

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

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gregory S. Bell**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ reduces over a five-year period the minimum amount of sales and use tax a county, city, or town shall receive for purposes of the 1% local option sales and use tax; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2006.

**Utah Code Sections Affected:**

AMENDS:

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

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

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

**59-12-205 (Effective 07/01/06). Ordinances to conform with statutory**



28 **amendments -- Distribution of tax revenues -- Rulemaking authority -- Determination of**  
29 **population.**

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

35 (2) Except as provided in Subsection (7):

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

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

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

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

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

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

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

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

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

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

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

58 (F) Subsection (4)(h).

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

63 (A) to each local taxing jurisdiction; and

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

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

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

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

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

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

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

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

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

81 or

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

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

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

88 (A) to local taxing jurisdictions; and

89 (B) on the basis of the proportion of the total revenues generated by the transactions

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

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

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

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

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

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

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

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

107 (A) to local taxing jurisdictions; and

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

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

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

119 (5) (a) For a transaction that is reported to the commission on a simplified electronic  
120 return, the location where the transaction is consummated is determined in accordance with

121 Subsections (5)(b) through (e).

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

125 (A) to local taxing jurisdictions; and

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

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

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

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

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

140 (I) opens an additional place of business within the local taxing jurisdiction after the  
141 seller makes an initial application for a license under Section 59-12-106; and

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

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

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

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

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

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

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

159 or

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

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

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

167 (i) to each local taxing jurisdiction; and

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

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

174 (A) to local taxing jurisdictions; and

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

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

182 (6) For purposes of Subsections (4) and (5) and in accordance with Title 63, Chapter

183 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what  
184 constitutes a fixed place of business in the state.

185 (7) (a) Notwithstanding Subsection (2), a county, city, or town may not receive a [~~tax~~  
186 ~~revenue~~] distribution of tax revenue for a tax under this part that is less than the following:

187 (i) beginning on July 1, 1983, through June 30, 2006, the amount the county, city, or  
188 town would have received if the county, city, or town had imposed a tax under this part at a  
189 rate of .75% [of] on the taxable sales within the boundaries of the county, city, or town[-];

190 (ii) beginning on July 1, 2006, through June 30, 2007, the amount the county, city, or  
191 town would have received if the county, city, or town had imposed a tax under this part at a  
192 rate of .70% on the taxable sales within the boundaries of the county, city, or town;

193 (iii) beginning on July 1, 2007, through June 30, 2008, the amount the county, city, or  
194 town would have received if the county, city, or town had imposed a tax under this part at a  
195 rate of .65% on the taxable sales within the boundaries of the county, city, or town;

196 (iv) beginning on July 1, 2008, through June 30, 2009, the amount the county, city, or  
197 town would have received if the county, city, or town had imposed a tax under this part at a  
198 rate of .60% on the taxable sales within the boundaries of the county, city, or town;

199 (v) beginning on July 1, 2009, through June 30, 2010, the amount the county, city, or  
200 town would have received if the county, city, or town had imposed a tax under this part at a  
201 rate of .55% on the taxable sales within the boundaries of the county, city, or town; and

202 (vi) beginning on or after July 1, 2010, the amount the county, city, or town would  
203 have received if the county, city, or town had imposed a tax under this part at a rate of .50% on  
204 the taxable sales within the boundaries of the county, city, or town.

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

208 (8) (a) Population figures for purposes of this section shall be based on the most recent  
209 official census or census estimate of the United States Census Bureau.

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

213 (9) The population of a county for purposes of this section shall be determined solely

214 from the unincorporated area of the county.

215 Section 2. **Effective date.**

216 This bill takes effect on July 1, 2006.

**Legislative Review Note**

**as of 11-14-05 12:36 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**

**as of 12-21-05 4:01 PM**

The Revenue and Taxation Interim Committee recommended this bill.

**Mixed Membership Committee Note**

**as of 12-21-05 4:01 PM**

The Tax Reform Task Force recommended this bill.

Membership:	13 legislators	2 non-legislators		
Legislative Vote:	8 voting for	2 voting against	3 absent	



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**Fiscal Note**  
**Bill Number SB0035**

**Local Option Sales and Use Tax Distribution Amendments**

*16-Jan-06*

*1:03 PM*

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**AMENDED NOTE**

**State Impact**

Passage of this bill would have no net fiscal impact. There is a potential shift between entities of approximately \$5,000,000 over the five year period.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**