

Effective 5/12/2015

Part 4
Impacted Communities Taxes Act

59-12-400 Title.

This part is known as the "Impacted Communities Taxes Act."

Enacted by Chapter 182, 2015 General Session

59-12-401 Resort communities tax authority for cities, towns, and military installation development authority -- Base -- Rate -- Collection fees.

- (1)
- (a) In addition to other sales and use taxes, a city or town in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may impose a sales and use tax of up to 1.1% on the transactions described in Subsection 59-12-103(1) located within the city or town.
 - (b) Notwithstanding Subsection (1)(a), a city or town may not impose a tax under this section on:
 - (i) the sale of:
 - (A) a motor vehicle;
 - (B) an aircraft;
 - (C) a watercraft;
 - (D) a modular home;
 - (E) a manufactured home; or
 - (F) a mobile home;
 - (ii) 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
 - (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.
 - (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.
 - (d) A city or town 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.
- (2)
- (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).
 - (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.
- (3)
- (a) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may impose a tax under this section on the transactions described in Subsection 59-12-103(1) located within a project area described in a project area plan

adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a city or a town.

- (b) For purposes of calculating the permanent census population within a project area, the board as defined in Section 63H-1-102 shall:
 - (i) use the actual number of permanent residents within the project area as determined by the board;
 - (ii) adopt a resolution verifying the population number; and
 - (iii) provide the commission any information required in Section 59-12-405.
- (c) Notwithstanding Subsection (1)(a), a board as defined in Section 63H-1-102 may impose the sales and use tax under this section if there are no permanent residents.

Amended by Chapter 362, 2013 General Session

59-12-402 Additional resort communities sales and use tax -- Base -- Rate -- Collection fees -- Resolution and voter approval requirements -- Election requirements -- Notice requirements -- Ordinance requirements -- Prohibition of military installation development authority.

- (1)
 - (a) Subject to Subsections (2) through (6), the governing body of a municipality in which the transient room capacity as defined in Section 59-12-405 is greater than or equal to 66% of the municipality's permanent census population may, in addition to the sales tax authorized under Section 59-12-401, impose an additional resort communities sales tax in an amount that is less than or equal to .5% on the transactions described in Subsection 59-12-103(1) located within the municipality.
 - (b) Notwithstanding Subsection (1)(a), the governing body of a municipality may not impose a tax under this section on:
 - (i) the sale of:
 - (A) a motor vehicle;
 - (B) an aircraft;
 - (C) a watercraft;
 - (D) a modular home;
 - (E) a manufactured home; or
 - (F) a mobile home;
 - (ii) 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
 - (iii) except as provided in Subsection (1)(d), amounts paid or charged for food and food ingredients.
 - (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.
 - (d) A municipality 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.
- (2)
 - (a) An amount equal to the total of any costs incurred by the state in connection with the implementation of Subsection (1) which exceed, in any year, the revenues received by the state from its collection fees received in connection with the implementation of Subsection

- (1) shall be paid over to the state General Fund by the cities and towns which impose the tax provided for in Subsection (1).
- (b) Amounts paid under Subsection (2)(a) shall be allocated proportionally among those cities and towns according to the amount of revenue the respective cities and towns generate in that year through imposition of that tax.
- (3) To impose an additional resort communities sales tax under this section, the governing body of the municipality shall:
 - (a) pass a resolution approving the tax; and
 - (b) except as provided in Subsection (6), obtain voter approval for the tax as provided in Subsection (4).
- (4) To obtain voter approval for an additional resort communities sales tax under Subsection (3)(b), a municipality shall:
 - (a) hold the additional resort communities sales tax election during:
 - (i) a regular general election; or
 - (ii) a municipal general election; and
 - (b) publish notice of the election:
 - (i) 15 days or more before the day on which the election is held; and
 - (ii)
 - (A) in a newspaper of general circulation in the municipality; and
 - (B) as required in Section 45-1-101.
- (5) An ordinance approving an additional resort communities sales tax under this section shall provide an effective date for the tax as provided in Section 59-12-403.
- (6)
 - (a) Except as provided in Subsection (6)(b), a municipality is not subject to the voter approval requirements of Subsection (3)(b) if, on or before January 1, 1996, the municipality imposed a license fee or tax on businesses based on gross receipts pursuant to Section 10-1-203.
 - (b) The exception from the voter approval requirements in Subsection (6)(a) does not apply to a municipality that, on or before January 1, 1996, imposed a license fee or tax on only one class of businesses based on gross receipts pursuant to Section 10-1-203.
- (7) A military installation development authority authorized to impose a resort communities tax under Section 59-12-401 may not impose an additional resort communities sales tax under this section.

