

**SALES AND USE TAX EXEMPTION FOR A
WEB SEARCH PORTAL**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: John Dougall

LONG TITLE

General Description:

This bill amends the Sales and Use Tax Act to provide a sales and use tax exemption.

Highlighted Provisions:

This bill:

- ▶ provides a sales and use tax exemption for certain purchases or leases for use in the operation of a web search portal; and
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2010.

Utah Code Sections Affected:

AMENDS:

59-12-104, as last amended by Laws of Utah 2009, Chapters 31, 203, 212, and 385

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:



28 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
29 under Chapter 13, Motor and Special Fuel Tax Act;

30 (2) sales to the state, its institutions, and its political subdivisions; however, this
31 exemption does not apply to sales of:

32 (a) construction materials except:

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

37 (ii) construction materials purchased by the state, its institutions, or its political
38 subdivisions which are installed or converted to real property by employees of the state, its
39 institutions, or its political subdivisions; or

40 (b) tangible personal property in connection with the construction, operation,
41 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
42 providing additional project capacity, as defined in Section 11-13-103;

43 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

44 (i) the proceeds of each sale do not exceed \$1; and

45 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
46 the cost of the item described in Subsection (3)(b) as goods consumed; and

47 (b) Subsection (3)(a) applies to:

48 (i) food and food ingredients; or

49 (ii) prepared food;

50 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

51 (i) alcoholic beverages;

52 (ii) food and food ingredients; or

53 (iii) prepared food;

54 (b) sales of tangible personal property or a product transferred electronically:

55 (i) to a passenger;

56 (ii) by a commercial airline carrier; and

57 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

58 (c) services related to Subsection (4)(a) or (b);

59 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
60 and equipment:

61 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
62 North American Industry Classification System of the federal Executive Office of the
63 President, Office of Management and Budget; and

64 (II) for:

65 (Aa) installation in an aircraft, including services relating to the installation of parts or
66 equipment in the aircraft;

67 (Bb) renovation of an aircraft; or

68 (Cc) repair of an aircraft; or

69 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
70 commerce; or

71 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
72 aircraft operated by a common carrier in interstate or foreign commerce; and

73 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
74 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
75 refund:

76 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

77 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

78 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
79 the sale prior to filing for the refund;

80 (iv) for sales and use taxes paid under this chapter on the sale;

81 (v) in accordance with Section 59-1-1410; and

82 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
83 the person files for the refund on or before September 30, 2011;

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

87 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
88 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
89 washing of tangible personal property;

90 (b) if a seller that sells at the same business location assisted cleaning or washing of
91 tangible personal property and cleaning or washing of tangible personal property that is not
92 assisted cleaning or washing of tangible personal property, the exemption described in
93 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
94 or washing of the tangible personal property; and

95 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
96 Utah Administrative Rulemaking Act, the commission may make rules:

97 (i) governing the circumstances under which sales are at the same business location;
98 and

99 (ii) establishing the procedures and requirements for a seller to separately account for
100 sales of assisted cleaning or washing of tangible personal property;

101 (8) sales made to or by religious or charitable institutions in the conduct of their regular
102 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
103 fulfilled;

104 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
105 this state if the vehicle is:

106 (a) not registered in this state; and

107 (b) (i) not used in this state; or

108 (ii) used in this state:

109 (A) if the vehicle is not used to conduct business, for a time period that does not
110 exceed the longer of:

111 (I) 30 days in any calendar year; or

112 (II) the time period necessary to transport the vehicle to the borders of this state; or

113 (B) if the vehicle is used to conduct business, for the time period necessary to transport
114 the vehicle to the borders of this state;

115 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

116 (i) the item is intended for human use; and

117 (ii) (A) a prescription was issued for the item; or

118 (B) the item was purchased by a hospital or other medical facility; and

119 (b) (i) Subsection (10)(a) applies to:

120 (A) a drug;

- 121 (B) a syringe; or
- 122 (C) a stoma supply; and
- 123 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 124 commission may by rule define the terms:
 - 125 (A) "syringe"; or
 - 126 (B) "stoma supply";
- 127 (11) sales or use of property, materials, or services used in the construction of or
- 128 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 129 (12) (a) sales of an item described in Subsection (12)(c) served by:
 - 130 (i) the following if the item described in Subsection (12)(c) is not available to the
 - 131 general public:
 - 132 (A) a church; or
 - 133 (B) a charitable institution;
 - 134 (ii) an institution of higher education if:
 - 135 (A) the item described in Subsection (12)(c) is not available to the general public; or
 - 136 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
 - 137 offered by the institution of higher education; or
 - 138 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
 - 139 (i) a medical facility; or
 - 140 (ii) a nursing facility; and
 - 141 (c) Subsections (12)(a) and (b) apply to:
 - 142 (i) food and food ingredients;
 - 143 (ii) prepared food; or
 - 144 (iii) alcoholic beverages;
- 145 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 146 or a product transferred electronically by a person:
 - 147 (i) regardless of the number of transactions involving the sale of that tangible personal
 - 148 property or product transferred electronically by that person; and
 - 149 (ii) not regularly engaged in the business of selling that type of tangible personal
 - 150 property or product transferred electronically;
 - 151 (b) this Subsection (13) does not apply if:

152 (i) the sale is one of a series of sales of a character to indicate that the person is
153 regularly engaged in the business of selling that type of tangible personal property or product
154 transferred electronically;

155 (ii) the person holds that person out as regularly engaged in the business of selling that
156 type of tangible personal property or product transferred electronically;

157 (iii) the person sells an item of tangible personal property or product transferred
158 electronically that the person purchased as a sale that is exempt under Subsection (25); or

159 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
160 this state in which case the tax is based upon:

161 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
162 sold; or

163 (B) in the absence of a bill of sale or other written evidence of value, the fair market
164 value of the vehicle or vessel being sold at the time of the sale as determined by the
165 commission; and

166 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
167 commission shall make rules establishing the circumstances under which:

168 (i) a person is regularly engaged in the business of selling a type of tangible personal
169 property or product transferred electronically;

170 (ii) a sale of tangible personal property or a product transferred electronically is one of
171 a series of sales of a character to indicate that a person is regularly engaged in the business of
172 selling that type of tangible personal property or product transferred electronically; or

173 (iii) a person holds that person out as regularly engaged in the business of selling a type
174 of tangible personal property or product transferred electronically;

175 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
176 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
177 facility, ~~for~~ of the following:

178 (i) machinery and equipment that:

179 (A) are used:

180 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
181 recycler described in Subsection 59-12-102(52)(b):

182 (Aa) in the manufacturing process;

183 (Bb) to manufacture an item sold as tangible personal property; and
184 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
185 (14)(a)(i)(A)(I) in the state; or
186 (II) for a manufacturing facility that is a scrap recycler described in Subsection
187 59-12-102(52)(b):
188 (Aa) to process an item sold as tangible personal property; and
189 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
190 (14)(a)(i)(A)(II) in the state; and
191 (B) have an economic life of three or more years; and
192 (ii) normal operating repair or replacement parts that:
193 (A) have an economic life of three or more years; and
194 (B) are used:
195 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
196 recycler described in Subsection 59-12-102(52)(b):
197 (Aa) in the manufacturing process; and
198 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
199 state; or
200 (II) for a manufacturing facility that is a scrap recycler described in Subsection
201 59-12-102(52)(b):
202 (Aa) to process an item sold as tangible personal property; and
203 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
204 state;
205 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
206 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
207 ~~for~~ of the following:
208 (i) machinery and equipment that:
209 (A) are used:
210 (I) in the manufacturing process;
211 (II) to manufacture an item sold as tangible personal property; and
212 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
213 (14)(b) in the state; and

214 (B) have an economic life of three or more years; and
215 (ii) normal operating repair or replacement parts that:
216 (A) are used:
217 (I) in the manufacturing process; and
218 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
219 (B) have an economic life of three or more years;
220 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
221 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
222 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
223 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
224 of the 2002 North American Industry Classification System of the federal Executive Office of
225 the President, Office of Management and Budget, of the following:
226 (i) machinery and equipment that:
227 (A) are used:
228 (I) (Aa) in the production process, other than the production of real property; or
229 (Bb) in research and development; and
230 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
231 in the state; and
232 (B) have an economic life of three or more years; and
233 (ii) normal operating repair or replacement parts that:
234 (A) have an economic life of three or more years; and
235 (B) are used in:
236 (I) (Aa) the production process, except for the production of real property; and
237 (Bb) an establishment described in this Subsection (14)(c) in the state; or
238 (II) (Aa) research and development; and
239 (Bb) in an establishment described in this Subsection (14)(c) in the state;
240 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
241 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
242 Search Portals, of the 2002 North American Industry Classification System of the federal
243 Executive Office of the President, Office of Management and Budget, of the following:
244 (A) machinery and equipment that:

245 (I) are used in the operation of the web search portal;
 246 (II) have an economic life of three or more years; and
 247 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
 248 in the state; and

249 (B) normal operating repair or replacement parts that:
 250 (I) are used in the operation of the web search portal;
 251 (II) have an economic life of three or more years; and
 252 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
 253 in the state; or

254 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
 255 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
 256 American Industry Classification System of the federal Executive Office of the President,
 257 Office of Management and Budget, of the following:

258 (A) machinery and equipment that:
 259 (I) are used in the operation of the web search portal; and
 260 (II) have an economic life of three or more years; and
 261 (B) normal operating repair or replacement parts that:
 262 (I) are used in the operation of the web search portal; and
 263 (II) have an economic life of three or more years;

264 ~~(d)~~ (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter
 265 3, Utah Administrative Rulemaking Act, the commission:

266 (i) shall by rule define the term "establishment"; and
 267 (ii) may by rule define what constitutes:
 268 (A) processing an item sold as tangible personal property;
 269 (B) the production process, except for the production of real property; ~~or~~
 270 (C) research and development; ~~and~~ or
 271 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and

272 ~~(e)~~ (f) on or before October 1, 2011, and every five years after October 1, 2011, the
 273 commission shall:

274 (i) review the exemptions described in this Subsection (14) and make
 275 recommendations to the Revenue and Taxation Interim Committee concerning whether the

276 exemptions should be continued, modified, or repealed; and
277 (ii) include in its report:
278 (A) an estimate of the cost of the exemptions;
279 (B) the purpose and effectiveness of the exemptions; and
280 (C) the benefits of the exemptions to the state;
281 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
282 (i) tooling;
283 (ii) special tooling;
284 (iii) support equipment;
285 (iv) special test equipment; or
286 (v) parts used in the repairs or renovations of tooling or equipment described in
287 Subsections (15)(a)(i) through (iv); and
288 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
289 (i) the tooling, equipment, or parts are used or consumed exclusively in the
290 performance of any aerospace or electronics industry contract with the United States
291 government or any subcontract under that contract; and
292 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
293 title to the tooling, equipment, or parts is vested in the United States government as evidenced
294 by:
295 (A) a government identification tag placed on the tooling, equipment, or parts; or
296 (B) listing on a government-approved property record if placing a government
297 identification tag on the tooling, equipment, or parts is impractical;
298 (16) sales of newspapers or newspaper subscriptions;
299 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
300 product transferred electronically traded in as full or part payment of the purchase price, except
301 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
302 trade-ins are limited to other vehicles only, and the tax is based upon:
303 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
304 vehicle being traded in; or
305 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
306 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

307 commission; and

308 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
309 following items of tangible personal property or products transferred electronically traded in as
310 full or part payment of the purchase price:

311 (i) money;

312 (ii) electricity;

313 (iii) water;

314 (iv) gas; or

315 (v) steam;

316 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
317 or a product transferred electronically used or consumed primarily and directly in farming
318 operations, regardless of whether the tangible personal property or product transferred
319 electronically:

320 (A) becomes part of real estate; or

321 (B) is installed by a:

322 (I) farmer;

323 (II) contractor; or

324 (III) subcontractor; or

325 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
326 product transferred electronically if the tangible personal property or product transferred
327 electronically is exempt under Subsection (18)(a)(i); and

328 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
329 subject to the taxes imposed by this chapter:

330 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
331 incidental to farming:

332 (I) machinery;

333 (II) equipment;

334 (III) materials; or

335 (IV) supplies; and

336 (B) tangible personal property that is considered to be used in a manner that is
337 incidental to farming includes:

- 338 (I) hand tools; or
- 339 (II) maintenance and janitorial equipment and supplies;
- 340 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
- 341 transferred electronically if the tangible personal property or product transferred electronically
- 342 is used in an activity other than farming; and
- 343 (B) tangible personal property or a product transferred electronically that is considered
- 344 to be used in an activity other than farming includes:
 - 345 (I) office equipment and supplies; or
 - 346 (II) equipment and supplies used in:
 - 347 (Aa) the sale or distribution of farm products;
 - 348 (Bb) research; or
 - 349 (Cc) transportation; or
 - 350 (iii) a vehicle required to be registered by the laws of this state during the period
 - 351 ending two years after the date of the vehicle's purchase;
 - 352 (19) sales of hay;
 - 353 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
 - 354 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
 - 355 garden, farm, or other agricultural produce is sold by:
 - 356 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
 - 357 agricultural produce;
 - 358 (b) an employee of the producer described in Subsection (20)(a); or
 - 359 (c) a member of the immediate family of the producer described in Subsection (20)(a);
 - 360 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
 - 361 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
 - 362 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
 - 363 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
 - 364 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
 - 365 manufacturer, processor, wholesaler, or retailer;
 - 366 (23) a product stored in the state for resale;
 - 367 (24) (a) purchases of a product if:
 - 368 (i) the product is:

- 369 (A) purchased outside of this state;
- 370 (B) brought into this state:
- 371 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 372 (II) by a nonresident person who is not living or working in this state at the time of the
- 373 purchase;
- 374 (C) used for the personal use or enjoyment of the nonresident person described in
- 375 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 376 (D) not used in conducting business in this state; and
- 377 (ii) for:
- 378 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
- 379 the product for a purpose for which the product is designed occurs outside of this state;
- 380 (B) a boat, the boat is registered outside of this state; or
- 381 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 382 outside of this state;
- 383 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 384 (i) a lease or rental of a product; or
- 385 (ii) a sale of a vehicle exempt under Subsection (33); and
- 386 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 387 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
- 388 following:
- 389 (i) conducting business in this state if that phrase has the same meaning in this
- 390 Subsection (24) as in Subsection (63);
- 391 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
- 392 as in Subsection (63); or
- 393 (iii) a purpose for which a product is designed if that phrase has the same meaning in
- 394 this Subsection (24) as in Subsection (63);
- 395 (25) a product purchased for resale in this state, in the regular course of business, either
- 396 in its original form or as an ingredient or component part of a manufactured or compounded
- 397 product;
- 398 (26) a product upon which a sales or use tax was paid to some other state, or one of its
- 399 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

400 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
401 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
402 Act;

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

405 (28) purchases made in accordance with the special supplemental nutrition program for
406 women, infants, and children established in 42 U.S.C. Sec. 1786;

407 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
408 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
409 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
410 Manual of the federal Executive Office of the President, Office of Management and Budget;

411 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
412 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

413 (a) not registered in this state; and

414 (b) (i) not used in this state; or

415 (ii) used in this state:

416 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
417 time period that does not exceed the longer of:

418 (I) 30 days in any calendar year; or

419 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
420 the borders of this state; or

421 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
422 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
423 state;

424 (31) sales of aircraft manufactured in Utah;

425 (32) amounts paid for the purchase of telecommunications service for purposes of
426 providing telecommunications service;

427 (33) sales, leases, or uses of the following:

428 (a) a vehicle by an authorized carrier; or

429 (b) tangible personal property that is installed on a vehicle:

430 (i) sold or leased to or used by an authorized carrier; and

- 431 (ii) before the vehicle is placed in service for the first time;
- 432 (34) (a) 45% of the sales price of any new manufactured home; and
- 433 (b) 100% of the sales price of any used manufactured home;
- 434 (35) sales relating to schools and fundraising sales;
- 435 (36) sales or rentals of durable medical equipment if:
- 436 (a) a person presents a prescription for the durable medical equipment; and
- 437 (b) the durable medical equipment is used for home use only;
- 438 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 439 Section 72-11-102; and
- 440 (b) the commission shall by rule determine the method for calculating sales exempt
- 441 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 442 (38) sales to a ski resort of:
- 443 (a) snowmaking equipment;
- 444 (b) ski slope grooming equipment;
- 445 (c) passenger ropeways as defined in Section 72-11-102; or
- 446 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 447 described in Subsections (38)(a) through (c);
- 448 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 449 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 450 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 451 59-12-102;
- 452 (b) if a seller that sells or rents at the same business location the right to use or operate
- 453 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 454 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 455 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 456 amusement, entertainment, or recreation for the assisted amusement devices; and
- 457 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 458 Utah Administrative Rulemaking Act, the commission may make rules:
- 459 (i) governing the circumstances under which sales are at the same business location;
- 460 and
- 461 (ii) establishing the procedures and requirements for a seller to separately account for

462 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
463 assisted amusement devices;

464 (41) (a) sales of photocopies by:

465 (i) a governmental entity; or

466 (ii) an entity within the state system of public education, including:

467 (A) a school; or

468 (B) the State Board of Education; or

469 (b) sales of publications by a governmental entity;

470 (42) amounts paid for admission to an athletic event at an institution of higher
471 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
472 20 U.S.C. Sec. 1681 et seq.;

473 (43) (a) sales made to or by:

474 (i) an area agency on aging; or

475 (ii) a senior citizen center owned by a county, city, or town; or

476 (b) sales made by a senior citizen center that contracts with an area agency on aging;

477 (44) sales or leases of semiconductor fabricating, processing, research, or development
478 materials regardless of whether the semiconductor fabricating, processing, research, or
479 development materials:

480 (a) actually come into contact with a semiconductor; or

481 (b) ultimately become incorporated into real property;

482 (45) an amount paid by or charged to a purchaser for accommodations and services
483 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
484 59-12-104.2;

485 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
486 sports event registration certificate in accordance with Section 41-3-306 for the event period
487 specified on the temporary sports event registration certificate;

488 (47) sales or uses of electricity, if the sales or uses are:

489 (a) made under a tariff adopted by the Public Service Commission of Utah only for
490 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
491 source, as designated in the tariff by the Public Service Commission of Utah; and

492 (b) for an amount of electricity that is:

- 493 (i) unrelated to the amount of electricity used by the person purchasing the electricity
494 under the tariff described in Subsection (47)(a); and
- 495 (ii) equivalent to the number of kilowatthours specified in the tariff described in
496 Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);
- 497 (48) sales or rentals of mobility enhancing equipment if a person presents a
498 prescription for the mobility enhancing equipment;
- 499 (49) sales of water in a:
- 500 (a) pipe;
- 501 (b) conduit;
- 502 (c) ditch; or
- 503 (d) reservoir;
- 504 (50) sales of currency or coinage that constitute legal tender of the United States or of a
505 foreign nation;
- 506 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 507 (i) does not constitute legal tender of any nation; and
- 508 (ii) has a gold, silver, or platinum content of 80% or more; and
- 509 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 510 (i) ingot;
- 511 (ii) bar;
- 512 (iii) medallion; or
- 513 (iv) decorative coin;
- 514 (52) amounts paid on a sale-leaseback transaction;
- 515 (53) sales of a prosthetic device:
- 516 (a) for use on or in a human; and
- 517 (b) (i) for which a prescription is required; or
- 518 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 519 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
520 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
521 or equipment is primarily used in the production or postproduction of the following media for
522 commercial distribution:
- 523 (i) a motion picture;

524 (ii) a television program;
525 (iii) a movie made for television;
526 (iv) a music video;
527 (v) a commercial;
528 (vi) a documentary; or
529 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
530 commission by administrative rule made in accordance with Subsection (54)(d); or
531 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
532 equipment by an establishment described in Subsection (54)(c) that is used for the production
533 or postproduction of the following are subject to the taxes imposed by this chapter:
534 (i) a live musical performance;
535 (ii) a live news program; or
536 (iii) a live sporting event;
537 (c) the following establishments listed in the 1997 North American Industry
538 Classification System of the federal Executive Office of the President, Office of Management
539 and Budget, apply to Subsections (54)(a) and (b):
540 (i) NAICS Code 512110; or
541 (ii) NAICS Code 51219; and
542 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
543 commission may by rule:
544 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
545 or
546 (ii) define:
547 (A) "commercial distribution";
548 (B) "live musical performance";
549 (C) "live news program"; or
550 (D) "live sporting event";
551 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
552 or before June 30, 2019, of machinery or equipment that:
553 (i) is leased or purchased for or by a facility that:
554 (A) is a renewable energy production facility;

