subsections (1)(b)(i) through (iv).
- (2) Except as provided in Subsections (8) and (14), if tangible personal property, a product transferred electronically, or a service that is subject to taxation under this chapter is received by a purchaser at a business location of a seller, the location of the transaction is the business location of the seller.

- (3) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if tangible personal property, a product transferred electronically, or a service that is subject to taxation under this chapter is not received by a purchaser at a business location of a seller, the location of the transaction is the location where the purchaser takes receipt of the tangible personal property or service.
- (4) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2) or (3) does not apply, the location of the transaction is the location indicated by an address for or other information on the purchaser if:
- (a) the address or other information is available from the seller's business records; and
  - (b) use of the address or other information from the seller's records does not constitute bad faith.
- (5)
- (a) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2), (3), or (4) does not apply, the location of the transaction is the location indicated by an address for the purchaser if:
    - (i) the address is obtained during the consummation of the transaction; and
    - (ii) use of the address described in Subsection (5)(a)(i) does not constitute bad faith.
  - (b) An address used under Subsection (5)(a) includes the address of a purchaser's payment instrument if no other address is available.
- (6) Subject to Subsection (10), and except as provided in Subsections (7), (8), (9), (11), and (14), if Subsection (2), (3), (4), or (5) does not apply or if a seller does not have sufficient information to apply Subsection (2), (3), (4), or (5), the location of the transaction is the location:
- (a) indicated by the address from which:
    - (i) except as provided in Subsection (6)(a)(ii), for tangible personal property that is subject to taxation under this chapter, the tangible personal property is shipped;
    - (ii) for computer software delivered electronically or for a product transferred electronically that is subject to taxation under this chapter, the computer software or product transferred electronically is first available for transmission by the seller; or
    - (iii) for a service that is subject to taxation under this chapter, the service is provided; or
  - (b) as determined by the seller with respect to a prepaid wireless calling service:
    - (i) provided in Subsection (6)(a)(iii); or
    - (ii) associated with the mobile telephone number.
- (7)
- (a) For purposes of this Subsection (7), "shared ZIP Code" means a nine-digit ZIP Code that is located within two or more local taxing jurisdictions.
  - (b) If the location of a transaction determined under Subsections (3) through (6) is in a shared ZIP Code, the location of the transaction is:
    - (i) if there is only one local taxing jurisdiction that imposes the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that imposes the lowest agreement combined tax rate; or
    - (ii) if two or more local taxing jurisdictions impose the lowest agreement combined tax rate for the shared ZIP Code, the local taxing jurisdiction that:
      - (A) imposes the lowest agreement combined tax rate for the shared ZIP Code; and
      - (B) has located within the local taxing jurisdiction the largest number of street addresses within the shared ZIP Code.
  - (c) Notwithstanding any provision under this chapter authorizing or requiring the imposition of a sales and use tax, for purposes of Subsection (7)(b), a seller shall collect a sales and use tax imposed under this chapter at the lowest agreement combined tax rate imposed within the local taxing jurisdiction in which the transaction is located under Subsection (7)(b).

