

AMENDMENTS TO SALES AND USE TAX

EXEMPTION FOR MEALS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Afton B. Bradshaw

This act modifies the Sales and Use Tax Act by amending the sales and use tax exemption for sales of meals served by an institution of higher education to exempt certain meals that are prepaid as part of a meal plan, and making technical changes. This act takes effect on July 1, 2001.

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

AMENDS:

59-12-104, as last amended by Chapter 325, Laws of Utah 2000

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

(b) 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;

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

31 (4) sales of food, beverage, dairy products, similar confections, and related services to
32 commercial airline carriers for in-flight consumption;

33 (5) sales of parts and equipment installed in aircraft operated by common carriers in
34 interstate or foreign commerce;

35 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
36 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
37 exhibitor, distributor, or commercial television or radio broadcaster;

38 (7) sales of cleaning or washing of tangible personal property by a coin-operated laundry
39 or dry cleaning machine;

40 (8) (a) except as provided in Subsection (8)(b), sales made to or by religious or charitable
41 institutions in the conduct of their regular religious or charitable functions and activities, if the
42 requirements of Section 59-12-104.1 are fulfilled;

43 (b) the exemption provided for in Subsection (8)(a) does not apply to the following sales,
44 uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an
45 organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue
46 Code:

47 (i) retail sales of Olympic merchandise;

48 (ii) except as provided in Subsection (51), admissions or user fees described in Subsection
49 59-12-103(1)(f);

50 (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),
51 except for accommodations and services:

52 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games
53 of 2002;

54 (B) exclusively used by:

55 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
56 Olympic Winter Games of 2002; or

57 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter
58 Games of 2002; and

59 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
60 does not receive reimbursement; or

61 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
62 rental of a vehicle:

63 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games
64 of 2002;

65 (B) exclusively used by:

66 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
67 Olympic Winter Games of 2002; or

68 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter
69 Games of 2002; and

70 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
71 does not receive reimbursement;

72 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of this
73 state which are made to bona fide nonresidents of this state and are not afterwards registered or
74 used in this state except as necessary to transport them to the borders of this state;

75 (10) sales of medicine;

76 (11) sales or use of property, materials, or services used in the construction of or
77 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

78 (12) sales of meals served by:

79 (a) [~~churches, charitable institutions, and institutions of higher education;~~] the following
80 if the meals are not available to the general public[~~; and~~];

81 (i) a church; or

82 (ii) a charitable institution;

83 (b) an institution of higher education if:

84 (i) the meals are not available to the general public; or

85 (ii) the meals are prepaid as part of a meal plan available only to:

86 (A) a student of the institution of higher education;

87 (B) faculty of the institution of higher education; or

88 (C) staff of the institution of higher education; or

89 [~~(b)~~] (c) inpatient meals provided at;

90 (i) a medical facility; or
91 (ii) a nursing [facilities] facility;

92 (13) isolated or occasional sales by persons not regularly engaged in business, except the
93 sale of vehicles or vessels required to be titled or registered under the laws of this state in which
94 case the tax is based upon:

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

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

99 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

100 (i) machinery and equipment:

101 (A) used in the manufacturing process;

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

103 (C) used:

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

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

106 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:

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

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

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

111 (D) do not include repairs and maintenance;

112 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:

113 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
114 Subsection (14)(a)(ii) is exempt;

115 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in
116 Subsection (14)(a)(ii) is exempt; and

117 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection (14)(a)(ii)
118 is exempt;

119 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
120 "new or expanding operations" and "establishment"; and

121 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
122 commission shall:

123 (i) review the exemptions described in Subsection (14)(a) and make recommendations to
124 the Revenue and Taxation Interim Committee concerning whether the exemptions should be
125 continued, modified, or repealed; and

126 (ii) include in its report:

127 (A) the cost of the exemptions;

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

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

130 (15) sales of tooling, special tooling, support equipment, and special test equipment used
131 or consumed exclusively in the performance of any aerospace or electronics industry contract with
132 the United States government or any subcontract under that contract, but only if, under the terms
133 of that contract or subcontract, title to the tooling and equipment is vested in the United States
134 government as evidenced by a government identification tag placed on the tooling and equipment
135 or by listing on a government-approved property record if a tag is impractical;

136 (16) intrastate movements of:

137 (a) freight by common carriers; and

138 (b) passengers:

139 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
140 Classification Manual of the federal Executive Office of the President, Office of Management and
141 Budget; or

142 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
143 Industrial Classification Manual of the federal Executive Office of the President, Office of
144 Management and Budget, if the transportation originates and terminates within a county of the
145 first, second, or third class;

146 (17) sales of newspapers or newspaper subscriptions;

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

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

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

155 (19) sprays and insecticides used to control insects, diseases, and weeds for commercial
156 production of fruits, vegetables, feeds, seeds, and animal products, but not those sprays and
157 insecticides used in the processing of the products;

158 (20) (a) sales of tangible personal property used or consumed primarily and directly in
159 farming operations, including sales of irrigation equipment and supplies used for agricultural
160 production purposes, whether or not they become part of real estate and whether or not installed
161 by farmer, contractor, or subcontractor, but not sales of:

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

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

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

170 (b) sales of hay;

171 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or
172 other agricultural produce if sold by a producer during the harvest season;

173 (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp Program,
174 7 U.S.C. Sec. 2011 et seq.;

175 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
176 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler,
177 or retailer for use in packaging tangible personal property to be sold by that manufacturer,
178 processor, wholesaler, or retailer;

179 (24) property stored in the state for resale;

180 (25) property brought into the state by a nonresident for his or her own personal use or
181 enjoyment while within the state, except property purchased for use in Utah by a nonresident living
182 and working in Utah at the time of purchase;

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

185 (27) property upon which a sales or use tax was paid to some other state, or one of its
186 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
187 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the
188 tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

189 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person
190 for use in compounding a service taxable under the subsections;

191 (29) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under the
192 special supplemental nutrition program for women, infants, and children established in 42 U.S.C.
193 Sec. 1786;

194 (30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers,
195 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
196 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual
197 of the federal Executive Office of the President, Office of Management and Budget;

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

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

207 (33) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah where
208 a sales or use tax is not imposed, even if the title is passed in Utah;

209 (34) amounts paid for the purchase of telephone service for purposes of providing
210 telephone service;

211 (35) fares charged to persons transported directly by a public transit district created under
212 the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

213 (36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

- 214 (37) (a) 45% of the sales price of any new manufactured home; and
- 215 (b) 100% of the sales price of any used manufactured home;
- 216 (38) sales relating to schools and fundraising sales;
- 217 (39) sales or rentals of home medical equipment and supplies;
- 218 (40) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 219 Section 72-11-102; and
- 220 (b) the commission shall by rule determine the method for calculating sales exempt under
- 221 Subsection (40)(a) that are not separately metered and accounted for in utility billings;
- 222 (41) sales to a ski resort of:
- 223 (a) snowmaking equipment;
- 224 (b) ski slope grooming equipment; and
- 225 (c) passenger ropeways as defined in Section 72-11-102;
- 226 (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 227 (43) sales or rentals of the right to use or operate for amusement, entertainment, or
- 228 recreation a coin-operated amusement device as defined in Section 59-12-102;
- 229 (44) sales of cleaning or washing of tangible personal property by a coin-operated car wash
- 230 machine;
- 231 (45) sales by the state or a political subdivision of the state, except state institutions of
- 232 higher education as defined in Section 53B-3-102, of:
- 233 (a) photocopies; or
- 234 (b) other copies of records held or maintained by the state or a political subdivision of the
- 235 state; and
- 236 (46) (a) amounts paid:
- 237 (i) to a person providing intrastate transportation to an employer's employee to or from the
- 238 employee's primary place of employment;
- 239 (ii) by an:
- 240 (A) employee; or
- 241 (B) employer; and
- 242 (iii) pursuant to a written contract between:
- 243 (A) the employer; and
- 244 (B) (I) the employee; or

245 (II) a person providing transportation to the employer's employee; and
246 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
247 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an
248 employee's primary place of employment;

249 (47) amounts paid for admission to an athletic event at an institution of higher education
250 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
251 1681 et seq.;

252 (48) sales of telephone service charged to a prepaid telephone calling card;

253 (49) (a) sales of hearing aids; and
254 (b) sales of hearing aid accessories;

255 (50) (a) sales made to or by:
256 (i) an area agency on aging; or
257 (ii) a senior citizen center owned by a county, city, or town; or
258 (b) sales made by a senior citizen center that contracts with an area agency on aging; and

259 (51) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as
260 admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter
261 Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing
262 Committee for the Olympic Winter Games of 2002 in accordance with requirements of the
263 International Olympic Committee; and
264 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
265 Winter Games of 2002 shall make at least two reports during the 2000 interim:

266 (i) to the:
267 (A) Olympic Coordination Committee; and
268 (B) Revenue and Taxation Interim Committee; and
269 (ii) regarding the status of:
270 (A) agreements relating to the funding of public safety services for the Olympic Winter
271 Games of 2002;
272 (B) agreements relating to the funding of services, other than public safety services, for
273 the Olympic Winter Games of 2002;
274 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by the
275 Olympic Coordination Committee or the Revenue and Taxation Interim Committee;

276 (D) other issues as requested by the Olympic Coordination Committee or the Revenue and
277 Taxation Interim Committee; or

278 (E) a combination of Subsections (51)(b)(ii)(A) through (D).

279 Section 2. **Effective date.**

280 This act takes effect on July 1, 2001.

Legislative Review Note
as of 1-23-01 3:05 PM

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

Office of Legislative Research and General Counsel