Amended by Chapter 9, 2010 General Session

59-12-402.1 State correctional facility sales and use tax -- Base -- Rate -- Collection fees -- Imposition -- Prohibition of military installation development authority imposition of tax.

- (1) As used in this section, "new state correctional facility" means a new prison in the state:
 - (a) that is operated by the Department of Corrections;
 - (b) the construction of which begins on or after May 12, 2015; and
 - (c) that provides a capacity of 2,500 or more inmate beds.
- (2) Subject to the other provisions of this part, a city or town legislative body may impose a tax under this section if the construction of a new state correctional facility has begun within the boundaries of the city or town.
- (3) For purposes of this section, the tax rate may not exceed .5%.
- (4) Except as provided in Subsection (5), a tax under this section shall be imposed on the transactions described in Subsection 59-12-103(1) within the city or town.
- (5) A city or town may not impose a tax under this section on:

- (a) the sale of:
 - (i) a motor vehicle;
 - (ii) an aircraft;
 - (iii) a watercraft;
 - (iv) a modular home;
 - (v) a manufactured home; or
 - (vi) a mobile home;
- (b) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt under Section 59-12-104; and
- (c) except as provided in Subsection (7), amounts paid or charged for food and food ingredients.
- (6) For purposes of this section, the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
- (7) A city or town that imposes 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.
- (8) A city or town may impose a tax under this section by majority vote of the members of the city or town legislative body.
- (9) A city or town that imposes a tax under this section is not subject to Section 59-12-405.
- (10) A military installation development authority may not impose a tax under this section.

Enacted by Chapter 182, 2015 General Session

59-12-403 Enactment or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Administration, collection, and enforcement of tax -- Administrative charge.

- (1) For purposes of this section:
 - (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.
 - (b) "Annexing area" means an area that is annexed into a city or town.
- (2)
 - (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, 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:
 - (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 city or town.
 - (b) The notice described in Subsection (2)(a)(ii) shall state:
 - (i) that the city or town will enact or repeal a tax or change the rate of 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 city or town enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.
 - (c)
 - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, 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) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.
- (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, repeal, or change in the rate 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, repeal, or change in the rate of the tax 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, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change 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 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, repeal, or change in the rate 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) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax.
 - (c)
 - (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1, 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) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.
 - (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, repeal, or change in the rate 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, repeal, or change in the rate of the tax 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."
- (4)
 - (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be administered, collected, and enforced 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).
- (5) 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.

Amended by Chapter 364, 2016 General Session

59-12-405 Definitions -- Municipality filing requirements for lodging unit capacity -- Failure to meet eligibility requirements -- Notice to municipality -- Municipality authority to impose tax.

- (1) As used in this section:
 - (a) "high-occupancy lodging unit" means each bedroom in a:
 - (i) hostel; or
 - (ii) a unit similar to a hostel as determined by the commission by rule;
 - (b) "high-occupancy lodging unit capacity of a municipality" means the product of:
 - (i) the total number of high-occupancy lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and
 - (ii) four;
 - (c) "recreational lodging unit" means each site in a:
 - (i) campground that:
 - (A) is issued a business license by the municipality in which the campground is located; and
 - (B) provides the following hookups:
 - (I) water;
 - (II) sewer; and
 - (III) electricity; or
 - (ii) recreational vehicle park that provides the following hookups:
 - (A) water;
 - (B) sewer; and
 - (C) electricity; or
 - (iii) unit similar to Subsection (1)(c)(i) or (ii) as determined by the commission by rule;
 - (d) "recreational lodging unit capacity of a municipality" means the product of:
 - (i) the total number of recreational lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and
 - (ii) four;
 - (e) "special lodging unit" means a lodging unit:
 - (i) that is a:
 - (A) high-occupancy lodging unit;
 - (B) recreational lodging unit; or
 - (C) standard lodging unit;
 - (ii) for which the commission finds that in determining the capacity of the lodging unit the lodging unit should be multiplied by a number other than a number described in:
 - (A) for a high-occupancy lodging unit, Subsection (1)(b)(ii);
 - (B) for a recreational lodging unit, Subsection (1)(d)(ii); or
 - (C) for a standard lodging unit, Subsection (1)(i)(ii); and

