

1 **LOCAL OPTION SALES AND USE TAX**
2 **DISTRIBUTION AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Gregory S. Bell**

6 House Sponsor: J. Stuart Adams

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Local Sales and Use Tax Act to address distributions of sales and
11 use tax revenues to counties, cities, and towns.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides definitions;
- 15 ▶ addresses the minimum amount of sales and use tax certain counties, cities, or
16 towns shall receive for purposes of the 1% local option sales and use tax; and
- 17 ▶ makes technical changes.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill takes effect on July 1, 2006.

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **59-12-205 (Effective 07/01/06)**, as last amended by Chapter 158, Laws of Utah 2005

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

27 Section 1. Section **59-12-205 (Effective 07/01/06)** is amended to read:

28 **59-12-205 (Effective 07/01/06). Ordinances to conform with statutory**
29 **amendments -- Distribution of tax revenues -- Rulemaking authority -- Determination of**

30 **population.**

31 (1) Each county, city, and town, in order to maintain in effect sales and use tax
32 ordinances adopted pursuant to Section 59-12-204, shall, within 30 days of any amendment of
33 any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales
34 and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as
35 they relate to sales and use taxes.

36 (2) Except as provided in [~~Subsection~~] Subsections (7) and (8):

37 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall
38 be paid to each county, city, and town on the basis of the percentage that the population of the
39 county, city, or town bears to the total population of all counties, cities, and towns in the state;
40 and

41 (b) notwithstanding Sections 59-12-207.1 through 59-12-207.3, 50% of each dollar
42 collected from the sales and use tax authorized by this part shall be paid to each county, city,
43 and town on the basis of the location where the transaction is consummated as determined
44 under this section.

45 (3) For purposes of Subsection (2)(b), the location where a transaction is consummated
46 is determined in accordance with Subsections (4) through (6).

47 (4) (a) For a transaction that is reported to the commission on a return other than a
48 simplified electronic return, the location where the transaction is consummated is determined
49 in accordance with Subsections (4)(b) through (h).

50 (b) (i) Except as provided in Subsections (4)(c) through (h), for a transaction described
51 in Subsection (4)(b)(ii), the location where the transaction is consummated is the place of
52 business of the seller.

53 (ii) Subsection (4)(b)(i) applies to a transaction other than a transaction described in:

54 (A) Subsection (4)(c)(ii);

55 (B) Subsection (4)(d)(ii);

56 (C) Subsection (4)(e)(ii);

57 (D) Subsection (4)(f)(ii);

58 (E) Subsection (4)(g)(ii); or

59 (F) Subsection (4)(h).

60 (c) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection
61 (4)(c)(ii), the location where the transaction is consummated is determined by allocating the
62 total revenues remitted to the commission each month that are generated by the tax imposed
63 under this section on the transactions described in Subsection (4)(c)(ii):

64 (A) to each local taxing jurisdiction; and

65 (B) on the basis of the population of each local taxing jurisdiction as compared to the
66 population of the state.

67 (ii) Subsection (4)(c)(i) applies to a transaction:

68 (A) made by a seller described in Subsection 59-12-107(1)(b); and

69 (B) involving tangible personal property that is shipped from outside the state.

70 (d) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection
71 (4)(d)(ii), the location where the transaction is consummated is determined by allocating the
72 total revenues reported to the commission each month that are generated by the tax imposed
73 under this section on the transactions described in Subsection (4)(d)(ii):

74 (A) to local taxing jurisdictions within a county; and

75 (B) on the basis of the proportion of total revenues generated by the transactions
76 described in Subsection (4)(b)(ii) that are reported to the commission for that month within a
77 local taxing jurisdiction within that county as compared to the total revenues generated by the
78 transactions described in Subsection (4)(b)(ii) that are reported to the commission for that
79 month within all local taxing jurisdictions within that county.

80 (ii) Subsection (4)(d)(i) applies to a transaction:

81 (A) made from a location in the state other than a fixed place of business in the state;

82 or

83 (B) (I) made by a seller described in Subsection 59-12-107(1)(a); and

84 (II) involving tangible personal property that is shipped from outside the state.

85 (e) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection

86 (4)(e)(ii), the location where the transaction is consummated is determined by allocating the
87 total revenues reported to the commission each month that are generated by the tax imposed
88 under this section on the transactions described in Subsection (4)(e)(ii):

89 (A) to local taxing jurisdictions; and

90 (B) on the basis of the proportion of the total revenues generated by the transactions
91 described in Subsection (4)(b)(ii) that are reported to the commission for that month within
92 each local taxing jurisdiction as compared to the total revenues generated by the transactions
93 described in Subsection (4)(b)(ii) that are reported to the commission for that month within the
94 state.

95 (ii) Subsection (4)(e)(i) applies to a transaction involving tangible personal property
96 purchased with a direct payment permit in accordance with Section 59-12-107.1.

97 (f) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection
98 (4)(f)(ii), the location where the transaction is consummated is each location where the good or
99 service described in Subsection 59-12-107.2(1)(b) is used.

100 (ii) Subsection (4)(f)(i) applies to a transaction involving a good or service:

101 (A) described in Subsection 59-12-107.2(1)(b);

102 (B) that is concurrently available for use in more than one location; and

103 (C) is purchased using the form described in Section 59-12-107.2.

104 (g) (i) Notwithstanding Subsection (4)(b), for a transaction described in Subsection
105 (4)(g)(ii), the location where the transaction is consummated is determined by allocating the
106 total revenues reported to the commission each month that are generated by the tax imposed
107 under this section on the transactions described in Subsection (4)(g)(ii):

108 (A) to local taxing jurisdictions; and

109 (B) on the basis of the proportion of the total revenues generated by the transactions
110 described in Subsection (4)(b)(ii) that are reported to the commission for that month within
111 each local taxing jurisdiction as compared to the total revenues generated by the transactions
112 described in Subsection (4)(b)(ii) that are reported to the commission for that month within the
113 state.

114 (ii) Subsection (4)(g)(i) applies to a transaction involving a purchase of direct mail if
115 the purchaser of the direct mail provides to the seller the form described in Subsection
116 59-12-107.3(1)(a) at the time of the purchase of the direct mail.

117 (h) Notwithstanding Subsection (4)(b), for a transaction involving the sale of a service
118 described in Section 59-12-207.4, the location where the transaction is consummated is the
119 same as the location of the transaction determined under Section 59-12-207.4.

120 (5) (a) For a transaction that is reported to the commission on a simplified electronic
121 return, the location where the transaction is consummated is determined in accordance with
122 Subsections (5)(b) through (e).

123 (b) (i) Except as provided in Subsections (5)(c) through (e), the location where a
124 transaction is consummated is determined by allocating the total revenues reported to the
125 commission each month on the simplified electronic return:

126 (A) to local taxing jurisdictions; and

127 (B) on the basis of the proportion of the total revenues generated by the transactions
128 described in Subsection (4)(b)(ii) that are reported to the commission in accordance with
129 Subsection (5)(b)(ii) for that month within each local taxing jurisdiction as compared to the
130 total revenues generated by the transactions described in Subsection (4)(b)(ii) that are reported
131 to the commission in accordance with Subsection (5)(b)(ii) for that month within the state.

132 (ii) In making the allocations required by Subsection (5)(b)(i), the commission shall
133 use the total revenues generated by the transactions described in Subsection (4)(b)(ii) reported
134 to the commission:

135 (A) in the report required by Subsection 59-12-105(2); and

136 (B) if a local taxing jurisdiction reports revenues to the commission in accordance with
137 Subsection (5)(b)(iii), in the report made in accordance with Subsection (5)(b)(iii).

138 (iii) (A) For purposes of this Subsection (5)(b), a local taxing jurisdiction may report to
139 the commission the revenues generated by a tax imposed by this chapter within the local taxing
140 jurisdiction if a seller:

141 (I) opens an additional place of business within the local taxing jurisdiction after the

142 seller makes an initial application for a license under Section 59-12-106; and

143 (II) estimates that the additional place of business will increase by 5% or more the
144 revenues generated by a tax imposed by this chapter within the local taxing jurisdiction.

145 (B) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
146 the commission may make rules providing procedures and requirements for making the report
147 described in this Subsection (5)(b).

148 (c) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection
149 (5)(c)(ii), the location where the transaction is consummated is determined by allocating the
150 total revenues reported to the commission each month that are generated by the tax imposed
151 under this section on the transactions described in Subsection (5)(c)(ii):

152 (A) to local taxing jurisdictions within a county; and

153 (B) on the basis of the proportion of the total revenues generated by the transactions
154 described in Subsection (4)(b)(ii) that are reported to the commission for that month within a
155 local taxing jurisdiction within that county as compared to the total revenues generated by the
156 transactions described in Subsection (4)(b)(ii) that are reported to the commission for that
157 month within all local taxing jurisdictions within that county.

158 (ii) Subsection (5)(c)(i) applies to a transaction:

159 (A) made from a location in the state other than a fixed place of business in the state;

160 or

161 (B) (I) made by a seller described in Subsection 59-12-107(1)(a); and

162 (II) involving tangible personal property that is shipped from outside the state.

163 (d) Notwithstanding Subsection (5)(b), for a transaction made by a seller described in
164 Subsection 59-12-107(1)(b), the location where the transaction is consummated is determined
165 by allocating the total revenues remitted to the commission each month that are generated by
166 the tax imposed under this section on the transactions made by a seller described in Subsection
167 59-12-107(1)(b):

168 (i) to each local taxing jurisdiction; and

169 (ii) on the basis of the population of each local taxing jurisdiction as compared to the

170 population of the state.

171 (e) (i) Notwithstanding Subsection (5)(b), for a transaction described in Subsection
172 (5)(e)(ii), the location where the transaction is consummated is determined by allocating the
173 total revenues reported to the commission each month that are generated by the tax imposed
174 under this section on the transactions described in Subsection (5)(e)(ii):

175 (A) to local taxing jurisdictions; and

176 (B) on the basis of the proportion of the total revenues generated by the transactions
177 described in Subsection (4)(b)(ii) that are reported to the commission for that month within
178 each local taxing jurisdiction as compared to the total revenues generated by the transactions
179 described in Subsection (4)(b)(ii) that are reported to the commission for that month within the
180 state.

181 (ii) Subsection (5)(e)(i) applies to a transaction involving tangible personal property
182 purchased with a direct payment permit in accordance with Section 59-12-107.1.

183 (6) For purposes of Subsections (4) and (5) and in accordance with Title 63, Chapter
184 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what
185 constitutes a fixed place of business in the state.

186 (7) (a) Notwithstanding Subsection (2), for fiscal years beginning with fiscal year
187 1983-84 and ending with fiscal year 2005-06, a county, city, or town may not receive a tax
188 revenue distribution less than .75% of the taxable sales within the boundaries of the county,
189 city, or town.

190 (b) The commission shall proportionally reduce quarterly distributions to any county,
191 city, or town that, but for the reduction, would receive a distribution in excess of 1% of the
192 sales and use tax revenue collected within the boundaries of the county, city, or town.

193 (8) (a) As used in this Subsection (8):

194 (i) "Eligible county, city, or town" means a county, city, or town that receives \$2,000 or
195 more in tax revenue distributions in accordance with Subsection (7) for each of the following
196 fiscal years:

197 (A) fiscal year 2002-03;

198 (B) fiscal year 2003-04; and

199 (C) fiscal year 2004-05.

200 (ii) "Minimum tax revenue distribution" means the total amount of tax revenue
201 distributions an eligible county, city, or town receives from a tax imposed in accordance with
202 this part for fiscal year 2004-05.

203 (b) (i) Notwithstanding Subsection (2) and except as provided in Subsection (8)(b)(ii),
204 beginning with fiscal year 2006-07 and ending with fiscal year 2012-13, an eligible county,
205 city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this
206 part equal to the greater of:

207 (A) the payment required by Subsection (2); or

208 (B) the minimum tax revenue distribution.

209 (ii) If the tax revenue distribution required by Subsection (8)(b)(i) for an eligible
210 county, city, or town is equal to the amount described in Subsection (8)(b)(i)(A) for three
211 consecutive fiscal years, for fiscal years beginning with the fiscal year immediately following
212 that three consecutive fiscal year period, the eligible county, city, or town shall receive the tax
213 revenue distribution equal to the payment required by Subsection (2).

214 (c) For a fiscal year beginning with fiscal year 2013-14 and ending with fiscal year
215 2015-16, an eligible county, city, or town shall receive the minimum tax revenue distribution
216 for that fiscal year if for fiscal year 2012-13 the payment required by Subsection (2) to that
217 eligible county, city, or town is less than or equal to the product of:

218 (i) the minimum tax revenue distribution; and

219 (ii) .90.

220 ~~[(8)]~~ (9) (a) Population figures for purposes of this section shall be based on the most
221 recent official census or census estimate of the United States Census Bureau.

222 (b) If a needed population estimate is not available from the United States Census
223 Bureau, population figures shall be derived from the estimate from the Utah Population
224 Estimates Committee created by executive order of the governor.

225 ~~[(9)]~~ (10) The population of a county for purposes of this section shall be determined

226 solely from the unincorporated area of the county.

227 Section 2. **Effective date.**

228 This bill takes effect on July 1, 2006.