- (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:
  - (i) providing for the circumstances under which a seller has exercised due diligence in determining the nine-digit ZIP Code for an address; or
  - (ii) notwithstanding Subsection (7)(b), for determining the local taxing jurisdiction within which a transaction is located if a seller is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (7)(b).
- (8) The location of a transaction made with a direct payment permit described in Section 59-12-107.1 is the location where receipt of the tangible personal property, product, or service by the purchaser occurs.
- (9) The location of a purchase of direct mail is the location determined in accordance with Section 59-12-123.
- (10)
  - (a) Except as provided in Subsection (10)(b), the location of a transaction determined under Subsections (3) through (6), (8), or (9), is the local taxing jurisdiction within which:
    - (i) the nine-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), or (9) is located; or
    - (ii) the five-digit ZIP Code assigned to the location determined under Subsections (3) through (6), (8), or (9) is located if:
      - (A) a nine-digit ZIP Code is not available for the location determined under Subsections (3) through (6), (8), or (9); or
      - (B) after exercising due diligence, a seller or certified service provider is unable to determine a nine-digit ZIP Code for the location determined under Subsections (3) through (6), (8), or (9).
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the local taxing jurisdiction within which a transaction is located if a seller or certified service provider is unable to determine the local taxing jurisdiction within which the transaction is located under Subsection (10)(a).
- (11)
  - (a) As used in this Subsection (11), "florist delivery transaction" means a transaction commenced by a florist that transmits an order:
    - (i) by:
      - (A) telegraph;
      - (B) telephone; or
      - (C) a means of communication similar to Subsection (11)(a)(i)(A) or (B); and
    - (ii) for delivery to another place:
      - (A) in this state; or
      - (B) outside this state.
  - (b) Notwithstanding Subsections (3) through (6), beginning on January 1, 2009, and ending on December 31, 2009, the location of a florist delivery transaction is the business location of the florist that commences the florist delivery transaction.
  - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:
    - (i) define:
      - (A) "business location"; and
      - (B) "florist";
    - (ii) define what constitutes a means of communication similar to Subsection (11)(a)(i)(A) or (B); and

(iii) provide procedures for determining when a transaction is commenced.

(12)

- (a) Notwithstanding any other provision of this section and except as provided in Subsection (12)(b), if a purchaser uses computer software and there is not a transfer of a copy of that software to the purchaser, the location of the transaction is determined in accordance with Subsections (4) and (5).
- (b) If a purchaser uses computer software described in Subsection (12)(a) at more than one location, the location of the transaction shall be determined in accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13)

- (a) A tax collected under this chapter shall be reported to the commission on a form that identifies the location of each transaction that occurs during the return filing period.
- (b) The form described in Subsection (13)(a) shall be filed with the commission as required under this chapter.

(14) This section does not apply to:

- (a) amounts charged by a seller for:
  - (i) telecommunications service except for a prepaid calling service or a prepaid wireless calling service as provided in Subsection (6)(b) or Section 59-12-215; or
  - (ii) the retail sale or transfer of:
    - (A) a motor vehicle other than a motor vehicle that is transportation equipment;
    - (B) an aircraft other than an aircraft that is transportation equipment;
    - (C) a watercraft;
    - (D) a modular home;
    - (E) a manufactured home; or
    - (F) a mobile home; or
  - (iii) except as provided in Section 59-12-214, the lease or rental of tangible personal property other than tangible personal property that is transportation equipment;
- (b) a tax a person pays in accordance with Subsection 59-12-107(2)(f); or
- (c) a retail sale of tangible personal property or a product transferred electronically if:
  - (i) the seller receives the order for the tangible personal property or product transferred electronically in this state;
  - (ii) receipt of the tangible personal property or product transferred electronically by the purchaser or the purchaser's donee occurs in this state;
  - (iii) the location where receipt of the tangible personal property or product transferred electronically by the purchaser occurs is determined in accordance with Subsections (3) through (5); and
  - (iv) at the time the seller receives the order, the record keeping system that the seller uses to calculate the proper amount of tax imposed under this chapter captures the location where the order is received.

Amended by Chapter 6, 2018 Special Session 2

**59-12-211.1 Location of a transaction that is subject to a use tax.**

- (1) Subject to Subsection (2), a person that is required by Subsection 59-12-107(2)(f) to pay a use tax on a transaction shall report the location of that transaction at the person's location.

- (2) For purposes of Subsection (1), if a person has more than one location in this state, the person shall report the location of the transaction at the location at which tangible personal property, a product transferred electronically, or a service is received.

Amended by Chapter 6, 2018 Special Session 2

**59-12-212 Location of certain transactions if receipt of order and receipt of tangible personal property or product take place in this state -- Location of sale, lease, or rental of a service -- Exception from tax, penalty, or interest.**

- (1) The location of the sale of tangible personal property or a product transferred electronically is the location where the seller receives the order if:
- (a) the seller receives the order for the tangible personal property or product transferred electronically in this state;
  - (b) receipt of the tangible personal property or product transferred electronically by the purchaser or the purchaser's donee occurs in this state;
  - (c) the location where receipt of the tangible personal property or product transferred electronically by the purchaser occurs is determined in accordance with Subsections (3) through (6); and
  - (d) at the time the seller receives the order, the record keeping system that the seller uses to calculate the proper amount of tax imposed under this chapter captures the location where the order is received.
- (2)
- (a) Subject to Subsections (2)(b) through (d), for purposes of this section, the location where a seller receives an order is:
    - (i) a physical location of the seller or a third party; and
    - (ii) where an order is initially received by or on behalf of the seller.
  - (b) A physical location of a seller or third party includes the following if operated by or on behalf of the seller:
    - (i) an automated order receipt system;
    - (ii) an office; or
    - (iii) an outlet.
  - (c) The location where a seller receives an order does not include the location:
    - (i) where an order is accepted, completed, or fulfilled; or
    - (ii) from which tangible personal property or a product transferred electronically is shipped.
  - (d)
    - (i) For purposes of this Subsection (2), an order is considered to be received when all of the information necessary to the determination of whether the order can be accepted has been received by or on behalf of the seller.
    - (ii) If the seller is an establishment within any of the following classifications, as described in the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, the seller or the seller's agent has not received all the information described in Subsection (2)(d)(i) until the purchaser communicates to the fulfillment location that the purchaser is prepared to receive the order:
      - (A) NAICS Industry Group 2123, Nonmetallic Mineral Mining and Quarrying;
      - (B) NAICS Code 327320, Ready-Mix Concrete Manufacturing; or
      - (C) NAICS Code 324121, Asphalt Paving Mixture and Block Manufacturing.

(3)

- (a) A purchaser is not liable for a tax, penalty, or interest on a sale for which the purchaser remits a tax under this chapter to the seller in the amount the seller invoices if the amount is calculated at the total tax rate applicable to the location where:
  - (i) receipt by the purchaser occurs; or
  - (ii) the seller receives the order.
- (b) A purchaser may rely on a written representation by the seller as to the location where the seller receives the order for the sale.
- (c) If a purchaser does not have a written representation by the seller as to the location where the seller receives the order for the sale, the purchaser may determine the total tax rate applicable to the location where the order is received by using a location indicated by a business address for the seller that is available from the business records:
  - (i) of the purchaser; and
  - (ii) that are maintained in the ordinary course of the purchaser's business.
- (4) If an item of tangible personal property or an item that is a product transferred electronically is sold with an item that is subject to Section 59-12-211, all of the items are subject to this section if the items are:
  - (a) sold under a single contract;
  - (b) sold in the same transaction; and
  - (c) billed on the same billing statement.
- (5) Notwithstanding Section 59-12-211, a seller may elect to determine the location of a sale, lease, or rental of a service under this section if the seller makes any sale, lease, or rental that is subject to this section.
- (6) Except as provided in Subsection (5), this section does not apply to the lease or rental of:
  - (a) tangible personal property; or
  - (b) a product transferred electronically.

Amended by Chapter 492, 2023 General Session

**59-12-213 Location of a transaction involving a sale of aircraft, a manufactured home, a mobile home, a modular home, a motor vehicle, or watercraft.**

- (1)
  - (a) Except as provided in Subsection (1)(b) or (4), the location of a sale of the following tangible personal property is determined as provided in this section:
    - (i) aircraft;
    - (ii) a manufactured home;
    - (iii) a mobile home;
    - (iv) a modular home;
    - (v) a motor vehicle; or
    - (vi) watercraft.
  - (b) The location of the sale of tangible personal property described in Subsection (1)(a) is determined in accordance with Sections 59-12-211 and 59-12-212 if the tangible personal property described in Subsection (1)(a) is transportation equipment as defined in Section 59-12-211.
- (2)
  - (a) Except as provided in Subsection (2)(b), if an item of tangible personal property described in Subsection (1)(a) is sold by a dealer of that tangible personal property, the location of the sale of that tangible personal property is the business location of the dealer.

- (b) If an item of tangible personal property described in Subsection (1)(a) is sold by a dealer of that tangible personal property that does not have a business location in the state, the location of the sale of that tangible personal property is the location where the purchaser takes receipt of the tangible personal property.
- (3) If an item of tangible personal property described in Subsection (1)(a) is sold by a person other than a dealer of that tangible personal property, the location of the sale of that tangible personal property is:
  - (a) if the tangible personal property is required to be registered with the state before the tangible personal property is used on a public highway, on a public waterway, on public land, or in the air, the location of the street address at which the tangible personal property is registered; or
  - (b) if the tangible personal property is not required to be registered as provided in Subsection (3) (a), the location of the street address at which the purchaser of the tangible personal property resides.
- (4) This section does not apply to the lease or rental of tangible personal property described in Subsection (1)(a).

Amended by Chapter 39, 2020 General Session

**59-12-214 Location of a transaction involving the lease or rental of certain tangible personal property or a product transferred electronically.**

- (1) As used in this section:
  - (a) "Primary property location" means an address for tangible personal property or a product transferred electronically:
    - (i) a lessee provides to a lessor; and
    - (ii) that is available to the lessor from the lessor's records maintained in the ordinary course of business.
  - (b) "Primary property location" does not include an address described in Subsection (1)(a) if use of that address constitutes bad faith.
- (2)
  - (a) Except as provided in Subsection (2)(b) and notwithstanding Section 59-12-211, if a lease or rental of tangible personal property or a product transferred electronically that is subject to taxation under this part requires recurring periodic payments:
    - (i) the location of the transaction for any down payment and for the first recurring periodic payment is as provided in Section 59-12-211; and
    - (ii) the location of the transaction for the second recurring periodic payment and subsequent recurring periodic payments is the primary property or product location for each time period covered by the recurring periodic payment.
  - (b) If a transaction subject to taxation under this chapter involving a lease or rental of an aircraft or a motor vehicle, semitrailer, or trailer that is not transportation equipment as defined in Section 59-12-211 requires recurring periodic payments, the location of the transaction for a down payment and for each recurring periodic payment is the primary property location for each time period covered by the recurring periodic payment.
- (3) Notwithstanding Section 59-12-211, if a transaction involving a lease or rental of the following does not require recurring periodic payments, the location of the transaction is as provided in Section 59-12-211 for each lease or rental payment for:
  - (a) tangible personal property or a product transferred electronically that is subject to taxation under this chapter; or
  - (b) an aircraft or a motor vehicle, semitrailer, or trailer that is:

- (i) not transportation equipment under Section 59-12-211; and
  - (ii) subject to taxation under this chapter.
- (4) This section does not affect the imposition or computation of a tax under this chapter on:
- (a) a lease or rental of tangible personal property or a product transferred electronically that is subject to taxation under this chapter on:
    - (i) the basis of a lump sum; or
    - (ii) an accelerated basis; or
  - (b) the acquisition of tangible personal property or a product transferred electronically if that tangible personal property or product transferred electronically is:
    - (i) subject to taxation under this chapter; and
    - (ii) for lease.

