

Representative Brady Brammer proposes the following substitute bill:

SALES AND INCOME TAX AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to corporate income tax and sales and use tax exemptions.

Highlighted Provisions:

This bill:

- ▶ modifies the definition of business income;
- ▶ allows a taxpayer to elect to treat all income from the sales of intangible property as business income;
- ▶ enacts a sales and use tax exemption for sales of certain items that:
 - contain a minimum amount of precious metal; and
 - are used as currency but do not constitute legal tender;
- ▶ enacts a sales and use tax exemption for amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, provided a trained instructor actively instructs the participant; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 This bill provides a special effective date.

27 This bill provides retrospective operation.

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-7-302**, as last amended by Laws of Utah 2020, Chapter 38

31 **59-7-303**, as repealed and reenacted by Laws of Utah 1993, Chapter 169

32 **59-12-104**, as last amended by Laws of Utah 2021, Chapters 280 and 367

33

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

35 Section 1. Section **59-7-302** is amended to read:

36 **59-7-302. Definitions -- Determination of taxpayer status.**

37 (1) As used in this part, unless the context otherwise requires:

38 (a) "Aircraft type" means a particular model of aircraft as designated by the
39 manufacturer of the aircraft.

40 (b) "Airline" means the same as that term is defined in Section **59-2-102**.

41 (c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during
42 the airline's tax period.

43 ~~[(d) "Business income" means income arising from transactions and activity in the
44 regular course of the taxpayer's trade or business and includes income from tangible and
45 intangible property if the acquisition, management, and disposition of the property constitutes
46 integral parts of the taxpayer's regular trade or business operations.]~~

47 (d) "Business income" means income that:

48 (i) is apportionable under the United States Constitution and is not allocated under the
49 laws of this state, including income arising from:

50 (A) a transaction or activity in the regular course of the taxpayer's trade or business;
51 and

52 (B) tangible and intangible property, if the acquisition, management, employment,
53 development, or disposition of the property is or was related to the operation of the taxpayer's
54 trade or business; or

55 (ii) would be allocable to this state under the United States Constitution, but is
56 apportioned rather than allocated in accordance with the laws of this state.

57 (e) "Commercial domicile" means the principal place from which the trade or business
58 of the taxpayer is directed or managed.

59 (f) "Compensation" means wages, salaries, commissions, and any other form of
60 remuneration paid to employees for personal services.

61 (g) "Excluded NAICS code" means a NAICS code of the 2017 North American
62 Industry Classification System of the federal Executive Office of the President, Office of
63 Management and Budget, within:

64 (i) NAICS Code 211120, Crude Petroleum Extraction;

65 (ii) NAICS Industry Group 2121, Coal Mining;

66 (iii) NAICS Industry Group 2212, Natural Gas Distribution;

67 (iv) NAICS Subsector 311, Food Manufacturing;

68 (v) NAICS Industry Group 3121, Beverage Manufacturing;

69 (vi) NAICS Code 327310, Cement Manufacturing;

70 (vii) NAICS Subsector 482, Rail Transportation;

71 (viii) NAICS Code 512110, Motion Picture and Video Production;

72 (ix) NAICS Subsection 515, Broadcasting (except Internet); or

73 (x) NAICS Code 522110, Commercial Banking.

74 (h) (i) Except as provided in Subsection (1)(h)(ii), "mobile flight equipment" means the
75 same as that term is defined in Section [59-2-102](#).

76 (ii) "Mobile flight equipment" does not include:

77 (A) a spare engine; or

78 (B) tangible personal property described in Subsection [59-2-102](#)(25) owned by an air
79 charter service or an air contract service.

80 (i) "Nonbusiness income" means all income other than business income.

81 (j) "Optional apportionment taxpayer" means a taxpayer described in Subsection (3).

82 (k) "Phased-in sales factor weighted taxpayer" means a taxpayer that:

83 (i) is not a sales factor weighted taxpayer;

84 (ii) does not meet the definition of an optional apportionment taxpayer; or

85 (iii) for a taxable year beginning on or after January 1, 2020:

86 (A) meets the definition of an optional apportionment taxpayer; and

87 (B) apportioned business income using the method described in Subsection

88 59-7-311(4) during the previous taxable year.

89 (l) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

90 (m) "Sales" means all gross receipts of the taxpayer not allocated under Sections
91 59-7-306 through 59-7-310.

92 (n) "Sales factor weighted taxpayer" means a taxpayer described in Subsection (2).

93 (o) "State" means any state of the United States, the District of Columbia, the
94 Commonwealth of Puerto Rico, any territory or possession of the United States, and any
95 foreign country or political subdivision thereof.

