

212 (B) be mailed by certified mail, postage prepaid, to the person's last-known address.

213 (ii) Upon receipt of the notice of proposed penalty, the person against whom the

214 penalty is proposed may:

215 (A) pay the amount of the proposed penalty at the place and time stated in the notice;

216 or

217 (B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

218 (iii) A person against whom a penalty is proposed in accordance with this Subsection

219 (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with

220 the commission.

221 (iv) (A) If the commission determines that a person is liable for a penalty under this

222 Subsection (7), the commission shall assess the penalty and give notice and demand for

223 payment.

224 (B) The commission shall mail the notice and demand for payment described in

225 Subsection (7)(b)(iv)(A):

226 (I) to the person's last-known address; and

227 (II) in accordance with Section 59-1-1404.

228 (c) A seller that voluntarily collects a tax under Subsection 59-12-107[~~(+)(b)~~](2)(d) is

229 not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

230 (i) a court of competent jurisdiction issues a final unappealable judgment or order

231 determining that:

232 (A) the seller meets one or more of the criteria described in Subsection

233 59-12-107[~~(+)~~](2)(a) or is a seller required to pay or collect and remit sales and use taxes under

234 Subsection ~~§~~→ 59-12-107 ←~~§~~ (2)(b); and

235 (B) the commission or a county, city, or town may require the seller to collect a tax

236 under Subsections 59-12-103(2)(a) through (d); or

237 (ii) the commission issues a final unappealable administrative order determining that:

238 (A) the seller meets one or more of the criteria described in Subsection

239 59-12-107[~~(+)~~](2)(a) or is a seller required to pay or collect and remit sales and use taxes under

240 Subsection ~~§~~→ 59-12-107 ←~~§~~ (2)(b); and

241 (B) the commission or a county, city, or town may require the seller to collect a tax

242 under Subsections 59-12-103(2)(a) through (d).

243 (d) A seller that voluntarily collects a tax under Subsection 59-12-107[(+)(b)](2)(d) is
 244 not subject to the penalty under Subsection (7)(a)(ii) if:

245 (i) (A) a court of competent jurisdiction issues a final unappealable judgment or order
 246 determining that:

247 (I) the seller meets one or more of the criteria described in Subsection
 248 59-12-107[(+)](2)(a) or is a seller required to pay or collect and remit sales and use taxes under
 249 Subsection ~~59-12-107~~ (2)(b); and

250 (II) the commission or a county, city, or town may require the seller to collect a tax
 251 under Subsections 59-12-103(2)(a) through (d); or

252 (B) the commission issues a final unappealable administrative order determining that:

253 (I) the seller meets one or more of the criteria described in Subsection
 254 59-12-107[(+)](2)(a) or is a seller required to pay or collect and remit sales and use taxes under
 255 Subsection ~~59-12-107~~ (2)(b); and

256 (II) the commission or a county, city, or town may require the seller to collect a tax
 257 under Subsections 59-12-103(2)(a) through (d); and

258 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a
 259 nonfrivolous argument for the extension, modification, or reversal of existing law or the
 260 establishment of new law.

261 (8) The penalty for failure to file an information return, information report, or a
 262 complete supporting schedule is \$50 for each information return, information report, or
 263 supporting schedule up to a maximum of \$1,000.

264 (9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay
 265 or impede administration of a law relating to a tax, fee, or charge and files a purported return
 266 that fails to contain information from which the correctness of reported tax, fee, or charge
 267 liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is
 268 substantially incorrect, the penalty is \$500.

269 (10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by
 270 Subsection 59-12-108(1)(a):

271 (i) is subject to a penalty described in Subsection (2); and

272 (ii) may not retain the percentage of sales and use taxes that would otherwise be
 273 allowable under Subsection 59-12-108(2).

- 2041 (i) registered under the agreement;
- 2042 (ii) described in Subsection [~~(1)(b)~~] (2)(c); and
- 2043 (iii) not a:
- 2044 (A) model 1 seller;
- 2045 (B) model 2 seller; or
- 2046 (C) model 3 seller.
- 2047 (b) (i) Except as provided in Subsection [~~(4)~~] (5)(b)(ii), a tax a remote seller collects in
- 2048 accordance with Subsection [~~(1)(b)~~] (2)(c) is due and payable:
- 2049 (A) to the commission;
- 2050 (B) annually; and
- 2051 (C) on or before the last day of the month immediately following the last day of each
- 2052 calendar year.
- 2053 (ii) The commission may require that a tax a remote seller collects in accordance with
- 2054 Subsection [~~(1)(b)~~] (2)(c) be due and payable:
- 2055 (A) to the commission; and
- 2056 (B) on the last day of the month immediately following any month in which the seller
- 2057 accumulates a total of at least \$1,000 in agreement sales and use tax.
- 2058 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
- 2059 [~~(4)~~] (5)(b), the remote seller shall file a return:
- 2060 (A) with the commission;
- 2061 (B) with respect to the tax;
- 2062 (C) containing information prescribed by the commission; and
- 2063 (D) on a form prescribed by the commission.
- 2064 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 2065 commission shall make rules prescribing:
- 2066 (A) the information required to be contained in a return described in Subsection [~~(4)~~]
- 2067 (5) ~~§~~ → [~~(a)~~] (c) ← ~~§~~ (i); and
- 2068 (B) the form described in Subsection [~~(4)~~] (5)(c)(i)(D).
- 2069 (d) A tax a remote seller collects in accordance with this Subsection [~~(4)~~] (5) shall be
- 2070 calculated on the basis of the total amount of taxable transactions under Subsection
- 2071 59-12-103(1) the remote seller completes, including: