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**SALES TAX - EXEMPTION FOR HIGHER
EDUCATION ATHLETIC EVENTS**

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING A SALES TAX
EXEMPTION FOR AMOUNTS PAID FOR ADMISSION TO ATHLETIC EVENTS AT
CERTAIN INSTITUTIONS OF HIGHER EDUCATION; REPEALING OBSOLETE
LANGUAGE; MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE
DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-12-104, as last amended by Chapters 218, 299, 344 and 378, Laws of Utah 1997

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

Section 1. Section **59-12-104** is amended to read:

59-12-104. Exemptions.

The following sales and uses are exempt from the taxes imposed by this chapter:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
under Title 59, Chapter 13, Motor and Special Fuel Tax Act;

~~[(2) through December 31, 1995, sales to the state, its institutions, and its political
subdivisions, except sales of construction materials however, construction materials purchased by
the state, its institutions, or its political subdivisions which are installed or converted to real
property by employees of the state, its institutions, or its political subdivisions are exempt;]~~

~~[(3) beginning January 1, 1996,]~~

(2) sales to the state, its institutions, and its political subdivisions; however, this exemption
does not apply to sales of construction materials except:

(a) construction materials purchased by or on behalf of institutions of the public education

1 system as defined in Utah Constitution Article X, Section 2, provided the construction materials
2 are clearly identified and segregated and installed or converted to real property which is owned by
3 institutions of the public education system; and

4 (b) construction materials purchased by the state, its institutions, or its political
5 subdivisions which are installed or converted to real property by employees of the state, its
6 institutions, or its political subdivisions;

7 [~~(4)~~] (3) sales of food, beverage, and dairy products from vending machines in which the
8 proceeds of each sale do not exceed \$1 if the vendor or operator of the vending machine reports
9 an amount equal to 150% of the cost of items as goods consumed;

10 [~~(5)~~] (4) sales of food, beverage, dairy products, similar confections, and related services
11 to commercial airline carriers for in-flight consumption;

12 [~~(6)~~] (5) sales of parts and equipment installed in aircraft operated by common carriers in
13 interstate or foreign commerce;

14 [~~(7)~~] (6) sales of commercials, motion picture films, prerecorded audio program tapes or
15 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
16 exhibitor, distributor, or commercial television or radio broadcaster;

17 [~~(8)~~] (7) sales of cleaning or washing of tangible personal property by a coin-operated
18 laundry or dry cleaning machine;

19 [~~(9)~~] (8) sales made to or by religious or charitable institutions in the conduct of their
20 regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1
21 are fulfilled;

22 [~~(10)~~] (9) sales of vehicles of a type required to be registered under the motor vehicle laws
23 of this state which are made to bona fide nonresidents of this state and are not afterwards registered
24 or used in this state except as necessary to transport them to the borders of this state;

25 [~~(11)~~] (10) sales of medicine;

26 [~~(12)~~] (11) sales or use of property, materials, or services used in the construction of or
27 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

28 [~~(13)~~] (12) sales of meals served by:

29 (a) churches, charitable institutions, and institutions of higher education, if the meals are
30 not available to the general public; and

31 (b) inpatient meals provided at medical or nursing facilities;

1 ~~[(14)]~~ (13) isolated or occasional sales by persons not regularly engaged in business,
2 except the sale of vehicles or vessels required to be titled or registered under the laws of this state
3 in which case the tax is based upon:

4 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;

5 or

6 (b) in the absence of a bill of sale or other written evidence of value, the then existing fair
7 market value of the vehicle or vessel being sold as determined by the commission;

8 ~~[(15)]~~ (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

9 (i) machinery and equipment:

10 (A) used in the manufacturing process;

11 (B) having an economic life of three or more years; and

12 (C) used:

13 (I) to manufacture an item sold as tangible personal property; and

14 (II) in new or expanding operations in a manufacturing facility in the state; and

15 (ii) subject to the provisions of Subsection ~~[(15)]~~ (14)(b), normal operating replacements

16 that:

17 (A) have an economic life of three or more years;

18 (B) are used in the manufacturing process in a manufacturing facility in the state;

19 (C) are used to replace or adapt an existing machine to extend the normal estimated useful
20 life of the machine; and

21 (D) do not include repairs and maintenance;

22 (b) the rates for the exemption under Subsection ~~[(15)]~~ (14)(a)(ii) are as follows:

23 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
24 Subsection ~~[(15)]~~ (14)(a)(ii) is exempt;

25 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in
26 Subsection ~~[(15)]~~ (14)(a)(ii) is exempt; and

27 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection ~~[(15)]~~
28 (14)(a)(ii) is exempt;

29 (c) for purposes of this subsection, the commission shall by rule define the terms "new or
30 expanding operations" and "establishment"; and

31 (d) on or before October 1, 1991, and every five years after October 1, 1991, the

1 commission shall:

2 (i) review the exemptions described in Subsection [~~(15)~~] (14)(a) and make
3 recommendations to the Revenue and Taxation Interim Committee concerning whether the
4 exemptions should be continued, modified, or repealed; and

5 (ii) include in its report:

6 (A) the cost of the exemptions;

7 (B) the purpose and effectiveness of the exemptions; and

8 (C) the benefits of the exemptions to the state;

9 [~~(16)~~] (15) sales of tooling, special tooling, support equipment, and special test equipment
10 used or consumed exclusively in the performance of any aerospace or electronics industry contract
11 with the United States government or any subcontract under that contract, but only if, under the
12 terms of that contract or subcontract, title to the tooling and equipment is vested in the United
13 States government as evidenced by a government identification tag placed on the tooling and
14 equipment or by listing on a government-approved property record if a tag is impractical;

15 [~~(17)~~] (16) intrastate movements of:

16 (a) freight by common carriers; and

17 (b) people by taxicabs as described in SIC Code 4121 of the Standard Industrial
18 Classification Manual of the federal Executive Office of the President, Office of Management and
19 Budget;

20 [~~(18)~~] (17) sales of newspapers or newspaper subscriptions;

21 [~~(19)~~] (18) tangible personal property, other than money, traded in as full or part payment
22 of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold
23 by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

24 (a) the bill of sale or other written evidence of value of the vehicle being sold and the
25 vehicle being traded in; or

26 (b) in the absence of a bill of sale or other written evidence of value, the then existing fair
27 market value of the vehicle being sold and the vehicle being traded in, as determined by the
28 commission;

29 [~~(20)~~] (19) sprays and insecticides used to control insects, diseases, and weeds for
30 commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those
31 sprays and insecticides used in the processing of the products;

1 ~~[(21)]~~ (20) (a) sales of tangible personal property used or consumed primarily and directly
2 in farming operations, including sales of irrigation equipment and supplies used for agricultural
3 production purposes, whether or not they become part of real estate and whether or not installed
4 by farmer, contractor, or subcontractor, but not sales of:

5 (i) machinery, equipment, materials, and supplies used in a manner that is incidental to
6 farming, such as hand tools with a unit purchase price not in excess of \$250, and maintenance and
7 janitorial equipment and supplies;

8 (ii) tangible personal property used in any activities other than farming, such as office
9 equipment and supplies, equipment and supplies used in sales or distribution of farm products, in
10 research, or in transportation; or

11 (iii) any vehicle required to be registered by the laws of this state, without regard to the
12 use to which the vehicle is put;

13 (b) sales of hay;

14 ~~[(22)]~~ (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm,
15 or other agricultural produce if sold by a producer during the harvest season;

16 ~~[(23)]~~ (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp
17 Program, 7 U.S.C. Sec. 2011 et seq.;

18 ~~[(24)]~~ (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
19 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler,
20 or retailer for use in packaging tangible personal property to be sold by that manufacturer,
21 processor, wholesaler, or retailer;

22 ~~[(25)]~~ (24) property stored in the state for resale;

23 ~~[(26)]~~ (25) property brought into the state by a nonresident for his or her own personal use
24 or enjoyment while within the state, except property purchased for use in Utah by a nonresident
25 living and working in Utah at the time of purchase;

26 ~~[(27)]~~ (26) property purchased for resale in this state, in the regular course of business,
27 either in its original form or as an ingredient or component part of a manufactured or compounded
28 product;

29 ~~[(28)]~~ (27) property upon which a sales or use tax was paid to some other state, or one of
30 its subdivisions, except that the state shall be paid any difference between the tax paid and the tax
31 imposed by this part and Part 2, and no adjustment is allowed if the tax paid was greater than the

1 tax imposed by this part and Part 2;

2 ~~[(29)]~~ (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to
3 a person for use in compounding a service taxable under the subsections;

