

SALES TAX REBATE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to a sales and use tax rebate for certain remote sellers who voluntarily collect a sales and use tax.

Highlighted Provisions:

This bill:

► amends the amount of sales and use taxes that certain remote sellers who voluntarily collect and remit a sales and use tax may retain.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-108, as last amended by Laws of Utah 2013, Chapter 50

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

Section 1. Section **59-12-108** is amended to read:

59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty -- Certain amounts allocated to local taxing jurisdictions.

(1) (a) Notwithstanding Section **59-12-107**, a seller that has a tax liability under this



28 chapter of \$50,000 or more for the previous calendar year shall:

29 (i) file a return with the commission:

30 (A) monthly on or before the last day of the month immediately following the month
31 for which the seller collects a tax under this chapter; and

32 (B) for the month for which the seller collects a tax under this chapter; and

33 (ii) except as provided in Subsection (1)(b), remit with the return required by
34 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
35 fee, or charge described in Subsection (1)(c):

36 (A) if that seller's tax liability under this chapter for the previous calendar year is less
37 than \$96,000, by any method permitted by the commission; or

38 (B) if that seller's tax liability under this chapter for the previous calendar year is
39 \$96,000 or more, by electronic funds transfer.

40 (b) A seller shall remit electronically with the return required by Subsection (1)(a)(i)
41 the amount the seller is required to remit to the commission for each tax, fee, or charge
42 described in Subsection (1)(c) if that seller:

43 (i) is required by Section 59-12-107 to file the return electronically; or

44 (ii) (A) is required to collect and remit a tax under Section 59-12-107; and

45 (B) files a simplified electronic return.

46 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:

47 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

48 (ii) a fee under Section 19-6-714;

49 (iii) a fee under Section 19-6-805;

50 (iv) a charge under Section 69-2-5;

51 (v) a charge under Section 69-2-5.5;

52 (vi) a charge under Section 69-2-5.6; or

53 (vii) a tax under this chapter.

54 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
55 Utah Administrative Rulemaking Act, the commission shall make rules providing for a method
56 for making same-day payments other than by electronic funds transfer if making payments by
57 electronic funds transfer fails.

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

59 commission shall establish by rule procedures and requirements for determining the amount a
60 seller is required to remit to the commission under this Subsection (1).

61 (2) (a) Except as provided in Subsection (3), a seller subject to Subsection (1) or a
62 seller described in Subsection (4) may retain each month the amount allowed by this
63 Subsection (2).

64 (b) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
65 each month 1.31% of any amounts the seller is required to remit to the commission:

66 (i) for a transaction described in Subsection 59-12-103(1) that is subject to a state tax
67 and a local tax imposed in accordance with the following, for the month for which the seller is
68 filing a return in accordance with Subsection (1):

69 (A) Subsection 59-12-103(2)(a);

70 (B) Subsection 59-12-103(2)(b); and

71 (C) Subsection 59-12-103(2)(d); and

72 (ii) for an agreement sales and use tax.

73 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
74 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction described
75 in Subsection 59-12-103(1) that is subject to the state tax and the local tax imposed in
76 accordance with Subsection 59-12-103(2)(c).

77 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
78 equal to the sum of:

79 (A) 1.31% of any amounts the seller is required to remit to the commission for:

80 (I) the state tax and the local tax imposed in accordance with Subsection

81 59-12-103(2)(c);

82 (II) the month for which the seller is filing a return in accordance with Subsection (1);

83 and

84 (III) an agreement sales and use tax; and

85 (B) 1.31% of the difference between:

86 (I) the amounts the seller would have been required to remit to the commission:

87 (Aa) in accordance with Subsection 59-12-103(2)(a) if the transaction had been subject
88 to the state tax and the local tax imposed in accordance with Subsection 59-12-103(2)(a);

89 (Bb) for the month for which the seller is filing a return in accordance with Subsection

90 (1); and

91 (Cc) for an agreement sales and use tax; and

92 (II) the amounts the seller is required to remit to the commission for:

93 (Aa) the state tax and the local tax imposed in accordance with Subsection

94 59-12-103(2)(c);

95 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);

96 and

97 (Cc) an agreement sales and use tax.

98 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain

99 each month 1% of any amounts the seller is required to remit to the commission:

100 (i) for the month for which the seller is filing a return in accordance with Subsection

101 (1); and

102 (ii) under:

103 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

104 (B) Subsection 59-12-603(1)(a)(i)(A); or

105 (C) Subsection 59-12-603(1)(a)(i)(B).

106 (3) A state government entity that is required to remit taxes monthly in accordance
107 with Subsection (1) may not retain any amount under Subsection (2).

108 (4) A seller that has a tax liability under this chapter for the previous calendar year of
109 less than \$50,000 may:

110 (a) voluntarily meet the requirements of Subsection (1); and

111 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
112 amounts allowed by Subsection (2).

113 (5) (a) Subject to Subsections (5)(b) through (d), a seller that voluntarily collects and
114 remits a tax in accordance with Subsection 59-12-107(2)(c)(i) may retain an amount equal to
115 ~~[+8%]~~ 35% of any amounts the seller would otherwise remit to the commission:

116 (i) if the seller obtains a license under Section 59-12-106 for the first time on or after
117 January 1, 2014; and

118 (ii) for:

119 (A) an agreement sales and use tax; and

120 (B) the time period for which the seller files a return in accordance with this section.

121 (b) If a seller retains an amount under this Subsection (5), the seller may not retain any
122 other amount under this section.

123 (c) If a seller retains an amount under this Subsection (5), the commission may require
124 the seller to file a return by:

125 (i) electronic means; or

126 (ii) a means other than electronic means.

127 (d) A seller may not retain an amount under this Subsection (5) if the seller is required
128 to collect or remit a tax under this section in accordance with Section 59-12-103.1.

129 (6) Penalties for late payment shall be as provided in Section 59-1-401.

130 (7) (a) Except as provided in Subsection (7)(c), for any amounts required to be remitted
131 to the commission under this part, the commission shall each month calculate an amount equal
132 to the difference between:

133 (i) the total amount retained for that month by all sellers had the percentages listed
134 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

135 (ii) the total amount retained for that month by all sellers at the percentages listed
136 under Subsections (2)(b) and (2)(c)(ii).

137 (b) The commission shall each month allocate the amount calculated under Subsection
138 (7)(a) to each county, city, and town on the basis of the proportion of agreement sales and use
139 tax that the commission distributes to each county, city, and town for that month compared to
140 the total agreement sales and use tax that the commission distributes for that month to all
141 counties, cities, and towns.

142 (c) The amount the commission calculates under Subsection (7)(a) may not include an
143 amount collected from a tax that:

144 (i) the state imposes within a county, city, or town, including the unincorporated area
145 of a county; and

146 (ii) is not imposed within the entire state.

147 **Section 2. Effective date.**

148 This bill takes effect on July 1, 2015.

Legislative Review Note
as of 12-18-14 3:44 PM

Office of Legislative Research and General Counsel