

**REDISTRIBUTION OF SALES AND USE TAX
REVENUES AND PROPERTY TAX
ADJUSTMENT**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act and the Property Tax Act relating to the redistribution of sales and use tax revenues and property tax certified tax rate adjustments as a result of the redistribution of sales and use tax revenues.

Highlighted Provisions:

This bill:

- ▶ adjusts a county's property tax certified tax rate as a result of sales and use tax redistributions;
- ▶ establishes procedures and requirements for the State Tax Commission to redistribute certain sales and use tax revenues from one county, city, or town to another county, city, or town under certain circumstances;
- ▶ allows a county, city, or town to file a petition for reconsideration with the State Tax Commission relating to a redistribution of certain sales and use tax revenues from one county, city, or town to another county, city, or town; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



28 This bill provides an effective date.

29 This bill provides for retrospective operation.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-2-924.2**, as enacted by Laws of Utah 2008, Chapters 61, 231, and 236

33 **59-12-209**, as last amended by Laws of Utah 2008, Chapter 382

34 **59-12-210**, as last amended by Laws of Utah 2008, Chapters 382 and 384

35 **59-12-2004**, as enacted by Laws of Utah 2008, Chapter 286

36 ENACTS:

37 **59-12-210.1**, Utah Code Annotated 1953



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

40 Section 1. Section **59-2-924.2** is amended to read:

41 **59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.**

42 (1) For purposes of this section, "certified tax rate" means a certified tax rate calculated
43 in accordance with Section 59-2-924.

44 (2) Beginning January 1, 1997, if a taxing entity receives increased revenues from
45 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
46 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter
47 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax
48 rate to offset the increased revenues.

49 (3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under
50 Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

51 (i) decreased on a one-time basis by the amount of the estimated sales and use tax
52 revenue to be distributed to the county under Subsection 59-12-1102(3); and

53 (ii) increased by the amount necessary to offset the county's reduction in revenue from
54 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
55 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection
56 (3)(a)(i).

57 (b) The commission shall determine estimates of sales and use tax distributions for
58 purposes of Subsection (3)(a).

59 (4) Beginning January 1, 1998, if a municipality has imposed an additional resort
60 communities sales and use tax under Section 59-12-402, the municipality's certified tax rate
61 shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of
62 estimated revenue from the additional resort communities sales and use tax imposed under
63 Section 59-12-402.

64 (5) (a) This Subsection (5) applies to each county that:

65 (i) establishes a countywide special service district under Title 17D, Chapter 1, Special
66 Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

67 (ii) levies a property tax on behalf of the special service district under Section
68 17D-1-105.

69 (b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be
70 decreased by the amount necessary to reduce county revenues by the same amount of revenues
71 that will be generated by the property tax imposed on behalf of the special service district.

72 (ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the
73 levy on behalf of the special service district under Section 17D-1-105.

74 (6) (a) As used in this Subsection (6):

75 (i) "Annexing county" means a county whose unincorporated area is included within a
76 fire district by annexation.

77 (ii) "Annexing municipality" means a municipality whose area is included within a fire
78 district by annexation.

79 (iii) "Equalized fire protection tax rate" means the tax rate that results from:

80 (A) calculating, for each participating county and each participating municipality, the
81 property tax revenue necessary to cover all of the costs associated with providing fire
82 protection, paramedic, and emergency services:

83 (I) for a participating county, in the unincorporated area of the county; and

84 (II) for a participating municipality, in the municipality; and

85 (B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all
86 participating counties and all participating municipalities and then dividing that sum by the
87 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

88 (I) for participating counties, in the unincorporated area of all participating counties;

89 and

90 (II) for participating municipalities, in all the participating municipalities.

91 (iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service
92 Area Act, in the creation of which an election was not required under Subsection
93 17B-1-214(3)(c).

94 (v) "Participating county" means a county whose unincorporated area is included
95 within a fire district at the time of the creation of the fire district.

96 (vi) "Participating municipality" means a municipality whose area is included within a
97 fire district at the time of the creation of the fire district.

98 (b) In the first year following creation of a fire district, the certified tax rate of each
99 participating county and each participating municipality shall be decreased by the amount of
100 the equalized fire protection tax rate.

101 (c) In the first budget year following annexation to a fire district, the certified tax rate
102 of each annexing county and each annexing municipality shall be decreased by an amount
103 equal to the amount of revenue budgeted by the annexing county or annexing municipality:

104 (i) for fire protection, paramedic, and emergency services; and

105 (ii) in:

106 (A) for a taxing entity operating under a January 1 through December 31 fiscal year,
107 the prior calendar year; or

108 (B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior
109 fiscal year.

110 (d) Each tax levied under this section by a fire district shall be considered to be levied
111 by:

112 (i) each participating county and each annexing county for purposes of the county's tax
113 limitation under Section 59-2-908; and

114 (ii) each participating municipality and each annexing municipality for purposes of the
115 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a
116 city.

117 (e) The calculation of a fire district's certified tax rate for the year of annexation shall be
118 adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted
119 by the annexing entity for fire protection, paramedic, and emergency services in the annexing
120 entity's prior fiscal year if:

- 121 (i) the fire district operates on a January 1 through December 31 fiscal year;
- 122 (ii) the fire district approves an annexation of an entity operating on a July 1 through
123 June 30 fiscal year; and
- 124 (iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.
- 125 (7) For the calendar year beginning on January 1, 2007, the calculation of a taxing
126 entity's certified tax rate, calculated in accordance with Section 59-2-924, shall be adjusted by
127 the amount necessary to offset any change in the certified tax rate that may result from
128 excluding the following from the certified tax rate under Subsection 59-2-924(3) enacted by the
129 Legislature during the 2007 General Session:
 - 130 (a) personal property tax revenue:
 - 131 (i) received by a taxing entity;
 - 132 (ii) assessed by a county assessor in accordance with Part 3, County Assessment; and
 - 133 (iii) for personal property that is semiconductor manufacturing equipment; or
 - 134 (b) the taxable value of personal property:
 - 135 (i) contained on the tax rolls of a taxing entity;
 - 136 (ii) assessed by a county assessor in accordance with Part 3, County Assessment; and
 - 137 (iii) that is semiconductor manufacturing equipment.
- 138 (8) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be
139 reduced for any year to the extent necessary to provide a community development and renewal
140 agency established under Title 17C, Limited Purpose Local Government Entities - Community
141 Development and Renewal Agencies, with approximately the same amount of money the
142 agency would have received without a reduction in the county's certified tax rate, calculated in
143 accordance with Section 59-2-924, if:
 - 144 (i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);
 - 145 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the
146 previous year; and
 - 147 (iii) the decrease results in a reduction of the amount to be paid to the agency under
148 Section 17C-1-403 or 17C-1-404.
- 149 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any
150 year to the extent necessary to provide a community development and renewal agency with
151 approximately the same amount of money as the agency would have received without an

152 increase in the certified tax rate that year if:

153 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to
154 a decrease in the certified tax rate under Subsection (2) or (3)(a); and

155 (ii) the certified tax rate of a city, school district, local district, or special service
156 district increases independent of the adjustment to the taxable value of the base year.

157 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a),
158 the amount of money allocated and, when collected, paid each year to a community
159 development and renewal agency established under Title 17C, Limited Purpose Local
160 Government Entities - Community Development and Renewal Agencies, for the payment of
161 bonds or other contract indebtedness, but not for administrative costs, may not be less than that
162 amount would have been without a decrease in the certified tax rate under Subsection (2) or
163 (3)(a).

164 (9) (a) Beginning on January 1, 2009, and ending on December 31, 2009, a county's
165 certified tax rate shall be increased by the amount necessary to offset up to the total amount of
166 sales and use taxes:

167 (i) collected within the boundaries of the county:

168 (A) including the sales and use taxes collected within the cities and towns within the
169 county; and

170 (B) under Chapter 12, Part 2, Local Sales and Use Tax Act; and

171 (ii) that the commission redistributes:

172 (A) from an original recipient political subdivision as defined in Section 59-12-210.1
173 to a secondary recipient political subdivision as defined in Section 59-12-210.1;

174 (B) as a result of the review, recalculations, and corrected distribution of taxes due
175 from telecommunications providers initiated by the commission; and

176 (C) on or after July 1, 2008, but on or before June 15, 2009.

177 (b) Beginning on January 1, 2010, and ending on December 31, 2010, a county's
178 certified tax rate shall be decreased by the amount necessary to offset the increase described in
179 Subsection (9)(a).

180 Section 2. Section 59-12-209 is amended to read:

181 **59-12-209. Participation of counties, cities, and towns in administration and**
182 **enforcement of certain local sales and use taxes.**

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

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

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

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

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

200 [~~(b)~~] (c) For purposes of this section, a county, city, or town is a qualified county, city,
201 or town if a proposed final agency action reduces [~~the local option sales and use~~] a tax under
202 this chapter distributable to that county, city, or town by more than \$10,000 below the amount
203 of the tax that would have been distributable to that county, city, or town had a notice of
204 deficiency, as described in Section 59-12-110, not been reduced.

205 [~~(c)~~] (d) A qualified county, city, or town may designate a representative who shall
206 have the right to review the record of the formal hearing and any other commission records
207 relating to a proposed final agency action subject to the confidentiality provisions of Section
208 59-1-403.

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

212 [~~(e)~~] (f) No later than 20 days after filing a notice of intervention, if a qualified county,
213 city, or town objects to the proposed final agency action, that qualified county, city, or town

214 may file a petition for reconsideration with the commission and shall serve copies of the
 215 petition on the taxpayer and the appropriate division in the commission.

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

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

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

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

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

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

230 (ii) An original recipient political subdivision or secondary recipient political
 231 subdivision that files a petition for reconsideration with the commission under Subsection
 232 (2)(i)(i) shall file the petition no later than 20 days after the later of:

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

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

237 Section 3. Section **59-12-210** is amended to read:

238 **59-12-210. Commission to provide data to counties.**

239 (1) (a) The commission shall provide to each county the sales and use tax collection
 240 data necessary to verify that ~~[the local]~~ sales and use tax revenues collected by the commission
 241 are distributed to each county, city, and town in accordance with Sections 59-12-211 through
 242 59-12-215.

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

245 (2) (a) In addition to the access to information provided in Subsection (1) and Section
246 59-12-109, the commission shall provide a county, city, or town with copies of returns and
247 other information required by this chapter relating to a tax under this chapter.

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

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

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

- 255 (i) classified as private or protected under Section 63G-2-302 or 63G-2-305; and
- 256 (ii) subject to the confidentiality provisions of Section 59-1-403.

257 Section 4. Section **59-12-210.1** is enacted to read:

258 **59-12-210.1. Commission redistribution of certain sales and use tax revenues.**

259 (1) As used in this section:

260 (a) "Eligible portion of qualifying sales and use tax revenues" means the portion of
261 qualifying sales and use tax revenues that:

- 262 (i) were part of an original distribution; and
- 263 (ii) the commission determines should have been transmitted:
 - 264 (A) to a secondary recipient political subdivision; and
 - 265 (B) during the redistribution period.

266 (b) "Original distribution" means that the commission:

- 267 (i) collects an amount of qualifying sales and use tax revenues; and
- 268 (ii) transmits the amount of qualifying sales and use tax revenues to an original
269 recipient political subdivision.

270 (c) "Original recipient political subdivision" means a county, city, or town to which the
271 commission makes an original distribution.

272 (d) "Qualifying sales and use tax revenues" means revenues the commission collects
273 from a tax under this chapter except for a tax imposed under:

- 274 (i) Part 1, Tax Collection;
- 275 (ii) Part 3, Transient Room Tax, if a county, city, or town:

- 276 (A) collects the tax; and
- 277 (B) does not contract with the commission to collect the tax;
- 278 (iii) Part 12, Motor Vehicle Rental Tax; or
- 279 (iv) Part 18, Additional State Sales and Use Tax Act.
- 280 (e) "Redistribution" means that the commission:
- 281 (i) makes an original distribution of qualifying sales and use tax revenues to an original
- 282 recipient political subdivision;
- 283 (ii) after the commission makes the original distribution of qualifying sales and use tax
- 284 revenues to the original recipient political subdivision, determines that an eligible portion of
- 285 qualifying sales and use tax revenues should have been transmitted to a secondary recipient
- 286 political subdivision as a result of:
- 287 (A) a county, city, or town providing written notice to the commission that qualifying
- 288 sales and use tax revenues that the commission distributed to an original recipient political
- 289 subdivision should have been transmitted to a secondary recipient political subdivision; or
- 290 (B) the commission finding that an extraordinary circumstance, as defined by rule
- 291 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, exists
- 292 that requires the commission to make a redistribution without receiving the notice described in
- 293 Subsection (1)(e)(ii)(A); and
- 294 (iii) in accordance with this section, transmits to the secondary recipient political
- 295 subdivision the eligible portion of qualifying sales and use tax revenues for the redistribution
- 296 period.
- 297 (f) "Redistribution determination date" means the date the commission determines that
- 298 a secondary recipient political subdivision should have received a redistribution, regardless of
- 299 the date the commission actually transmits the redistribution to the secondary recipient political
- 300 subdivision.
- 301 (g) "Redistribution period" means the time period:
- 302 (i) if the commission determines that an eligible portion of qualifying sales and use tax
- 303 revenues should have been transmitted to a secondary recipient political subdivision beginning
- 304 on a date that is 90 or more days before the redistribution determination date:
- 305 (A) beginning 90 days before the redistribution determination date; and
- 306 (B) ending on the redistribution determination date; or

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

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

312 (B) ending on the redistribution determination date.

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

315 (2) Subject to Subsection (3), the commission may make a redistribution to a secondary
316 recipient political subdivision in an amount equal to the eligible portion of qualifying sales and
317 use tax revenues if:

318 (a) the commission provides written notice to the following at least 30 days before the
319 commission makes the redistribution:

320 (i) the original recipient political subdivision; and

321 (ii) the secondary recipient political subdivision; and

322 (b) the commission obtains:

323 (i) an amended return from each seller that reports a transaction that will be subject to
324 the redistribution; or

325 (ii) if the commission determines that an amended return described in Subsection
326 (2)(b)(i) is not required to make the redistribution, information:

327 (A) supporting the redistribution; and

328 (B) supplied by:

329 (I) a seller;

330 (II) a county, city, or town; or

331 (III) the commission.

332 (3) The commission shall make a redistribution within 60 days after the requirements
333 of Subsection (2) are met.

334 (4) This section does not limit the commission's authority to make a distribution of
335 revenues under this chapter for a time period other than the redistribution period.

336 Section 5. Section **59-12-2004** is amended to read:

337 **59-12-2004. Enactment or repeal of tax -- Effective date -- Administration,**

338 **collection, and enforcement of tax.**

339 (1) Subject to Subsections (2) and (3), a tax rate repeal or a tax rate change for a tax
340 imposed under this part shall take effect on the first day of a calendar quarter.

341 (2) (a) The enactment of a tax or a tax rate increase shall take effect on the first day of
342 the first billing period that begins after the effective date of the enactment of the tax or the tax
343 rate increase if the billing period for the transaction begins before the effective date of the
344 enactment of the tax or the tax rate increase under this part.

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

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

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

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

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

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

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

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

362 (c) Section 59-12-210.1.

363 Section 6. **Effective date.**

364 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2009.

365 (2) The amendments to Section 59-2-924.2 have retrospective operation to January 1,
366 2009.

Legislative Review Note
as of 2-20-09 1:36 PM

Office of Legislative Research and General Counsel