4 ~~[(30)]~~ (29) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14)
5 under the special supplemental nutrition program for women, infants, and children established in
6 42 U.S.C. Sec. 1786;

7 ~~[(31)]~~ (30) (a) sales or leases made before June 30, 1996, of rolls, rollers, refractory brick,
8 electric motors, and other replacement parts used in the furnaces, mills, and ovens of a steel mill
9 described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal
10 Executive Office of the President, Office of Management and Budget; or

11 (b) contracts entered into or orders placed on or before January 1, 1996, to purchase or
12 lease an item described in Subsection ~~[(31)]~~ (30)(a) if the contract or order constitutes a:

13 (i) legal obligation to purchase or lease an item described in Subsection ~~[(31)]~~ (30)(a); and

14 (ii) sale or lease under Section 59-12-102 on or before June 30, 1997;

15 ~~[(32)]~~ (31) sales of boats of a type required to be registered under Title 73, Chapter 18,
16 State Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents
17 of this state and are not thereafter registered or used in this state except as necessary to transport
18 them to the borders of this state;

19 ~~[(33)]~~ (32) sales of tangible personal property to persons within this state that is
20 subsequently shipped outside the state and incorporated pursuant to contract into and becomes a
21 part of real property located outside of this state, except to the extent that the other state or political
22 entity imposes a sales, use, gross receipts, or other similar transaction excise tax on it against
23 which the other state or political entity allows a credit for taxes imposed by this chapter;

24 ~~[(34)]~~ (33) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
25 where a sales or use tax is not imposed, even if the title is passed in Utah;

26 ~~[(35)]~~ (34) amounts paid for the purchase of telephone service for purposes of providing
27 telephone service;

28 ~~[(36)]~~ (35) fares charged to persons transported directly by a public transit district created
29 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit ~~[Districts]~~ District Act;

30 ~~[(37)]~~ (36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

31 ~~[(38)]~~ (37) until July 1, 2000, 45% of the sales price of any new manufactured home and

- 1 100% of the sales price of any used manufactured home;
- 2 [~~(39)~~] (38) sales relating to schools and fundraising sales;
- 3 [~~(40)~~] (39) sales or rentals of home medical equipment and supplies;
- 4 [~~(41)~~] (40) (a) sales to a ski resort of electricity to operate a passenger tramway as defined
- 5 in Subsection 63-11-38(8); and
- 6 (b) the commission shall by rule determine the method for calculating sales exempt under
- 7 Subsection [~~(41)~~] (40)(a) that are not separately metered and accounted for in utility billings;
- 8 [~~(42)~~] (41) sales to a ski resort of:
- 9 (a) snowmaking equipment;
- 10 (b) ski slope grooming equipment; and
- 11 (c) passenger tramways as defined in Subsection 63-11-38(8);
- 12 [~~(43)~~] (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial
- 13 use;
- 14 [~~(44)~~] (43) sales or rentals of the right to use or operate for amusement, entertainment, or
- 15 recreation a coin-operated amusement device as defined in Subsection 59-12-102(3);
- 16 [~~(45)~~] (44) sales of cleaning or washing of tangible personal property by a coin-operated
- 17 car wash machine;
- 18 [~~(46)~~] (45) sales by the state or a political subdivision of the state, except state institutions
- 19 of higher education as defined in Section 53B-3-102, of:
- 20 (a) photocopies; or
- 21 (b) other copies of records held or maintained by the state or a political subdivision of the
- 22 state; and
- 23 [~~(47)~~] (46) (a) amounts paid:
- 24 (i) to a person providing intrastate transportation to an employer's employee to or from the
- 25 employee's primary place of employment;
- 26 (ii) by an:
- 27 (A) employee; or
- 28 (B) employer; and
- 29 (iii) pursuant to a written contract between:
- 30 (A) the employer; and
- 31 (B) (I) the employee; or

1 (II) a person providing transportation to the employer's employee; and
2 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
3 commission may for purposes of Subsection [~~(47)~~] (46)(a) make rules defining what constitutes
4 an employee's primary place of employment[-]; and
5 (47) amounts paid for admission to an athletic event at an institution of higher education
6 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
7 1681 et seq.
8 Section 2. **Effective date.**
9 This act takes effect on July 1, 1998.

Legislative Review Note
as of 12-16-97 8:08 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel