Effective 10/1/2016
Superseded 5/9/2017
59-12-102 Definitions.

As used in this chapter:

(1) "800 service" means a telecommunications service that:
(a) allows a caller to dial a toll-free number without incurring a charge for the call; and
(b) is typically marketed:
(i) under the name 800 toll-free calling;
(ii) under the name 855 toll-free calling;
(iii) under the name 866 toll-free calling;
(iv) under the name 877 toll-free calling;
(v) under the name 888 toll-free calling; or
(vi) under a name similar to Subsections (1)(b)(i) through (v) as designated by the Federal Communications Commission.

(2)
(a) "900 service" means an inbound toll telecommunications service that:
(i) a subscriber purchases;
(ii) allows a customer of the subscriber described in Subsection (2)(a)(i) to call in to the subscriber's:
(A) prerecorded announcement; or
(B) live service; and
(iii) is typically marketed:
(A) under the name 900 service; or
(B) under a name similar to Subsection (2)(a)(iii)(A) as designated by the Federal Communications Commission.
(b) "900 service" does not include a charge for:
(i) a collection service a seller of a telecommunications service provides to a subscriber; or
(ii) the following a subscriber sells to the subscriber's customer:
(A) a product; or
(B) a service.

(3)
(a) "Admission or user fees" includes season passes.
(b) "Admission or user fees" does not include annual membership dues to private organizations.

(4) "Agreement" means the Streamlined Sales and Use Tax Agreement adopted on November 12, 2002, including amendments made to the Streamlined Sales and Use Tax Agreement after November 12, 2002.

(5) "Agreement combined tax rate" means the sum of the tax rates:
(a) listed under Subsection (6); and
(b) that are imposed within a local taxing jurisdiction.

(6) "Agreement sales and use tax" means a tax imposed under:
(a) Subsection 59-12-103(2)(a)(i)(A);
(b) Subsection 59-12-103(2)(b)(i);
(c) Subsection 59-12-103(2)(c)(i);
(d) Subsection 59-12-103(2)(d)(i)(A)(I);
(e) Section 59-12-204;
(f) Section 59-12-401;
(g) Section 59-12-402;
(h) Section 59-12-402.1;

(i) Section 59-12-703;
(j) Section 59-12-802;
(k) Section 59-12-804;
(l) Section 59-12-1102;
(m) Section 59-12-1302;
(n) Section 59-12-1402;
(o) Section 59-12-1802;
(p) Section 59-12-2003;
(q) Section 59-12-2103;
(r) Section 59-12-2213;
(s) Section 59-12-2214;
(t) Section 59-12-2215;
(u) Section 59-12-2216;
(v) Section 59-12-2217; or
(w) Section 59-12-2218.

(7) "Aircraft" is as defined in Section 72-10-102.

(8) "Aircraft maintenance, repair, and overhaul provider" means a business entity:
(a) except for:
(i) an airline as defined in Section 59-2-102; or
(ii) an affiliated group, as defined in Section 59-7-101, except that "affiliated group" includes a corporation that is qualified to do business but is not otherwise doing business in the state, of an airline; and
(b) that has the workers, expertise, and facilities to perform the following, regardless of whether the business entity performs the following in this state:
(i) check, diagnose, overhaul, and repair:
(A) an onboard system of a fixed wing turbine powered aircraft; and
(B) the parts that comprise an onboard system of a fixed wing turbine powered aircraft;
(ii) assemble, change, dismantle, inspect, and test a fixed wing turbine powered aircraft engine;
(iii) perform at least the following maintenance on a fixed wing turbine powered aircraft:
(A) an inspection;
(B) a repair, including a structural repair or modification;
(C) changing landing gear; and
(D) addressing issues related to an aging fixed wing turbine powered aircraft;
(iv) completely remove the existing paint of a fixed wing turbine powered aircraft and completely apply new paint to the fixed wing turbine powered aircraft; and
(v) refurbish the interior of a fixed wing turbine powered aircraft in a manner that results in a change in the fixed wing turbine powered aircraft's certification requirements by the authority that certifies the fixed wing turbine powered aircraft.

(9) "Alcoholic beverage" means a beverage that:
(a) is suitable for human consumption; and
(b) contains .5% or more alcohol by volume.

(10) "Alternative energy" means:
(a) biomass energy;
(b) geothermal energy;
(c) hydroelectric energy;
(d) solar energy;
(e) wind energy; or
(f) energy that is derived from:

(i) coal-to-liquids;
(ii) nuclear fuel;
(iii) oil-impregnated diatomaceous earth;
(iv) oil sands;
(v) oil shale;
(vi) petroleum coke; or
(vii) waste heat from:
(A) an industrial facility; or
(B) a power station in which an electric generator is driven through a process in which water is heated, turns into steam, and spins a steam turbine.

(11)
(a) Subject to Subsection (11)(b), "alternative energy electricity production facility" means a facility that:
(i) uses alternative energy to produce electricity; and
(ii) has a production capacity of two megawatts or greater.
(b) A facility is an alternative energy electricity production facility regardless of whether the facility is:
(i) connected to an electric grid; or
(ii) located on the premises of an electricity consumer.

(12)
(a) "Ancillary service" means a service associated with, or incidental to, the provision of telecommunications service.
(b) "Ancillary service" includes:
(i) a conference bridging service;
(ii) a detailed communications billing service;
(iii) directory assistance;
(iv) a vertical service; or
(v) a voice mail service.

(13) "Area agency on aging" is as defined in Section 62A-3-101.

(14) "Assisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by an individual:
(a) who is not the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device; and
(b) at the direction of the seller of the right to use the amusement device, skill device, or ride device.

(15) "Assisted cleaning or washing of tangible personal property" means cleaning or washing of tangible personal property if the cleaning or washing labor is primarily performed by an individual:
(a) who is not the purchaser of the cleaning or washing of the tangible personal property; and
(b) at the direction of the seller of the cleaning or washing of the tangible personal property.

(16) "Authorized carrier" means:
(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan and the International Fuel Tax Agreement;
(b) in the case of aircraft, the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate; or

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, a person who uses locomotives, freight cars, railroad work equipment, or other rolling stock in more than one state.

(17)

(a) Except as provided in Subsection (17)(b), "biomass energy" means any of the following that is used as the primary source of energy to produce fuel or electricity:

(i) material from a plant or tree; or

(ii) other organic matter that is available on a renewable basis, including:

(A) slash and brush from forests and woodlands;

(B) animal waste;

(C) waste vegetable oil;

(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of wastewater residuals, or through the conversion of a waste material through a nonincineration, thermal conversion process;

(E) aquatic plants; and

(F) agricultural products.

(b) "Biomass energy" does not include:

(i) black liquor; or

(ii) treated woods.

(18)

(a) "Bundled transaction" means the sale of two or more items of tangible personal property, products, or services if the tangible personal property, products, or services are:

(i) distinct and identifiable; and

(ii) sold for one nonitemized price.

(b) "Bundled transaction" does not include:

(i) the sale of tangible personal property if the sales price varies, or is negotiable, on the basis of the selection by the purchaser of the items of tangible personal property included in the transaction;

(ii) the sale of real property;

(iii) the sale of services to real property;

(iv) the retail sale of tangible personal property and a service if:

(A) the tangible personal property:

(I) is essential to the use of the service; and

(II) is provided exclusively in connection with the service; and

(B) the service is the true object of the transaction;

(v) the retail sale of two services if:

(A) one service is provided that is essential to the use or receipt of a second service;

(B) the first service is provided exclusively in connection with the second service; and

(C) the second service is the true object of the transaction;

(vi) a transaction that includes tangible personal property or a product subject to taxation under this chapter and tangible personal property or a product that is not subject to taxation under this chapter if the:

(A) seller's purchase price of the tangible personal property or product subject to taxation under this chapter is de minimis; or

(B) seller's sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and

(vii) the retail sale of tangible personal property that is not subject to taxation under this chapter and tangible personal property that is subject to taxation under this chapter if:

(A) that retail sale includes:
(I) food and food ingredients;
(II) a drug;
(III) durable medical equipment;
(IV) mobility enhancing equipment;
(V) an over-the-counter drug;
(VI) a prosthetic device; or
(VII) a medical supply; and
(B) subject to Subsection (18)(f):
(I) the seller's purchase price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price of that retail sale; or
(II) the seller's sales price of the tangible personal property subject to taxation under this chapter is 50% or less of the seller's total sales price of that retail sale.

(c)
(i) For purposes of Subsection (18)(a)(i), tangible personal property, a product, or a service that is distinct and identifiable does not include:
(A) packaging that:
(I) accompanies the sale of the tangible personal property, product, or service; and
(II) is incidental or immaterial to the sale of the tangible personal property, product, or service;
(B) tangible personal property, a product, or a service provided free of charge with the purchase of another item of tangible personal property, a product, or a service; or
(C) an item of tangible personal property, a product, or a service included in the definition of "purchase price."
(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a product, or a service is provided free of charge with the purchase of another item of tangible personal property, a product, or a service if the sales price of the purchased item of tangible personal property, product, or service does not vary depending on the inclusion of the tangible personal property, product, or service provided free of charge.

(d)
(i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price does not include a price that is separately identified by tangible personal property, product, or service on the following, regardless of whether the following is in paper format or electronic format:
(A) a binding sales document; or
(B) another supporting sales-related document that is available to a purchaser.
(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another supporting sales-related document that is available to a purchaser includes:
(A) a bill of sale;
(B) a contract;
(C) an invoice;
(D) a lease agreement;
(E) a periodic notice of rates and services;
(F) a price list;
(G) a rate card;
(H) a receipt; or
(I) a service agreement.

(e)

(i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal property or a product subject to taxation under this chapter is de minimis if:
(A) the seller's purchase price of the tangible personal property or product is 10% or less of the seller's total purchase price of the bundled transaction; or
(B) the seller's sales price of the tangible personal property or product is 10% or less of the seller's total sales price of the bundled transaction.
(ii) For purposes of Subsection (18)(b)(vi), a seller:
(A) shall use the seller's purchase price or the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis; and
(B) may not use a combination of the seller's purchase price and the seller's sales price to determine if the purchase price or sales price of the tangible personal property or product subject to taxation under this chapter is de minimis.
(iii) For purposes of Subsection (18)(b)(vi), a seller shall use the full term of a service contract to determine if the sales price of tangible personal property or a product is de minimis.
(f) For purposes of Subsection (18)(b)(vii)(B), a seller may not use a combination of the seller's purchase price and the seller's sales price to determine if tangible personal property subject to taxation under this chapter is 50% or less of the seller's total purchase price or sales price of that retail sale.
(19) "Certified automated system" means software certified by the governing board of the agreement that:
(a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
(i) on a transaction; and
(ii) in the states that are members of the agreement;
(b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and
(c) maintains a record of the transaction described in Subsection (19)(a)(i).
(20) "Certified service provider" means an agent certified:
(a) by the governing board of the agreement; and
(b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.
(21)
(a) Subject to Subsection (21)(b), "clothing" means all human wearing apparel suitable for general use.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
(i) listing the items that constitute "clothing"; and
(ii) that are consistent with the list of items that constitute "clothing" under the agreement.
(22) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
(23) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (56) or residential use under Subsection (106).
(24)
(a) "Common carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property for hire within this state.
(b)

(i) "Common carrier" does not include a person who, at the time the person is traveling to or from that person's place of employment, transports a passenger to or from the passenger's place of employment.
(ii) For purposes of Subsection (24)(b)(i), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.
(c) "Common carrier" does not include a person that provides transportation network services, as defined in Section 13-51-102.
(25) "Component part" includes:
(a) poultry, dairy, and other livestock feed, and their components;
(b) baling ties and twine used in the baling of hay and straw;
(c) fuel used for providing temperature control of orchards and commercial greenhouses doing a majority of their business in wholesale sales, and for providing power for off-highway type farm machinery; and
(d) feed, seeds, and seedlings.
(26) "Computer" means an electronic device that accepts information:
(a)
(i) in digital form; or
(ii) in a form similar to digital form; and
(b) manipulates that information for a result based on a sequence of instructions.
(27) "Computer software" means a set of coded instructions designed to cause:
(a) a computer to perform a task; or
(b) automatic data processing equipment to perform a task.
(28) "Computer software maintenance contract" means a contract that obligates a seller of computer software to provide a customer with:
(a) future updates or upgrades to computer software;
(b) support services with respect to computer software; or
(c) a combination of Subsections (28)(a) and (b).
(29)
(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio conference call or video conference call.
(b) "Conference bridging service" may include providing a telephone number as part of the ancillary service described in Subsection (29)(a).
(c) "Conference bridging service" does not include a telecommunications service used to reach the ancillary service described in Subsection (29)(a).
(30) "Construction materials" means any tangible personal property that will be converted into real property.
(31) "Delivered electronically" means delivered to a purchaser by means other than tangible storage media.
(32)
(a) "Delivery charge" means a charge:
(i) by a seller of:
(A) tangible personal property;
(B) a product transferred electronically; or
(C) services; and
(ii) for preparation and delivery of the tangible personal property, product transferred electronically, or services described in Subsection (32)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:
(i) transportation;
(ii) shipping;
(iii) postage;
(iv) handling;
(v) crating; or
(vi) packing.
(33) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.
(34) "Dietary supplement" means a product, other than tobacco, that:
(a) is intended to supplement the diet;
(b) contains one or more of the following dietary ingredients:
(i) a vitamin;
(ii) a mineral;
(iii) an herb or other botanical;
(iv) an amino acid;
(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (34)(b)(i) through (v);
(c)
(i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:
(A) tablet form;
(B) capsule form;
(C) powder form;
(D) softgel form;
(E) gelcap form; or
(F) liquid form; or
(ii) if the product is not intended for ingestion in a form described in Subsections (34)(c)(i)(A) through (F), is not represented:
(A) as conventional food; and
(B) for use as a sole item of:
(I) a meal; or
(II) the diet; and
(d) is required to be labeled as a dietary supplement:
(i) identifiable by the "Supplemental Facts" box found on the label; and
(ii) as required by 21 C.F.R. Sec. 101.36.
(35) "Digital audio-visual work" means a series of related images which, when shown in succession, imparts an impression of motion, together with accompanying sounds, if any.
(36)
(a) "Digital audio work" means a work that results from the fixation of a series of musical, spoken, or other sounds.
(b) "Digital audio work" includes a ringtone.
(37) "Digital book" means a work that is generally recognized in the ordinary and usual sense as a book.
(38)
(a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

(i) to:
(A) a mass audience; or
(B) addressees on a mailing list provided:
(I) by a purchaser of the mailing list; or
(II) at the discretion of the purchaser of the mailing list; and
(ii) if the cost of the printed material is not billed directly to the recipients.
(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.
(c) "Direct mail" does not include multiple items of printed material delivered to a single address.
(39) "Directory assistance" means an ancillary service of providing:
(a) address information; or
(b) telephone number information.
(40)
(a) "Disposable home medical equipment or supplies" means medical equipment or supplies that:
(i) cannot withstand repeated use; and
(ii) are purchased by, for, or on behalf of a person other than:
(A) a health care facility as defined in Section 26-21-2;
(B) a health care provider as defined in Section 78B-3-403;
(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
(b) "Disposable home medical equipment or supplies" does not include:
(i) a drug;
(ii) durable medical equipment;
(iii) a hearing aid;
(iv) a hearing aid accessory;
(v) mobility enhancing equipment; or
(vi) tangible personal property used to correct impaired vision, including:
(A) eyeglasses; or
(B) contact lenses.
(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes medical equipment or supplies.
(41) "Drilling equipment manufacturer" means a facility:
(a) located in the state;
(b) with respect to which 51% or more of the manufacturing activities of the facility consist of manufacturing component parts of drilling equipment;
(c) that uses pressure of 800,000 or more pounds per square inch as part of the manufacturing process; and
(d) that uses a temperature of 2,000 or more degrees Fahrenheit as part of the manufacturing process.
(42)
(a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:
(i) recognized in:
(A) the official United States Pharmacopoeia;
(B) the official Homeopathic Pharmacopoeia of the United States;
(C) the official National Formulary; or
(D) a supplement to a publication listed in Subsections (42)(a)(i)(A) through (C);
(ii) intended for use in the:

(A) diagnosis of disease;
(B) cure of disease;
(C) mitigation of disease;
(D) treatment of disease; or
(E) prevention of disease; or
(iii) intended to affect:
(A) the structure of the body; or
(B) any function of the body.
(b) "Drug" does not include:
(i) food and food ingredients;
(ii) a dietary supplement;
(iii) an alcoholic beverage; or
(iv) a prosthetic device.
(43)
(a) Except as provided in Subsection (43)(c), "durable medical equipment" means equipment that:
(i) can withstand repeated use;
(ii) is primarily and customarily used to serve a medical purpose;
(iii) generally is not useful to a person in the absence of illness or injury; and
(iv) is not worn in or on the body.
(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (43)(a).
(c) "Durable medical equipment" does not include mobility enhancing equipment.
(44) "Electronic" means:
(a) relating to technology; and
(b) having:
(i) electrical capabilities;
(ii) digital capabilities;
(iii) magnetic capabilities;
(iv) wireless capabilities;
(v) optical capabilities;
(vi) electromagnetic capabilities; or
(vii) capabilities similar to Subsections (44)(b)(i) through (vi).
(45) "Electronic financial payment service" means an establishment:
(a) within NAICS Code 522320, Financial Transactions Processing, Reserve, and Clearinghouse Activities, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
(b) that performs electronic financial payment services.
(46) "Employee" is as defined in Section 59-10-401.
(47) "Fixed guideway" means a public transit facility that uses and occupies:
(a) rail for the use of public transit; or
(b) a separate right-of-way for the use of public transit.
(48) "Fixed wing turbine powered aircraft" means an aircraft that:
(a) is powered by turbine engines;
(b) operates on jet fuel; and
(c) has wings that are permanently attached to the fuselage of the aircraft.
(49) "Fixed wireless service" means a telecommunications service that provides radio communication between fixed points.

(50)
(a) "Food and food ingredients" means substances:
(i) regardless of whether the substances are in:
(A) liquid form;
(B) concentrated form;
(C) solid form;
(D) frozen form;
(E) dried form; or
(F) dehydrated form; and
(ii) that are:
(A) sold for:
(I) ingestion by humans; or
(II) chewing by humans; and
(B) consumed for the substance's:
(I) taste; or
(II) nutritional value.
(b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii).
(c) "Food and food ingredients" does not include:
(i) an alcoholic beverage;
(ii) tobacco; or
(iii) prepared food.
(51)
(a) "Fundraising sales" means sales:
(i)
(A) made by a school; or
(B) made by a school student;
(ii) that are for the purpose of raising funds for the school to purchase equipment, materials, or provide transportation; and
(iii) that are part of an officially sanctioned school activity.
(b) For purposes of Subsection (51)(a)(iii), "officially sanctioned school activity" means a school activity:
(i) that is conducted in accordance with a formal policy adopted by the school or school district governing the authorization and supervision of fundraising activities;
(ii) that does not directly or indirectly compensate an individual teacher or other educational personnel by direct payment, commissions, or payment in kind; and
(iii) the net or gross revenues from which are deposited in a dedicated account controlled by the school or school district.
(52) "Geothermal energy" means energy contained in heat that continuously flows outward from the earth that is used as the sole source of energy to produce electricity.
(53) "Governing board of the agreement" means the governing board of the agreement that is:
(a) authorized to administer the agreement; and
(b) established in accordance with the agreement.
(54)
(a) For purposes of Subsection 59-12-104(41), "governmental entity" means:
(i) the executive branch of the state, including all departments, institutions, boards, divisions, bureaus, offices, commissions, and committees;
(ii) the judicial branch of the state, including the courts, the Judicial Council, the Office of the Court Administrator, and similar administrative units in the judicial branch;

(iii) the legislative branch of the state, including the House of Representatives, the Senate, the Legislative Printing Office, the Office of Legislative Research and General Counsel, the Office of the Legislative Auditor General, and the Office of the Legislative Fiscal Analyst;
(iv) the National Guard;
(v) an independent entity as defined in Section 63E-1-102; or
(vi) a political subdivision as defined in Section 17B-1-102.
(b) "Governmental entity" does not include the state systems of public and higher education, including:
(i) an applied technology college within the Utah College of Applied Technology;
(ii) a school;
(iii) the State Board of Education;
(iv) the State Board of Regents; or
(v) an institution of higher education.
(55) "Hydroelectric energy" means water used as the sole source of energy to produce electricity.
(56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:
(a) in mining or extraction of minerals;
(b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:
(i) commercial greenhouses;
(ii) irrigation pumps;
(iii) farm machinery;
(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
(v) other farming activities;
(c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
(d) by a scrap recycler if:
(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
(A) iron;
(B) steel;
(C) nonferrous metal;
(D) paper;
(E) glass;
(F) plastic;
(G) textile; or
(H) rubber; and
(ii) the new products under Subsection (56)(d)(i) would otherwise be made with nonrecycled materials; or
(e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a cogeneration facility as defined in Section 54-2-1.
(57)
(a) Except as provided in Subsection (57)(b), "installation charge" means a charge for installing:
(i) tangible personal property; or
(ii) a product transferred electronically.
(b) "Installation charge" does not include a charge for:

(i) repairs or renovations of:
(A) tangible personal property; or
(B) a product transferred electronically; or
(ii) attaching tangible personal property or a product transferred electronically:
(A) to other tangible personal property; and
(B) as part of a manufacturing or fabrication process.
(58) "Institution of higher education" means an institution of higher education listed in Section 53B-2-101.
(59)
(a) "Lease" or "rental" means a transfer of possession or control of tangible personal property or a product transferred electronically for:
(i)
(A) a fixed term; or
(B) an indeterminate term; and
(ii) consideration.
(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.
(c) "Lease" or "rental" does not include:
(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
(ii) a transfer of possession or control of property under an agreement that requires the transfer of title:
(A) upon completion of required payments; and
(B) if the payment of an option price does not exceed the greater of:
(I) $100; or
(II) 1% of the total required payments; or
(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.
(d) For purposes of Subsection (59)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:
(i) set-up of tangible personal property;
(ii) maintenance of tangible personal property; or
(iii) inspection of tangible personal property.
(60) "Life science establishment" means an establishment in this state that is classified under the following NAICS codes of the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:
(a) NAICS Code 33911, Medical Equipment and Supplies Manufacturing;
(b) NAICS Code 334510, Electromedical and Electrotherapeutic Apparatus Manufacturing; or
(c) NAICS Code 334517, Irradiation Apparatus Manufacturing.
(61) "Life science research and development facility" means a facility owned, leased, or rented by a life science establishment if research and development is performed in 51% or more of the total area of the facility.
(62) "Load and leave" means delivery to a purchaser by use of a tangible storage media if the tangible storage media is not physically transferred to the purchaser.
(63) "Local taxing jurisdiction" means a:
(a) county that is authorized to impose an agreement sales and use tax;

(b) city that is authorized to impose an agreement sales and use tax; or
(c) town that is authorized to impose an agreement sales and use tax.
(64) "Manufactured home" is as defined in Section 15A-1-302.
(65) "Manufacturing facility" means:
(a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;
(b) a scrap recycler if:
(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
(A) iron;
(B) steel;
(C) nonferrous metal;
(D) paper;
(E) glass;
(F) plastic;
(G) textile; or
(H) rubber; and
(ii) the new products under Subsection (65)(b)(i) would otherwise be made with nonrecycled materials; or
(c) a cogeneration facility as defined in Section 54-2-1 if the cogeneration facility is placed in service on or after May 1, 2006.
(66) "Member of the immediate family of the producer" means a person who is related to a producer described in Subsection 59-12-104(20)(a) as a:
(a) child or stepchild, regardless of whether the child or stepchild is:
(i) an adopted child or adopted stepchild; or
(ii) a foster child or foster stepchild;
(b) grandchild or stepgrandchild;
(c) grandparent or stepgrandparent;
(d) nephew or stepnephew;
(e) niece or stepniece;
(f) parent or stepparent;
(g) sibling or stepsibling;
(h) spouse;
(i) person who is the spouse of a person described in Subsections (66)(a) through (g); or
(j) person similar to a person described in Subsections (66)(a) through (i) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
(67) "Mobile home" is as defined in Section 15A-1-302.
(68) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
(69)
(a) "Mobile wireless service" means a telecommunications service, regardless of the technology used, if:
(i) the origination point of the conveyance, routing, or transmission is not fixed;
(ii) the termination point of the conveyance, routing, or transmission is not fixed; or

(iii) the origination point described in Subsection (69)(a)(i) and the termination point described in Subsection (69)(a)(ii) are not fixed.

(b) "Mobile wireless service" includes a telecommunications service that is provided by a commercial mobile radio service provider.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define "commercial mobile radio service provider."

(70)

(a) Except as provided in Subsection (70)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle; and

(iii) not generally used by persons with normal mobility.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (70)(a).

(c) "Mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(71) "Model 1 seller" means a seller registered under the agreement that has selected a certified service provider as the seller's agent to perform all of the seller's sales and use tax functions for agreement sales and use taxes other than the seller's obligation under Section 59-12-124 to remit a tax on the seller's own purchases.

(72) "Model 2 seller" means a seller registered under the agreement that:

(a) except as provided in Subsection (72)(b), has selected a certified automated system to perform the seller's sales tax functions for agreement sales and use taxes; and

(b) retains responsibility for remitting all of the sales tax:

(i) collected by the seller; and

(ii) to the appropriate local taxing jurisdiction.

(73)

(a) Subject to Subsection (73)(b), "model 3 seller" means a seller registered under the agreement that has:

(i) sales in at least five states that are members of the agreement;

(ii) total annual sales revenues of at least $500,000,000;

(iii) a proprietary system that calculates the amount of tax:

(A) for an agreement sales and use tax; and

(B) due to each local taxing jurisdiction; and

(iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (73)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

(74) "Model 4 seller" means a seller that is registered under the agreement and is not a model 1 seller, model 2 seller, or model 3 seller.

(75) "Modular home" means a modular unit as defined in Section 15A-1-302.

(76) "Motor vehicle" is as defined in Section 41-1a-102.

(77) "Oil sands" means impregnated bituminous sands that:
(a) contain a heavy, thick form of petroleum that is released when heated, mixed with other hydrocarbons, or otherwise treated;
(b) yield mixtures of liquid hydrocarbon; and
(c) require further processing other than mechanical blending before becoming finished petroleum products.
(78) "Oil shale" means a group of fine black to dark brown shales containing kerogen material that yields petroleum upon heating and distillation.
(79) "Optional computer software maintenance contract" means a computer software maintenance contract that a customer is not obligated to purchase as a condition to the retail sale of computer software.
(80)
(a) "Other fuels" means products that burn independently to produce heat or energy.
(b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal property.
(81)
(a) "Paging service" means a telecommunications service that provides transmission of a coded radio signal for the purpose of activating a specific pager.
(b) For purposes of Subsection (81)(a), the transmission of a coded radio signal includes a transmission by message or sound.
(82) "Pawnbroker" is as defined in Section 13-32a-102.
(83) "Pawn transaction" is as defined in Section 13-32a-102.
(84)
(a) "Permanently attached to real property" means that for tangible personal property attached to real property:
(i) the attachment of the tangible personal property to the real property:
(A) is essential to the use of the tangible personal property; and
(B) suggests that the tangible personal property will remain attached to the real property in the same place over the useful life of the tangible personal property; or
(ii) if the tangible personal property is detached from the real property, the detachment would:
(A) cause substantial damage to the tangible personal property; or
(B) require substantial alteration or repair of the real property to which the tangible personal property is attached.
(b) "Permanently attached to real property" includes:
(i) the attachment of an accessory to the tangible personal property if the accessory is:
(A) essential to the operation of the tangible personal property; and
(B) attached only to facilitate the operation of the tangible personal property;
(ii) a temporary detachment of tangible personal property from real property for a repair or renovation if the repair or renovation is performed where the tangible personal property and real property are located; or
(iii) property attached to oil, gas, or water pipelines, except for the property listed in Subsection (84)(c)(iii) or (iv).
(c) "Permanently attached to real property" does not include:
(i) the attachment of portable or movable tangible personal property to real property if that portable or movable tangible personal property is attached to real property only for:
(A) convenience;
(B) stability; or
(C) for an obvious temporary purpose;