555 (B) is located in the state; and
556 (C) (I) becomes operational on or after July 1, 2004; or
557 (II) has its generation capacity increased by one or more megawatts on or after July 1,
558 2004 as a result of the use of the machinery or equipment;
559 (ii) has an economic life of five or more years; and
560 (iii) is used to make the facility or the increase in capacity of the facility described in
561 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
562 transmission grid including:
563 (A) a wind turbine;
564 (B) generating equipment;
565 (C) a control and monitoring system;
566 (D) a power line;
567 (E) substation equipment;
568 (F) lighting;
569 (G) fencing;
570 (H) pipes; or
571 (I) other equipment used for locating a power line or pole; and
572 (b) this Subsection (55) does not apply to:
573 (i) machinery or equipment used in construction of:
574 (A) a new renewable energy production facility; or
575 (B) the increase in the capacity of a renewable energy production facility;
576 (ii) contracted services required for construction and routine maintenance activities;
577 and
578 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
579 of the facility described in Subsection (55)(a)(i)(C)(II), machinery or equipment used or
580 acquired after:
581 (A) the renewable energy production facility described in Subsection (55)(a)(i) is
582 operational as described in Subsection (55)(a)(iii); or
583 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
584 in Subsection (55)(a)(iii);
585 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on

586 or before June 30, 2019, of machinery or equipment that:

587 (i) is leased or purchased for or by a facility that:

588 (A) is a waste energy production facility;

589 (B) is located in the state; and

590 (C) (I) becomes operational on or after July 1, 2004; or

591 (II) has its generation capacity increased by one or more megawatts on or after July 1,

592 2004 as a result of the use of the machinery or equipment;

593 (ii) has an economic life of five or more years; and

594 (iii) is used to make the facility or the increase in capacity of the facility described in

595 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

596 transmission grid including:

597 (A) generating equipment;

598 (B) a control and monitoring system;

599 (C) a power line;

600 (D) substation equipment;

601 (E) lighting;

602 (F) fencing;

603 (G) pipes; or

604 (H) other equipment used for locating a power line or pole; and

605 (b) this Subsection (56) does not apply to:

606 (i) machinery or equipment used in construction of:

607 (A) a new waste energy facility; or

608 (B) the increase in the capacity of a waste energy facility;

609 (ii) contracted services required for construction and routine maintenance activities;

610 and

611 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

612 described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or acquired after:

613 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as

614 described in Subsection (56)(a)(iii); or

615 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described

616 in Subsection (56)(a)(iii);

617 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
618 or before June 30, 2019, of machinery or equipment that:
619 (i) is leased or purchased for or by a facility that:
620 (A) is located in the state;
621 (B) produces fuel from biomass energy including:
622 (I) methanol; or
623 (II) ethanol; and
624 (C) (I) becomes operational on or after July 1, 2004; or
625 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
626 a result of the installation of the machinery or equipment;
627 (ii) has an economic life of five or more years; and
628 (iii) is installed on the facility described in Subsection (57)(a)(i);
629 (b) this Subsection (57) does not apply to:
630 (i) machinery or equipment used in construction of:
631 (A) a new facility described in Subsection (57)(a)(i); or
632 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
633 (ii) contracted services required for construction and routine maintenance activities;
634 and
635 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
636 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
637 (A) the facility described in Subsection (57)(a)(i) is operational; or
638 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
639 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
640 product transferred electronically to a person within this state if that tangible personal property
641 or product transferred electronically is subsequently shipped outside the state and incorporated
642 pursuant to contract into and becomes a part of real property located outside of this state;
643 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
644 state or political entity to which the tangible personal property is shipped imposes a sales, use,
645 gross receipts, or other similar transaction excise tax on the transaction against which the other
646 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
647 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

648 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
649 refund:

650 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

651 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
652 which the sale is made;

653 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
654 sale prior to filing for the refund;

655 (iv) for sales and use taxes paid under this chapter on the sale;

656 (v) in accordance with Section 59-1-1410; and

657 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
658 the person files for the refund on or before June 30, 2011;

659 (59) purchases:

660 (a) of one or more of the following items in printed or electronic format:

661 (i) a list containing information that includes one or more:

662 (A) names; or

663 (B) addresses; or

664 (ii) a database containing information that includes one or more:

665 (A) names; or

666 (B) addresses; and

667 (b) used to send direct mail;

668 (60) redemptions or repurchases of a product by a person if that product was:

669 (a) delivered to a pawnbroker as part of a pawn transaction; and

670 (b) redeemed or repurchased within the time period established in a written agreement
671 between the person and the pawnbroker for redeeming or repurchasing the product;

672 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

673 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

674 and

675 (ii) has a useful economic life of one or more years; and

676 (b) the following apply to Subsection (61)(a):

677 (i) telecommunications enabling or facilitating equipment, machinery, or software;

678 (ii) telecommunications equipment, machinery, or software required for 911 service;

- 679 (iii) telecommunications maintenance or repair equipment, machinery, or software;
680 (iv) telecommunications switching or routing equipment, machinery, or software; or
681 (v) telecommunications transmission equipment, machinery, or software;
- 682 (62) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
683 personal property or a product transferred electronically that are used in the research and
684 development of coal-to-liquids, oil shale, or tar sands technology; and
- 685 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
686 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
687 purchases of tangible personal property or a product transferred electronically that are used in
688 the research and development of coal-to-liquids, oil shale, and tar sands technology;
- 689 (63) (a) purchases of tangible personal property or a product transferred electronically
690 if:
- 691 (i) the tangible personal property or product transferred electronically is:
692 (A) purchased outside of this state;
693 (B) brought into this state at any time after the purchase described in Subsection
694 (63)(a)(i)(A); and
695 (C) used in conducting business in this state; and
696 (ii) for:
697 (A) tangible personal property or a product transferred electronically other than the
698 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
699 for a purpose for which the property is designed occurs outside of this state; or
700 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
701 outside of this state;
- 702 (b) the exemption provided for in Subsection (63)(a) does not apply to:
703 (i) a lease or rental of tangible personal property or a product transferred electronically;
704 or
705 (ii) a sale of a vehicle exempt under Subsection (33); and
706 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
707 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
708 following:
709 (i) conducting business in this state if that phrase has the same meaning in this

710 Subsection (63) as in Subsection (24);
711 (ii) the first use of tangible personal property or a product transferred electronically if
712 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
713 (iii) a purpose for which tangible personal property or a product transferred
714 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
715 Subsection (24);
716 (64) sales of disposable home medical equipment or supplies if:
717 (a) a person presents a prescription for the disposable home medical equipment or
718 supplies;
719 (b) the disposable home medical equipment or supplies are used exclusively by the
720 person to whom the prescription described in Subsection (64)(a) is issued; and
721 (c) the disposable home medical equipment and supplies are listed as eligible for
722 payment under:
723 (i) Title XVIII, federal Social Security Act; or
724 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
725 (65) sales:
726 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
727 District Act; or
728 (b) of tangible personal property to a subcontractor of a public transit district, if the
729 tangible personal property is:
730 (i) clearly identified; and
731 (ii) installed or converted to real property owned by the public transit district;
732 (66) sales of construction materials:
733 (a) purchased on or after July 1, 2010;
734 (b) purchased by, on behalf of, or for the benefit of an international airport:
735 (i) located within a county of the first class; and
736 (ii) that has a United States customs office on its premises; and
737 (c) if the construction materials are:
738 (i) clearly identified;
739 (ii) segregated; and
740 (iii) installed or converted to real property;

- 741 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 742 (B) located at the international airport described in Subsection (66)(b);
- 743 (67) sales of construction materials:
- 744 (a) purchased on or after July 1, 2008;
- 745 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 746 (i) located within a county of the second class; and
- 747 (ii) that is owned or operated by a city in which an airline as defined in Section
- 748 59-2-102 is headquartered; and
- 749 (c) if the construction materials are:
- 750 (i) clearly identified;
- 751 (ii) segregated; and
- 752 (iii) installed or converted to real property:
- 753 (A) owned or operated by the new airport described in Subsection (67)(b);
- 754 (B) located at the new airport described in Subsection (67)(b); and
- 755 (C) as part of the construction of the new airport described in Subsection (67)(b); and
- 756 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine.
- 757 Section 2. **Effective date.**
- 758 This bill takes effect on July 1, 2010.

Legislative Review Note
as of 2-3-10 12:54 PM

Office of Legislative Research and General Counsel

S.B. 61 - Sales and Use Tax Exemption for a Web Search Portal

Fiscal Note

2010 General Session
State of Utah

State Impact

Enacting this bill will reduce General Fund sales tax revenue by \$38,700 in FY 2011 and \$39,900 in FY 2012. Additionally, there is unknown forgone sales tax revenue to the General Fund.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$38,700)	(\$39,900)
Total	\$0	\$0	\$0	\$0	(\$38,700)	(\$39,900)

Individual, Business and/or Local Impact

Web search portal businesses receive an exemption from sales tax. Other individuals and businesses are unaffected. Local governments experience a decrease in sales tax revenue of \$16,600 in FY 2011 and \$17,100 in FY 2012.