96 (p) "Transportation revenue" means revenue an airline earns from:

97 (i) transporting a passenger or cargo; or

98 (ii) from miscellaneous sales of merchandise as part of providing transportation
99 services.

100 (q) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within
101 the borders of this state:

102 (i) during the airline's tax period; and

103 (ii) from flight stages that originate or terminate in this state.

104 (2) (a) A taxpayer is a sales factor weighted taxpayer if the taxpayer apportioned
105 business income using the method described in Subsection 59-7-311(2) during the previous
106 taxable year or if, regardless of the number of economic activities the taxpayer performs, the
107 taxpayer generates greater than 50% of the taxpayer's total sales everywhere from economic
108 activities that are classified in a NAICS code of the 2002 or 2007 North American Industry
109 Classification System of the federal Executive Office of the President, Office of Management
110 and Budget, other than:

111 (i) a NAICS code within NAICS Sector 21, Mining;

112 (ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

113 (iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except:

114 (A) NAICS Industry Group 3254, Pharmaceutical and Medicine Manufacturing;

115 (B) NAICS Industry Group 3333, Commercial and Service Industry Machinery
116 Manufacturing;

117 (C) NAICS Subsector 334, Computer and Electronic Product Manufacturing; and

118 (D) NAICS Code 336111, Automobile Manufacturing;

119 (iv) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;
120 (v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector
121 519, Other Information Services; or

122 (vi) a NAICS code within NAICS Sector 52, Finance and Insurance.

123 (b) A taxpayer shall determine if the taxpayer is a sales factor weighted taxpayer each
124 year before the due date for filing the taxpayer's return under this chapter for the taxable year,
125 including extensions.

126 (c) For purposes of making the determination required by Subsection (2)(a), total sales
127 everywhere include only the total sales everywhere:

128 (i) as determined in accordance with this part; and

129 (ii) made during the taxable year for which a taxpayer makes the determination
130 required by Subsection (2)(a).

131 (3) (a) A taxpayer is an optional apportionment taxpayer if the average calculated in
132 accordance with Subsection (3)(b) is greater than .50.

133 (b) To calculate the average described in Subsection (3)(a), a taxpayer shall:

134 (i) calculate the following two fractions:

135 (A) the property factor fraction as described in Subsection 59-7-312(3); and

136 (B) the payroll factor fraction as described in Subsection 59-7-315(3);

137 (ii) add together the fractions described in Subsection (3)(b)(i); and

138 (iii) divide the sum calculated in Subsection (3)(b)(ii):

139 (A) except as provided in Subsection (3)(b)(iii)(B), by two; or

140 (B) if either the property factor fraction or the payroll factor fraction has a denominator
141 of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.

142 (c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer
143 before the due date for filing the taxpayer's return under this chapter for the taxable year,
144 including extensions.

145 (4) A taxpayer that files a return as a unitary group for a taxable year is considered to
146 be a unitary group for that taxable year.

147 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
148 commission may define the term "economic activity" consistent with the use of the term
149 "activity" in the 2007 North American Industry Classification System of the federal Executive

150 Office of the President, Office of Management and Budget.

151 Section 2. Section **59-7-303** is amended to read:

152 **59-7-303. Apportionable income.**

153 (1) Any taxpayer having income from business activity which is taxable both within
154 and without this state shall allocate and apportion [~~its~~] the taxpayer's adjusted income as
155 provided in this part.

156 (2) Any taxpayer having income solely from business activity taxable within this state
157 shall allocate or apportion [~~its~~] the taxpayer's entire adjusted income to this state.

158 (3) (a) Notwithstanding Subsections (1) and (2), for a taxable year beginning on or
159 after January 1, 2022, a taxpayer may elect to treat all of the taxpayer's income from sales of
160 intangible property as business income.

161 (b) A taxpayer shall make the election described in Subsection (3)(a) on or before the
162 deadline for filing a return under an extension of time described in Section [59-7-505](#).

163 (c) An election under this Subsection (3) is irrevocable.