(ii) the detachment of tangible personal property from real property except for the detachment described in Subsection (84)(b)(ii);
(iii) an attachment of the following tangible personal property to real property if the attachment to real property is only through a line that supplies water, electricity, gas, telecommunications, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
(A) a computer;
(B) a telephone;
(C) a television; or
(D) tangible personal property similar to Subsections (84)(c)(iii)(A) through (C) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or
(iv) an item listed in Subsection (125)(c).
(85) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.
(86) "Place of primary use":
(a) for telecommunications service other than mobile telecommunications service, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which shall be:
(i) the residential street address of the customer; or
(ii) the primary business street address of the customer; or
(b) for mobile telecommunications service, is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
(87)
(a) "Postpaid calling service" means a telecommunications service a person obtains by making a payment on a call-by-call basis:
(i) through the use of a:
(A) bank card;
(B) credit card;
(C) debit card; or
(D) travel card; or
(ii) by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service.
(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling service, that would be a prepaid wireless calling service if the service were exclusively a telecommunications service.
(88) "Postproduction" means an activity related to the finishing or duplication of a medium described in Subsection 59-12-104(54)(a).
(89) "Prepaid calling service" means a telecommunications service:
(a) that allows a purchaser access to telecommunications service that is exclusively telecommunications service;
(b) that:
(i) is paid for in advance; and
(ii) enables the origination of a call using an:
(A) access number; or
(B) authorization code;

(c) that is dialed:
(i) manually; or
(ii) electronically; and
(d) sold in predetermined units or dollars that decline:
(i) by a known amount; and
(ii) with use.
(90) "Prepaid wireless calling service" means a telecommunications service:
(a) that provides the right to utilize:
(i) mobile wireless service; and
(ii) other service that is not a telecommunications service, including:
(A) the download of a product transferred electronically;
(B) a content service; or
(C) an ancillary service;
(b) that:
(i) is paid for in advance; and
(ii) enables the origination of a call using an:
(A) access number; or
(B) authorization code;
(c) that is dialed:
(i) manually; or
(ii) electronically; and
(d) sold in predetermined units or dollars that decline:
(i) by a known amount; and
(ii) with use.
(91)
(a) "Prepared food" means:
(i) food:
(A) sold in a heated state; or
(B) heated by a seller;
(ii) two or more food ingredients mixed or combined by the seller for sale as a single item; or
(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided by the seller, including a:
(A) plate;
(B) knife;
(C) fork;
(D) spoon;
(E) glass;
(F) cup;
(G) napkin; or
(H) straw.
(b) "Prepared food" does not include:
(i) food that a seller only:
(A) cuts;
(B) repackages; or
(C) pasteurizes; or
(ii)
(A) the following:
(I) raw egg;

(II) raw fish;
(III) raw meat;
(IV) raw poultry; or
(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV); and
(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection (91)(b)(ii)(A) to prevent food borne illness; or
(iii) the following if sold without eating utensils provided by the seller:
(A) food and food ingredients sold by a seller if the seller's proper primary classification under the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;
(B) food and food ingredients sold in an unheated state:
(I) by weight or volume; and
(II) as a single item; or
(C) a bakery item, including:
(I) a bagel;
(II) a bar;
(III) a biscuit;
(IV) bread;
(V) a bun;
(VI) a cake;
(VII) a cookie;
(VIII) a croissant;
(IX) a danish;
(X) a donut;
(XI) a muffin;
(XII) a pastry;
(XIII) a pie;
(XIV) a roll;
(XV) a tart;
(XVI) a torte; or
(XVII) a tortilla.
(c) An eating utensil provided by the seller does not include the following used to transport the food:
(i) a container; or
(ii) packaging.
(92) "Prescription" means an order, formula, or recipe that is issued:
(a)
(i) orally;
(ii) in writing;
(iii) electronically; or
(iv) by any other manner of transmission; and
(b) by a licensed practitioner authorized by the laws of a state.
(93)
(a) Except as provided in Subsection (93)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:
(i) by the author or other creator of the computer software; and

(ii) to the specifications of a specific purchaser.
(b) "Prewritten computer software" includes:
(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:
(A) by the author or other creator of the computer software; and
(B) to the specifications of a specific purchaser;
(ii) computer software designed and developed by the author or other creator of the computer software to the specifications of a specific purchaser if the computer software is sold to a person other than the purchaser; or
(iii) except as provided in Subsection (93)(c), prewritten computer software or a prewritten portion of prewritten computer software:
(A) that is modified or enhanced to any degree; and
(B) if the modification or enhancement described in Subsection (93)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.
(c) "Prewritten computer software" does not include a modification or enhancement described in Subsection (93)(b)(iii) if the charges for the modification or enhancement are:
(i) reasonable; and
(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), separately stated on the invoice or other statement of price provided to the purchaser at the time of sale or later, as demonstrated by:
(A) the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes;
(B) a preponderance of the facts and circumstances at the time of the transaction; and
(C) the understanding of all of the parties to the transaction.
(94)
(a) "Private communications service" means a telecommunications service:
(i) that entitles a customer to exclusive or priority use of one or more communications channels between or among termination points; and
(ii) regardless of the manner in which the one or more communications channels are connected.
(b) "Private communications service" includes the following provided in connection with the use of one or more communications channels:
(i) an extension line;
(ii) a station;
(iii) switching capacity; or
(iv) another associated service that is provided in connection with the use of one or more communications channels as defined in Section 59-12-215.
(95)
(a) Except as provided in Subsection (95)(b), "product transferred electronically" means a product transferred electronically that would be subject to a tax under this chapter if that product was transferred in a manner other than electronically.
(b) "Product transferred electronically" does not include:
(i) an ancillary service;
(ii) computer software; or
(iii) a telecommunications service.
(96)
(a) "Prosthetic device" means a device that is worn on or in the body to:

(i) artificially replace a missing portion of the body;
(ii) prevent or correct a physical deformity or physical malfunction; or
(iii) support a weak or deformed portion of the body.
(b) "Prosthetic device" includes:
(i) parts used in the repairs or renovation of a prosthetic device;
(ii) replacement parts for a prosthetic device;
(iii) a dental prosthesis; or
(iv) a hearing aid.
(c) "Prosthetic device" does not include:
(i) corrective eyeglasses; or
(ii) contact lenses.
(97)
(a) "Protective equipment" means an item:
(i) for human wear; and
(ii) that is:
(A) designed as protection:
(I) to the wearer against injury or disease; or
(II) against damage or injury of other persons or property; and
(B) not suitable for general use.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
(i) listing the items that constitute "protective equipment"; and
(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.
(98)
(a) For purposes of Subsection 59-12-104(41), "publication" means any written or printed matter, other than a photocopy:
(i) regardless of:
(A) characteristics;
(B) copyright;
(C) form;
(D) format;
(E) method of reproduction; or
(F) source; and
(ii) made available in printed or electronic format.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "photocopy."
(99)
(a) "Purchase price" and "sales price" mean the total amount of consideration:
(i) valued in money; and
(ii) for which tangible personal property, a product transferred electronically, or services are:
(A) sold;
(B) leased; or
(C) rented.
(b) "Purchase price" and "sales price" include:
(i) the seller's cost of the tangible personal property, a product transferred electronically, or services sold;
(ii) expenses of the seller, including:

(A) the cost of materials used;
(B) a labor cost;
(C) a service cost;
(D) interest;
(E) a loss;
(F) the cost of transportation to the seller; or
(G) a tax imposed on the seller;
(iii) a charge by the seller for any service necessary to complete the sale; or
(iv) consideration a seller receives from a person other than the purchaser if:
(A)
(I) the seller actually receives consideration from a person other than the purchaser; and
(II) the consideration described in Subsection (99)(b)(iv)(A)(I) is directly related to a price reduction or discount on the sale;
(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale to the purchaser; and
(D)
(I)
(Aa) the purchaser presents a certificate, coupon, or other documentation to the seller to claim a price reduction or discount; and
(Bb) a person other than the seller authorizes, distributes, or grants the certificate, coupon, or other documentation with the understanding that the person other than the seller will reimburse any seller to whom the certificate, coupon, or other documentation is presented;
(II) the purchaser identifies that purchaser to the seller as a member of a group or organization allowed a price reduction or discount, except that a preferred customer card that is available to any patron of a seller does not constitute membership in a group or organization allowed a price reduction or discount; or
(III) the price reduction or discount is identified as a third party price reduction or discount on the:
(Aa) invoice the purchaser receives; or
(Bb) certificate, coupon, or other documentation the purchaser presents.
(c) "Purchase price" and "sales price" do not include:
(i) a discount:
(A) in a form including:
(I) cash;
(II) term; or
(III) coupon;
(B) that is allowed by a seller;
(C) taken by a purchaser on a sale; and
(D) that is not reimbursed by a third party; or
(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of sale or later, as demonstrated by the books and records the seller keeps at the time of the transaction in the regular course of business, including books and records the seller keeps at the time of the transaction in the regular course of business for nontax purposes, by a

preponderance of the facts and circumstances at the time of the transaction, and by the understanding of all of the parties to the transaction:
(A) the following from credit extended on the sale of tangible personal property or services:
(I) a carrying charge;
(II) a financing charge; or
(III) an interest charge;
(B) a delivery charge;
(C) an installation charge;
(D) a manufacturer rebate on a motor vehicle; or
(E) a tax or fee legally imposed directly on the consumer.
(100) "Purchaser" means a person to whom:
(a) a sale of tangible personal property is made;
(b) a product is transferred electronically; or
(c) a service is furnished.
(101) "Qualifying enterprise data center" means an establishment that will:
(a) own and operate a data center facility that will house a group of networked server computers in one physical location in order to centralize the dissemination, management, and storage of data and information;
(b) be located in the state;
(c) be a new operation constructed on or after July 1, 2016;
(d) consist of one or more buildings that total 150,000 or more square feet;
(e) be owned or leased by:
(i) the establishment; or
(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment; and
(f) be located on one or more parcels of land that are owned or leased by:
(i) the establishment; or
(ii) a person under common ownership, as defined in Section 59-7-101, of the establishment.
(102) "Regularly rented" means:
(a) rented to a guest for value three or more times during a calendar year; or
(b) advertised or held out to the public as a place that is regularly rented to guests for value.
(103) "Rental" is as defined in Subsection (59).
(104)
(a) Except as provided in Subsection (104)(b), "repairs or renovations of tangible personal property" means:
(i) a repair or renovation of tangible personal property that is not permanently attached to real property; or
(ii) attaching tangible personal property or a product transferred electronically to other tangible personal property or detaching tangible personal property or a product transferred electronically from other tangible personal property if:
(A) the other tangible personal property to which the tangible personal property or product transferred electronically is attached or from which the tangible personal property or product transferred electronically is detached is not permanently attached to real property; and
(B) the attachment of tangible personal property or a product transferred electronically to other tangible personal property or detachment of tangible personal property or a product transferred electronically from other tangible personal property is made in conjunction

with a repair or replacement of tangible personal property or a product transferred electronically.

(b) "Repairs or renovations of tangible personal property" does not include:

(i) attaching prewritten computer software to other tangible personal property if the other tangible personal property to which the prewritten computer software is attached is not permanently attached to real property; or

(ii) detaching prewritten computer software from other tangible personal property if the other tangible personal property from which the prewritten computer software is detached is not permanently attached to real property.

(105) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.

(106)

(a) "Residential telecommunications services" means a telecommunications service or an ancillary service that is provided to an individual for personal use:

(i) at a residential address; or

(ii) at an institution, including a nursing home or a school, if the telecommunications service or ancillary service is provided to and paid for by the individual residing at the institution rather than the institution.

(b) For purposes of Subsection (106)(a)(i), a residential address includes an:

(i) apartment; or

(ii) other individual dwelling unit.

(107) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

(108) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

(a) resale;

(b) sublease; or

(c) subrent.

(109)

(a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

(b) "Retailer" includes commission merchants, auctioneers, and any person regularly engaged in the business of selling to users or consumers within the state.

(110)

(a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

(b) "Sale" includes:

(i) installment and credit sales;

(ii) any closed transaction constituting a sale;

(iii) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

(iv) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

(111) "Sale at retail" is as defined in Subsection (108).

(112) "Sale-leaseback transaction" means a transaction by which title to tangible personal property or a product transferred electronically that is subject to a tax under this chapter is transferred:
(a) by a purchaser-lessee;
(b) to a lessor;
(c) for consideration; and
(d) if:
(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property or product transferred electronically;
(ii) the sale of the tangible personal property or product transferred electronically to the lessor is intended as a form of financing:
(A) for the tangible personal property or product transferred electronically; and
(B) to the purchaser-lessee; and
(iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:
(A) capitalize the tangible personal property or product transferred electronically for financial reporting purposes; and
(B) account for the lease payments as payments made under a financing arrangement.
(113) "Sales price" is as defined in Subsection (99).
(114)
(a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:
(i) sales that are directly related to the school's educational functions or activities including:
(A) the sale of:
(I) textbooks;
(II) textbook fees;
(III) laboratory fees;
(IV) laboratory supplies; or
(V) safety equipment;
(B) the sale of a uniform, protective equipment, or sports or recreational equipment that:
(I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and
(II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;
(C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:
(I) food and food ingredients; or
(II) prepared food; or
(D) transportation charges for official school activities; or
(ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.
(b) "Sales relating to schools" does not include:
(i) bookstore sales of items that are not educational materials or supplies;
(ii) except as provided in Subsection (114)(a)(i)(B):
(A) clothing;
(B) clothing accessories or equipment;
(C) protective equipment; or
(D) sports or recreational equipment; or

(iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
(A) other than a:
(I) school;
(II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
(III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and
(B) that is required to collect sales and use taxes under this chapter.
(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "passed through."
(115) For purposes of this section and Section 59-12-104, "school":
(a) means:
(i) an elementary school or a secondary school that:
(A) is a:
(I) public school; or
(II) private school; and
(B) provides instruction for one or more grades kindergarten through 12; or
(ii) a public school district; and
(b) includes the Electronic High School as defined in Section 53A-15-1002.
(116) "Seller" means a person that makes a sale, lease, or rental of:
(a) tangible personal property;
(b) a product transferred electronically; or
(c) a service.
(117)
(a) "Semiconductor fabricating, processing, research, or development materials" means tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is:
(i) used primarily in the process of:
(A)
(I) manufacturing a semiconductor;
(II) fabricating a semiconductor; or
(III) research or development of a:
(Aa) semiconductor; or
(Bb) semiconductor manufacturing process; or
(B) maintaining an environment suitable for a semiconductor; or
(ii) consumed primarily in the process of:
(A)
(I) manufacturing a semiconductor;
(II) fabricating a semiconductor; or
(III) research or development of a:
(Aa) semiconductor; or
(Bb) semiconductor manufacturing process; or
(B) maintaining an environment suitable for a semiconductor.
(b) "Semiconductor fabricating, processing, research, or development materials" includes:
(i) parts used in the repairs or renovations of tangible personal property or a product transferred electronically described in Subsection (117)(a); or
(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:
(I) chemical change; or
(II) physical change;
(B) remove impurities from a semiconductor; or
(C) improve the marketable condition of a semiconductor.

(118) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

(119)
(a) Subject to Subsections (119)(b) and (c), "short-term lodging consumable" means tangible personal property that:
(i) a business that provides accommodations and services described in Subsection 59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services to a purchaser;
(ii) is intended to be consumed by the purchaser; and
(iii) is:
(A) included in the purchase price of the accommodations and services; and
(B) not separately stated on an invoice, bill of sale, or other similar document provided to the purchaser.
(b) "Short-term lodging consumable" includes:
(i) a beverage;
(ii) a brush or comb;
(iii) a cosmetic;
(iv) a hair care product;
(v) lotion;
(vi) a magazine;
(vii) makeup;
(viii) a meal;
(ix) mouthwash;
(x) nail polish remover;
(xi) a newspaper;
(xii) a notepad;
(xiii) a pen;
(xiv) a pencil;
(xv) a razor;
(xvi) saline solution;
(xvii) a sewing kit;
(xviii) shaving cream;
(xix) a shoe shine kit;
(xx) a shower cap;
(xxi) a snack item;
(xxii) soap;
(xxiii) toilet paper;
(xxiv) a toothbrush;
(xxv) toothpaste; or
(xxvi) an item similar to Subsections (119)(b)(i) through (xxv) as the commission may provide by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
(c) "Short-term lodging consumable" does not include:

(i) tangible personal property that is cleaned or washed to allow the tangible personal property to be reused; or
(ii) a product transferred electronically.
(120) "Simplified electronic return" means the electronic return:
(a) described in Section 318(C) of the agreement; and
(b) approved by the governing board of the agreement.
(121) "Solar energy" means the sun used as the sole source of energy for producing electricity.
(122)
(a) "Sports or recreational equipment" means an item:
(i) designed for human use; and
(ii) that is:
(A) worn in conjunction with:
(I) an athletic activity; or
(II) a recreational activity; and
(B) not suitable for general use.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules:
(i) listing the items that constitute "sports or recreational equipment"; and
(ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.
(123) "State" means the state of Utah, its departments, and agencies.
(124) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.
(125)
(a) Except as provided in Subsection (125)(d) or (e), "tangible personal property" means personal property that:
(i) may be:
(A) seen;
(B) weighed;
(C) measured;
(D) felt; or
(E) touched; or
(ii) is in any manner perceptible to the senses.
(b) "Tangible personal property" includes:
(i) electricity;
(ii) water;
(iii) gas;
(iv) steam; or
(v) prewritten computer software, regardless of the manner in which the prewritten computer software is transferred.
(c) "Tangible personal property" includes the following regardless of whether the item is attached to real property:
(i) a dishwasher;
(ii) a dryer;
(iii) a freezer;
(iv) a microwave;
(v) a refrigerator;

(vi) a stove;
(vii) a washer; or
(viii) an item similar to Subsections (125)(c)(i) through (vii) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
(d) "Tangible personal property" does not include a product that is transferred electronically.
(e) "Tangible personal property" does not include the following if attached to real property, regardless of whether the attachment to real property is only through a line that supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
(i) a hot water heater;
(ii) a water filtration system; or
(iii) a water softener system.
(126)
(a) "Telecommunications enabling or facilitating equipment, machinery, or software" means an item listed in Subsection (126)(b) if that item is purchased or leased primarily to enable or facilitate one or more of the following to function:
(i) telecommunications switching or routing equipment, machinery, or software; or
(ii) telecommunications transmission equipment, machinery, or software.
(b) The following apply to Subsection (126)(a):
(i) a pole;
(ii) software;
(iii) a supplementary power supply;
(iv) temperature or environmental equipment or machinery;
(v) test equipment;
(vi) a tower; or
(vii) equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi) as determined by the commission by rule made in accordance with Subsection (126)(c).
(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (126)(b)(i) through (vi).
(127) "Telecommunications equipment, machinery, or software required for 911 service" means equipment, machinery, or software that is required to comply with 47 C.F.R. Sec. 20.18.
(128) "Telecommunications maintenance or repair equipment, machinery, or software" means equipment, machinery, or software purchased or leased primarily to maintain or repair one or more of the following, regardless of whether the equipment, machinery, or software is purchased or leased as a spare part or as an upgrade or modification to one or more of the following:
(a) telecommunications enabling or facilitating equipment, machinery, or software;
(b) telecommunications switching or routing equipment, machinery, or software; or
(c) telecommunications transmission equipment, machinery, or software.
(129)
(a) "Telecommunications service" means the electronic conveyance, routing, or transmission of audio, data, video, voice, or any other information or signal to a point, or among or between points.
(b) "Telecommunications service" includes:

(i) an electronic conveyance, routing, or transmission with respect to which a computer processing application is used to act:
(A) on the code, form, or protocol of the content;
(B) for the purpose of electronic conveyance, routing, or transmission; and
(C) regardless of whether the service:
(I) is referred to as voice over Internet protocol service; or
(II) is classified by the Federal Communications Commission as enhanced or value added;
(ii) an 800 service;
(iii) a 900 service;
(iv) a fixed wireless service;
(v) a mobile wireless service;
(vi) a postpaid calling service;
(vii) a prepaid calling service;
(viii) a prepaid wireless calling service; or
(ix) a private communications service.
(c) "Telecommunications service" does not include:
(i) advertising, including directory advertising;
(ii) an ancillary service;
(iii) a billing and collection service provided to a third party;
(iv) a data processing and information service if:
(A) the data processing and information service allows data to be:
(I)
(Aa) acquired;
(Bb) generated;
(Cc) processed;
(Dd) retrieved; or
(Ee) stored; and
(II) delivered by an electronic transmission to a purchaser; and
(B) the purchaser's primary purpose for the underlying transaction is the processed data or information;
(v) installation or maintenance of the following on a customer's premises:
(A) equipment; or
(B) wiring;
(vi) Internet access service;
(vii) a paging service;
(viii) a product transferred electronically, including:
(A) music;
(B) reading material;
(C) a ring tone;
(D) software; or
(E) video;
(ix) a radio and television audio and video programming service:
(A) regardless of the medium; and
(B) including:
(I) furnishing conveyance, routing, or transmission of a television audio and video programming service by a programming service provider;
(II) cable service as defined in 47 U.S.C. Sec. 522(6); or

(III) audio and video programming services delivered by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

(x) a value-added nonvoice data service; or

(xi) tangible personal property.

(130)

(a) "Telecommunications service provider" means a person that:

(i) owns, controls, operates, or manages a telecommunications service; and

(ii) engages in an activity described in Subsection (130)(a)(i) for the shared use with or resale to any person of the telecommunications service.

(b) A person described in Subsection (130)(a) is a telecommunications service provider whether or not the Public Service Commission of Utah regulates:

(i) that person; or

(ii) the telecommunications service that the person owns, controls, operates, or manages.

(131)

(a) "Telecommunications switching or routing equipment, machinery, or software" means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for switching or routing:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (131)(a):

(i) a bridge;

(ii) a computer;

(iii) a cross connect;

(iv) a modem;

(v) a multiplexer;

(vi) plug in circuitry;

(vii) a router;

(viii) software;

(ix) a switch; or

(x) equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix) as determined by the commission by rule made in accordance with Subsection (131)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (131)(b)(i) through (ix).

(132)

(a) "Telecommunications transmission equipment, machinery, or software" means an item listed in Subsection (132)(b) if that item is purchased or leased primarily for sending, receiving, or transporting:

(i) an ancillary service;

(ii) data communications;

(iii) voice communications; or

(iv) telecommunications service.

(b) The following apply to Subsection (132)(a):

(i) an amplifier;

(ii) a cable;

(iii) a closure;
(iv) a conduit;
(v) a controller;
(vi) a duplexer;
(vii) a filter;
(viii) an input device;
(ix) an input/output device;
(x) an insulator;
(xi) microwave machinery or equipment;
(xii) an oscillator;
(xiii) an output device;
(xiv) a pedestal;
(xv) a power converter;
(xvi) a power supply;
(xvii) a radio channel;
(xviii) a radio receiver;
(xix) a radio transmitter;
(xx) a repeater;
(xxi) software;
(xxii) a terminal;
(xxiii) a timing unit;
(xxiv) a transformer;
(xxv) a wire; or
(xxvi) equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv) as determined by the commission by rule made in accordance with Subsection (132)(c).

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define what constitutes equipment, machinery, or software that functions similarly to an item listed in Subsections (132)(b)(i) through (xxv).

(133)
(a) "Textbook for a higher education course" means a textbook or other printed material that is required for a course:
(i) offered by an institution of higher education; and
(ii) that the purchaser of the textbook or other printed material attends or will attend.
(b) "Textbook for a higher education course" includes a textbook in electronic format.

(134) "Tobacco" means:
(a) a cigarette;
(b) a cigar;
(c) chewing tobacco;
(d) pipe tobacco; or
(e) any other item that contains tobacco.

(135) "Unassisted amusement device" means an amusement device, skill device, or ride device that is started and stopped by the purchaser or renter of the right to use or operate the amusement device, skill device, or ride device.

(136)
(a) "Use" means the exercise of any right or power over tangible personal property, a product transferred electronically, or a service under Subsection 59-12-103(1), incident to the

ownership or the leasing of that tangible personal property, product transferred electronically, or service.

(b) "Use" does not include the sale, display, demonstration, or trial of tangible personal property, a product transferred electronically, or a service in the regular course of business and held for resale.

(137) "Value-added nonvoice data service" means a service:

(a) that otherwise meets the definition of a telecommunications service except that a computer processing application is used to act primarily for a purpose other than conveyance, routing, or transmission; and

(b) with respect to which a computer processing application is used to act on data or information:

(i) code;

(ii) content;

(iii) form; or

(iv) protocol.

(138)

(a) Subject to Subsection (138)(b), "vehicle" means the following that are required to be titled, registered, or titled and registered:

(i) an aircraft as defined in Section 72-10-102;

(ii) a vehicle as defined in Section 41-1a-102;

(iii) an off-highway vehicle as defined in Section 41-22-2; or

(iv) a vessel as defined in Section 41-1a-102.

(b) For purposes of Subsection 59-12-104(33) only, "vehicle" includes:

(i) a vehicle described in Subsection (138)(a); or

(ii)

(A) a locomotive;

(B) a freight car;

(C) railroad work equipment; or

(D) other railroad rolling stock.

(139) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging a vehicle as defined in Subsection (138).

(140)

(a) "Vertical service" means an ancillary service that:

(i) is offered in connection with one or more telecommunications services; and

(ii) offers an advanced calling feature that allows a customer to:

(A) identify a caller; and

(B) manage multiple calls and call connections.

(b) "Vertical service" includes an ancillary service that allows a customer to manage a conference bridging service.

(141)

(a) "Voice mail service" means an ancillary service that enables a customer to receive, send, or store a recorded message.

(b) "Voice mail service" does not include a vertical service that a customer is required to have in order to utilize a voice mail service.

(142)

(a) Except as provided in Subsection (142)(b), "waste energy facility" means a facility that generates electricity:

(i) using as the primary source of energy waste materials that would be placed in a landfill or refuse pit if it were not used to generate electricity, including:

(A) tires;
(B) waste coal;
(C) oil shale; or
(D) municipal solid waste; and
(ii) in amounts greater than actually required for the operation of the facility.
(b) "Waste energy facility" does not include a facility that incinerates:
(i) hospital waste as defined in 40 C.F.R. 60.51c; or
(ii) medical/infectious waste as defined in 40 C.F.R. 60.51c.
(143) "Watercraft" means a vessel as defined in Section 73-18-2.
(144) "Wind energy" means wind used as the sole source of energy to produce electricity.
(145) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.