

**CITY OR TOWN OPTION SALES AND USE TAX
AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the City or Town Option Sales and Use Tax Act to repeal an expiration date for the tax.

Highlighted Provisions:

This bill:

- ▶ amends the City or Town Option Sales and Use Tax Act to repeal the June 30, 2016, expiration date for the tax; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-2103, as last amended by Laws of Utah 2011, Chapters 198 and 309

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

Section 1. Section **59-12-2103** is amended to read:

59-12-2103. Imposition of tax -- Base -- Rate -- Expenditure of revenues collected



28 **from the tax -- Administration, collection, and enforcement of tax by commission --**
29 **Administrative charge -- Enactment or repeal of tax -- Annexation -- Notice.**

30 (1) (a) Subject to the other provisions of this section and except as provided in
31 Subsection (2), [~~beginning on January 1, 2009 and ending on June 30, 2016,~~] if a city or town
32 receives a distribution for the 12 consecutive months of fiscal year 2005-06 because the city or
33 town would have received a tax revenue distribution of less than .75% of the taxable sales
34 within the boundaries of the city or town but for Subsection 59-12-205(4)(a), the city or town
35 legislative body may impose a sales and use tax of up to .20% on the transactions:

- 36 (i) described in Subsection 59-12-103(1); and
- 37 (ii) within the city or town.

38 (b) A city or town legislative body that imposes a tax under Subsection (1)(a) shall
39 expend the revenues collected from the tax for the same purposes for which the city or town
40 may expend the city's or town's general fund revenues.

41 (c) For purposes of this Subsection (1), the location of a transaction shall be
42 determined in accordance with Sections 59-12-211 through 59-12-215.

43 (2) (a) A city or town legislative body may not impose a tax under this section on:

44 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
45 are exempt from taxation under Section 59-12-104; and

46 (ii) except as provided in Subsection (2)(b), amounts paid or charged for food and food
47 ingredients.

48 (b) A city or town legislative body imposing a tax under this section shall impose the
49 tax on amounts paid or charged for food and food ingredients if the food and food ingredients
50 are sold as part of a bundled transaction attributable to food and food ingredients and tangible
51 personal property other than food and food ingredients.

52 (3) To impose a tax under this part, a city or town legislative body shall obtain
53 approval from a majority of the members of the city or town legislative body.

54 (4) The commission shall transmit revenues collected within a city or town from a tax
55 under this part:

- 56 (a) to the city or town legislative body;
- 57 (b) monthly; and
- 58 (c) by electronic funds transfer.

59 (5) (a) Except as provided in Subsection (5)(b), the commission shall administer,
60 collect, and enforce a tax under this part in accordance with:

61 (i) the same procedures used to administer, collect, and enforce the tax under:

62 (A) Part 1, Tax Collection; or

63 (B) Part 2, Local Sales and Use Tax Act; and

64 (ii) Chapter 1, General Taxation Policies.

65 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (6).

66 (6) The commission shall retain and deposit an administrative charge in accordance
67 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

68 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after January 1, 2009,
69 a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment,
70 repeal, or change shall take effect:

71 (A) on the first day of a calendar quarter; and

72 (B) after a 90-day period beginning on the date the commission receives notice meeting
73 the requirements of Subsection (7)(a)(i) from the city or town.

74 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

75 (A) that the city or town will enact or repeal a tax or change the rate of the tax under
76 this part;

77 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);

78 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and

79 (D) if the city or town enacts the tax or changes the rate of the tax described in
80 Subsection (7)(a)(ii)(A), the rate of the tax.

81 (b) (i) If the billing period for a transaction begins before the enactment of the tax or
82 the tax rate increase under Subsection (1), the enactment of a tax or a tax rate increase shall
83 take effect on the first day of the first billing period that begins after the effective date of the
84 enactment of the tax or the tax rate increase.

85 (ii) If the billing period for a transaction begins before the effective date of the repeal
86 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
87 decrease shall take effect on the first day of the last billing period that began before the
88 effective date of the repeal of the tax or the tax rate decrease.

89 (c) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales

90 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax
91 described in Subsection (7)(a)(i) takes effect:

92 (A) on the first day of a calendar quarter; and

93 (B) beginning 60 days after the effective date of the enactment, repeal, or change in the
94 rate of the tax under Subsection (7)(a)(i).

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

97 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
98 on or after January 1, 2009, the annexation will result in the enactment, repeal, or change in the
99 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
100 effect:

101 (A) on the first day of a calendar quarter; and

102 (B) after a 90-day period beginning on the date the commission receives notice meeting
103 the requirements of Subsection (7)(d)(ii) from the city or town that annexes the annexing area.

104 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

105 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in the
106 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

107 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

108 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

109 (D) if the city or town enacts the tax or changes the rate of the tax described in
110 Subsection (7)(d)(ii)(A), the rate of the tax.

111 (e) (i) If the billing period for a transaction begins before the effective date of the
112 enactment of the tax or a tax rate increase under Subsection (1), the enactment of a tax or a tax
113 rate increase shall take effect on the first day of the first billing period that begins after the
114 effective date of the enactment of the tax or the tax rate increase.

115 (ii) If the billing period for a transaction begins before the effective date of the repeal
116 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of a tax or a tax rate
117 decrease shall take effect on the first day of the last billing period that began before the
118 effective date of the repeal of the tax or the tax rate decrease.

119 (f) (i) If a tax due under this part on a catalogue sale is computed on the basis of sales
120 and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax

121 described in Subsection (7)(d)(i) takes effect:

122 (A) on the first day of a calendar quarter; and

123 (B) beginning 60 days after the effective date of the enactment, repeal, or change under

124 Subsection (7)(d)(i).

125 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

126 commission may by rule define the term "catalogue sale".

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Office of Legislative Research and General Counsel