

1 **REDISTRIBUTION OF SALES AND USE TAX**

2 **REVENUES**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: John L. Valentine**

6 House Sponsor: John Dougall

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Sales and Use Tax Act relating to the redistribution of sales and
11 use tax revenues.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ establishes procedures and requirements for the State Tax Commission to
- 15 redistribute certain sales and use tax revenues from one county, city, or town to
- 16 another county, city, or town under certain circumstances;
- 17 ▶ allows a county, city, or town to file a petition for reconsideration with the State
- 18 Tax Commission relating to a redistribution of certain sales and use tax revenues
- 19 from one county, city, or town to another county, city, or town; and
- 20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

- 27 **59-12-209**, as last amended by Laws of Utah 2008, Chapter 382
- 28 **59-12-210**, as last amended by Laws of Utah 2008, Chapters 382 and 384
- 29 **59-12-2004**, as enacted by Laws of Utah 2008, Chapter 286

30 ENACTS:

31 **59-12-210.1**, Utah Code Annotated 1953



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

34 Section 1. Section **59-12-209** is amended to read:

35 **59-12-209. Participation of counties, cities, and towns in administration and**
36 **enforcement of certain local sales and use taxes -- Petition for reconsideration relating to**
37 **the redistribution of certain sales and use tax revenues.**

38 (1) Notwithstanding [~~the provisions of~~] Title 63G, Chapter 4, Administrative
39 Procedures Act, a county, city, or town [~~shall~~] does not have the right to any of the following,
40 except as specifically allowed by Subsection (2) and Section 59-12-210:

41 (a) to inspect, review, or have access to any taxpayer sales and use tax records; or

42 (b) to be informed of, participate in, intervene in, or appeal from any adjudicative
43 proceeding commenced pursuant to Section 63G-4-201 to determine the liability of any
44 taxpayer for sales and use tax imposed pursuant to Title 59, Chapter 12, Sales and Use Tax
45 Act.

46 (2) (a) Counties, cities, and towns shall have access to records and information on file
47 with the commission, and shall have the right to notice of, and such rights to intervene in or to
48 appeal from, a proposed final agency action of the commission as [~~follows:~~] provided in this
49 Subsection (2).

50 [~~(a)~~] (b) If the commission, following a formal adjudicative proceeding commenced
51 pursuant to Title 63G, Chapter 4, Administrative Procedures Act, proposes to take final
52 agency action that would reduce the amount of sales and use tax liability alleged in the notice
53 of deficiency, the commission shall provide notice of a proposed agency action to each
54 qualified county, city, and town.

55 [~~(b)~~] (c) For purposes of this section, a county, city, or town is a qualified county, city,
56 or town if a proposed final agency action reduces [~~the local option sales and use~~] a tax under
57 this chapter distributable to that county, city, or town by more than \$10,000 below the amount

58 of the tax that would have been distributable to that county, city, or town had a notice of
59 deficiency, as described in Section 59-12-110, not been reduced.

60 ~~[(c)]~~ (d) A qualified county, city, or town may designate a representative who shall
61 have the right to review the record of the formal hearing and any other commission records
62 relating to a proposed final agency action subject to the confidentiality provisions of Section
63 59-1-403.

64 ~~[(d)]~~ (e) No later than ten days after receiving the notice of the commission's proposed
65 final agency action, a qualified county, city, or town may file a notice of intervention with the
66 commission.

67 ~~[(e)]~~ (f) No later than 20 days after filing a notice of intervention, if a qualified county,
68 city, or town objects to the proposed final agency action, that qualified county, city, or town
69 may file a petition for reconsideration with the commission and shall serve copies of the
70 petition on the taxpayer and the appropriate division in the commission.

71 ~~[(f)]~~ (g) The taxpayer and appropriate division in the commission may each file a
72 response to the petition for reconsideration within 20 days of receipt of the petition for
73 reconsideration.

74 ~~[(g)]~~ (h) (i) After consideration of the petition for reconsideration and any response,
75 and any additional proceeding the commission considers appropriate, the commission may
76 affirm, modify, or amend its proposed final agency action. ~~[(The)]~~

77 (ii) A taxpayer and any qualified county, city, or town that has filed a petition for
78 reconsideration may appeal the final agency action.

79 (i) (i) Notwithstanding Subsections (2)(a) through (h) and subject to Subsection
80 (2)(i)(ii), the following may file a petition for reconsideration with the commission:

81 (A) an original recipient political subdivision as defined in Section 59-12-210.1 that
82 receives a notice from the commission in accordance with Subsection 59-12-210.1(2); or

83 (B) a secondary recipient political subdivision as defined in Section 59-12-210.1 that
84 receives a notice from the commission in accordance with Subsection 59-12-210.1(2).

85 (ii) An original recipient political subdivision or secondary recipient political

86 subdivision that files a petition for reconsideration with the commission under Subsection
87 (2)(i)(i) shall file the petition no later than 20 days after the later of:

88 (A) the date the original recipient political subdivision or secondary recipient political
89 subdivision receives the notice described in Subsection (2)(i)(i) from the commission; or

90 (B) the date the commission makes the redistribution as defined in Section
91 59-12-210.1 that is the subject of the notice described in Subsection (2)(i)(i).

92 Section 2. Section **59-12-210** is amended to read:

93 **59-12-210. Commission to provide data to counties.**

94 (1) (a) The commission shall provide to each county the sales and use tax collection
95 data necessary to verify that [~~the local~~] sales and use tax revenues collected by the commission
96 are distributed to each county, city, and town in accordance with Sections 59-12-211 through
97 59-12-215.

98 (b) The data described in Subsection (1)(a) shall include the commission's reports of
99 seller sales, sales and use tax distribution reports, and a breakdown of local revenues.

100 (2) (a) In addition to the access to information provided in Subsection (1) and Section
101 59-12-109, the commission shall provide a county, city, or town with copies of returns and
102 other information required by this chapter relating to a tax under this chapter.

103 (b) The information described in Subsection (2)(a) is available only in official matters
104 and must be requested in writing by the chief executive officer or the chief executive officer's
105 designee.

106 (c) The request described in Subsection (2)(b) shall specifically indicate the
107 information being sought and how the information will be used.

108 (d) Information received pursuant to the request described in Subsection (2)(b) shall
109 be:

110 (i) classified as private or protected under Section 63G-2-302 or 63G-2-305; and

111 (ii) subject to the confidentiality provisions of Section 59-1-403.

112 Section 3. Section **59-12-210.1** is enacted to read:

113 **59-12-210.1. Commission redistribution of certain sales and use tax revenues.**

- 114 (1) As used in this section:
- 115 (a) "Eligible portion of qualifying sales and use tax revenues" means the portion of
- 116 qualifying sales and use tax revenues that:
- 117 (i) were part of an original distribution; and
- 118 (ii) the commission determines should have been transmitted:
- 119 (A) to a secondary recipient political subdivision; and
- 120 (B) during the redistribution period.
- 121 (b) "Original distribution" means that the commission:
- 122 (i) collects an amount of qualifying sales and use tax revenues; and
- 123 (ii) transmits the amount of qualifying sales and use tax revenues to an original
- 124 recipient political subdivision.
- 125 (c) "Original recipient political subdivision" means a county, city, or town to which
- 126 the commission makes an original distribution.
- 127 (d) "Qualifying sales and use tax revenues" means revenues the commission collects
- 128 from a tax under this chapter except for a tax imposed under:
- 129 (i) Part 1, Tax Collection;
- 130 (ii) Part 3, Transient Room Tax, if a county, city, or town:
- 131 (A) collects the tax; and
- 132 (B) does not contract with the commission to collect the tax;
- 133 (iii) Part 12, Motor Vehicle Rental Tax; or
- 134 (iv) Part 18, Additional State Sales and Use Tax Act.
- 135 (e) "Redistribution" means that the commission:
- 136 (i) makes an original distribution of qualifying sales and use tax revenues to an
- 137 original recipient political subdivision;
- 138 (ii) after the commission makes the original distribution of qualifying sales and use
- 139 tax revenues to the original recipient political subdivision, determines that an eligible portion
- 140 of qualifying sales and use tax revenues should have been transmitted to a secondary recipient
- 141 political subdivision as a result of:

142 (A) a county, city, or town providing written notice to the commission that qualifying
143 sales and use tax revenues that the commission distributed to an original recipient political
144 subdivision should have been transmitted to a secondary recipient political subdivision; or

145 (B) the commission finding that an extraordinary circumstance, as defined by rule
146 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exists
147 that requires the commission to make a redistribution without receiving the notice described in
148 Subsection (1)(e)(ii)(A); and

149 (iii) in accordance with this section, transmits to the secondary recipient political
150 subdivision the eligible portion of qualifying sales and use tax revenues for the redistribution
151 period.

152 (f) "Redistribution determination date" means the date the commission determines that
153 a secondary recipient political subdivision should have received a redistribution, regardless of
154 the date the commission actually transmits the redistribution to the secondary recipient
155 political subdivision.

156 (g) "Redistribution period" means the time period:

157 (i) if the commission determines that an eligible portion of qualifying sales and use tax
158 revenues should have been transmitted to a secondary recipient political subdivision beginning
159 on a date that is 90 or more days before the redistribution determination date:

160 (A) beginning 90 days before the redistribution determination date; and

161 (B) ending on the redistribution determination date; or

162 (ii) if the commission determines that an eligible portion of qualifying sales and use
163 tax revenues should have been transmitted to a secondary recipient political subdivision
164 beginning on a date that is less than 90 days before the redistribution determination date:

165 (A) beginning on the date the eligible portion of qualifying sales and use tax revenues
166 should have been transmitted to the secondary recipient political subdivision; and

167 (B) ending on the redistribution determination date.

168 (h) "Secondary recipient political subdivision" means a county, city, or town that the
169 commission determines should receive a redistribution.

170 (2) Subject to Subsection (3), the commission may make a redistribution to a
171 secondary recipient political subdivision in an amount equal to the eligible portion of
172 qualifying sales and use tax revenues if:
173 (a) the commission provides written notice to the following within 15 days after the
174 commission determines to make the redistribution:
175 (i) the original recipient political subdivision; and
176 (ii) the secondary recipient political subdivision; and
177 (b) the commission obtains:
178 (i) an amended return from each seller that reports a transaction that will be subject to
179 the redistribution; or
180 (ii) if the commission determines that an amended return described in Subsection
181 (2)(b)(i) is not required to make the redistribution, information:
182 (A) supporting the redistribution; and
183 (B) supplied by:
184 (I) a seller;
185 (II) a county, city, or town; or
186 (III) the commission.
187 (3) The commission shall make a redistribution within 60 days after the requirements
188 of Subsection (2) are met.
189 (4) This section does not limit the commission's authority to make a distribution of
190 revenues under this chapter for a time period other than the redistribution period.

191 Section 4. Section **59-12-2004** is amended to read:
192 **59-12-2004. Enactment or repeal of tax -- Effective date -- Administration,**
193 **collection, and enforcement of tax.**

194 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax
195 imposed under this part shall take effect on the first day of a calendar quarter.
196 (2) (a) The enactment of a tax or a tax rate increase shall take effect on the first day of
197 the first billing period that begins after the effective date of the enactment of the tax or the tax

198 rate increase if the billing period for the transaction begins before the effective date of the
199 enactment of the tax or the tax rate increase under this part.

200 (b) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
201 billing period that began before the effective date of the repeal of the tax or the tax rate
202 decrease if the billing period for the transaction begins before the effective date of the repeal
203 of the tax or the tax rate decrease imposed under this part.

204 (3) (a) If a tax due under this part on a catalogue sale is computed on the basis of sales
205 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a
206 tax under this part takes effect:

207 (i) on the first day of a calendar quarter; and

208 (ii) beginning 60 days after the effective date of the enactment, repeal, or change in
209 the rate of the tax under this part.

210 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
211 the commission may by rule define the term "catalogue sale."

212 (4) The commission shall administer, collect, and enforce a tax under this part in
213 accordance with:

214 (a) the same procedures used to administer, collect, and enforce the tax under Part 1,
215 Tax Collection; ~~and~~

216 (b) Chapter 1, General Taxation Policies[-]; and

217 (c) Section 59-12-210.1.