- (iii) for which the municipality in which the lodging unit is located files a written request with the commission for the finding described in Subsection (1)(e)(ii);
 - (f) "special lodging unit capacity of a municipality" means the sum of the special lodging unit numbers for all of the special lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3);
 - (g) "special lodging unit number" means the number by which the commission finds that a special lodging unit should be multiplied in determining the capacity of the special lodging unit;
 - (h) "standard lodging unit" means each bedroom in:
 - (i) a hotel;
 - (ii) a motel;
 - (iii) a bed and breakfast establishment;
 - (iv) an inn;
 - (v) a condominium that is:
 - (A) part of a rental pool; or
 - (B) regularly rented out for a time period of less than 30 consecutive days;
 - (vi) a property used as a residence that is:
 - (A) part of a rental pool; or
 - (B) regularly rented out for a time period of less than 30 consecutive days; or
 - (vii) a unit similar to Subsections (1)(h)(i) through (vi) as determined by the commission by rule;
 - (i) "standard lodging unit capacity of a municipality" means the product of:
 - (i) the total number of standard lodging units within the incorporated boundaries of a municipality on the first day of the calendar quarter during which the municipality files the form described in Subsection (3); and
 - (ii) three; and
 - (j) "transient room capacity" means the sum of:
 - (i) the high-occupancy lodging unit capacity of a municipality;
 - (ii) the recreational lodging unit capacity of a municipality;
 - (iii) the special lodging unit capacity of a municipality; and
 - (iv) the standard lodging unit capacity of a municipality.
- (2) A municipality that imposes a tax under this part shall provide the commission the following information as provided in this section:
- (a) the high-occupancy lodging unit capacity of the municipality;
 - (b) the recreational lodging unit capacity of the municipality;
 - (c) the special lodging unit capacity of the municipality; and
 - (d) the standard lodging unit capacity of the municipality.
- (3) A municipality shall file with the commission the information required by Subsection (1):
- (a) on a form provided by the commission; and
 - (b) on or before:
 - (i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, the day on which the municipality provides the notice required by Section 59-12-403 to the commission; or
 - (ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, July 1 of each year.
- (4) If the commission determines that a municipality that files the form described in Subsection (3) has a transient room capacity that is less than 66% of the municipality's permanent census population, the commission shall notify the municipality in writing:

- (a) that the municipality's transient room capacity is less than 66% of the municipality's permanent census population; and
- (b)
 - (i) for a municipality that is required by Section 59-12-403 to provide notice to the commission, within 30 days after the day on which the municipality provides the notice to the commission; or
 - (ii) for a municipality that is not required by Section 59-12-403 to provide notice to the commission, on or before September 1.
- (5)
 - (a) For a municipality that does not impose a tax under Section 59-12-401 on the day on which the municipality files the form described in Subsection (3), if the commission provides written notice described in Subsection (4) to the municipality, the municipality may not impose a tax under this part until the municipality meets the requirements of this part to enact the tax.
 - (b) For a municipality that is not required by Section 59-12-403 to provide notice to the commission, if the commission provides written notice described in Subsection (4) to the municipality for two consecutive calendar years, the municipality may not impose a tax under this part:
 - (i) beginning on July 1 of the year after the year during which the commission provided written notice described in Subsection (4):
 - (A) to the municipality; and
 - (B) for the second consecutive calendar year; and
 - (ii) until the municipality meets the requirements of this part to enact the tax.

Enacted by Chapter 224, 2004 General Session

59-12-406 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

59-12-407 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

59-12-408 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