Enacted by Chapter 384, 2008 General Session

**59-12-215 Location of transaction involving telecommunications service or other related service.**

- (1) As used in this section:
- (a) "Air-to-ground radiotelephone service" means a radio service:
    - (i) as defined in 47 C.F.R. Sec. 22.99; and
    - (ii) for which a common carrier is authorized to offer and provide radio telecommunications service:
      - (A) for hire; and
      - (B) to a subscriber in an aircraft.
  - (b) "Call-by-call basis" means a method of charging for telecommunications service that is measured by individual calls.
  - (c) "Communications channel" means a physical or virtual path of communications over which a signal is transmitted between or among customer channel termination points.
  - (d)
    - (i) Subject to Subsection (1)(d)(ii), "customer" means:
      - (A) a person that is obligated under a contract with a telecommunications service provider to pay for telecommunications service received under the contract; or
      - (B) if the end user is not the person described in Subsection (1)(d)(i)(A), the end user of telecommunications service.
    - (ii) "Customer" does not include a reseller:
      - (A) of telecommunications service; or
      - (B) for mobile telecommunications service, of a serving carrier under an agreement to serve a customer outside the home service provider's licensed service area.
  - (e) "Customer channel termination point" means the location where a customer:
    - (i) inputs communications; or
    - (ii) receives communications.
  - (f) "End user" means:
    - (i) an individual who uses a telecommunications service; or
    - (ii) for a telecommunications service provided to a person who is not an individual, an individual who uses a telecommunications service on behalf of the person who is provided the telecommunications service.
  - (g) "Home service provider" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
  - (h) "Service address" means:

- (i) regardless of where a call is billed or paid, the location of the telecommunications equipment:
    - (A) to which a customer's call is charged; and
    - (B) from which the call:
      - (I) originates; or
      - (II) terminates;
  - (ii) if the location described in Subsection (1)(h)(i) is not known, the location of the origination point of the signal of the telecommunications service first identified by:
    - (A) the telecommunications system of the telecommunications service provider; or
    - (B) if the system used to transport the signal of the telecommunications service is not a system of the telecommunications service provider, information received by the telecommunications service provider from the telecommunications service provider's telecommunications service provider; or
  - (iii) if the locations described in Subsections (1)(h)(i) and (ii) are not known, the location of a customer's place of primary use.
- (2) Except as provided in Subsection (4), the location of a sale of a telecommunications service sold on a call-by-call basis is:
- (a) the location at which the call originates and terminates; or
  - (b) the location at which:
    - (i) the call:
      - (A) originates; or
      - (B) terminates; and
    - (ii) the service address is located.
- (3) Except as provided in Subsection (4), the location of a sale of a telecommunications service sold on a basis other than a call-by-call basis is the customer's place of primary use.
- (4) Notwithstanding Subsection (2) or (3):
- (a) the location of a sale of a mobile telecommunications service, other than an air-to-ground radiotelephone service or a prepaid calling service, is the location required by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.;
  - (b) the location of a sale of a postpaid calling service is the origination point of the telecommunications signal as first identified by:
    - (i) the seller's telecommunications system; or
    - (ii) if the system used to transport the telecommunications signal is not that of the seller, information received by the seller from the seller's telephone service provider;
  - (c) the location of a sale of a prepaid calling service is the location determined under Section 59-12-211; and
  - (d)
    - (i) subject to Subsection (4)(d)(ii), the location of a sale of a prepaid wireless calling service is the location determined under Section 59-12-211; and
    - (ii) for purposes of Subsection (4)(d)(i), the location of a transaction determined under Subsection 59-12-211(6) is considered to include the location associated with the mobile telephone number.
- (5) The location of a sale of a private communication service is:
- (a) if all of the customer channel termination points are located entirely within one county, city, or town, the location of the sale is the county, city, or town in which all of the customer channel termination points are located;
  - (b) if a charge for a service related to a customer channel termination point is separately stated, the location of the sale is the location in which the customer channel termination point is located;

- (c) if a charge for service for a segment of a channel between two customer channel termination points located in different counties, cities, or towns is separately stated, the location of the sale is each county, city, or town:
    - (i) in which the customer channel termination points are located; and
    - (ii) in equal proportions; and
  - (d) if a charge for service for a segment of a channel located in more than one county, city, or town is not separately stated, the location of the sale is:
    - (i) each county, city, or town in which a segment of the channel is located; and
    - (ii) in proportion to the percentage of customer channel termination points in each county, city, or town compared to the total customer channel termination points in all counties, cities, and towns.
- (6) The location of a sale of Internet access service is the customer's place of primary use.
- (7) The location of a sale of an ancillary service is the customer's place of primary use.

Amended by Chapter 203, 2009 General Session

**59-12-216 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

**59-12-217 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 384, 2008 General Session

**59-12-218 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 384, 2008 General Session