164 Section 3. Section **59-12-104** is amended to read:

165 **59-12-104. Exemptions.**

166 Exemptions from the taxes imposed by this chapter are as follows:

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

169 (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political
170 subdivisions; however, this exemption does not apply to sales of:

171 (a) construction materials except:

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

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

179 (b) tangible personal property in connection with the construction, operation,
180 maintenance, repair, or replacement of a project, as defined in Section [11-13-103](#), or facilities

181 providing additional project capacity, as defined in Section 11-13-103;

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

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

184 (ii) the seller or operator of the vending machine reports an amount equal to 150% of

185 the cost of the item described in Subsection (3)(b) as goods consumed; and

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

187 (i) food and food ingredients; or

188 (ii) prepared food;

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

190 (i) alcoholic beverages;

191 (ii) food and food ingredients; or

192 (iii) prepared food;

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

194 (i) to a passenger;

195 (ii) by a commercial airline carrier; and

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

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

198 (5) sales of parts and equipment for installation in an aircraft operated by a common

199 carrier in interstate or foreign commerce;

200 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

201 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture

202 exhibitor, distributor, or commercial television or radio broadcaster;

203 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of

204 cleaning or washing of tangible personal property if the cleaning or washing of the tangible

205 personal property is not assisted cleaning or washing of tangible personal property;

206 (b) if a seller that sells at the same business location assisted cleaning or washing of

207 tangible personal property and cleaning or washing of tangible personal property that is not

208 assisted cleaning or washing of tangible personal property, the exemption described in

209 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning

210 or washing of the tangible personal property; and

211 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,

212 Utah Administrative Rulemaking Act, the commission may make rules:

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

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

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

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

222 (a) not registered in this state; and

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

224 (ii) used in this state:

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

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

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

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

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

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

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

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

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

236 (A) a drug;

237 (B) a syringe; or

238 (C) a stoma supply; and

239 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
240 commission may by rule define the terms:

241 (A) "syringe"; or

242 (B) "stoma supply";

- 243 (11) purchases or leases exempt under Section 19-12-201;
- 244 (12) (a) sales of an item described in Subsection (12)(c) served by:
 - 245 (i) the following if the item described in Subsection (12)(c) is not available to the
 - 246 general public:
 - 247 (A) a church; or
 - 248 (B) a charitable institution; or
 - 249 (ii) an institution of higher education if:
 - 250 (A) the item described in Subsection (12)(c) is not available to the general public; or
 - 251 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
 - 252 offered by the institution of higher education; or
 - 253 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
 - 254 (i) a medical facility; or
 - 255 (ii) a nursing facility; and
 - 256 (c) Subsections (12)(a) and (b) apply to:
 - 257 (i) food and food ingredients;
 - 258 (ii) prepared food; or
 - 259 (iii) alcoholic beverages;
- 260 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 261 or a product transferred electronically by a person:
 - 262 (i) regardless of the number of transactions involving the sale of that tangible personal
 - 263 property or product transferred electronically by that person; and
 - 264 (ii) not regularly engaged in the business of selling that type of tangible personal
 - 265 property or product transferred electronically;
 - 266 (b) this Subsection (13) does not apply if:
 - 267 (i) the sale is one of a series of sales of a character to indicate that the person is
 - 268 regularly engaged in the business of selling that type of tangible personal property or product
 - 269 transferred electronically;
 - 270 (ii) the person holds that person out as regularly engaged in the business of selling that
 - 271 type of tangible personal property or product transferred electronically;
 - 272 (iii) the person sells an item of tangible personal property or product transferred
 - 273 electronically that the person purchased as a sale that is exempt under Subsection (25); or

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

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

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

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

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

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

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

290 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
291 operating repair or replacement parts, or materials, except for office equipment or office
292 supplies, by:

293 (a) a manufacturing facility that:

294 (i) is located in the state; and

295 (ii) uses or consumes the machinery, equipment, normal operating repair or
296 replacement parts, or materials:

297 (A) in the manufacturing process to manufacture an item sold as tangible personal
298 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
299 Utah Administrative Rulemaking Act; or

300 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
301 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
302 Administrative Rulemaking Act;

303 (b) an establishment, as the commission defines that term in accordance with Title
304 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

305 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
306 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
307 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
308 2002 North American Industry Classification System of the federal Executive Office of the
309 President, Office of Management and Budget;

310 (ii) is located in the state; and

311 (iii) uses or consumes the machinery, equipment, normal operating repair or
312 replacement parts, or materials in:

313 (A) the production process to produce an item sold as tangible personal property, as the
314 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
315 Administrative Rulemaking Act;

316 (B) research and development, as the commission may define that phrase in accordance
317 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

318 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
319 produced from mining;

320 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
321 mining; or

322 (E) preventing, controlling, or reducing dust or other pollutants from mining; or

323 (c) an establishment, as the commission defines that term in accordance with Title 63G,
324 Chapter 3, Utah Administrative Rulemaking Act, that:

325 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
326 American Industry Classification System of the federal Executive Office of the President,
327 Office of Management and Budget;

328 (ii) is located in the state; and

329 (iii) uses or consumes the machinery, equipment, normal operating repair or
330 replacement parts, or materials in the operation of the web search portal;

331 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

332 (i) tooling;

333 (ii) special tooling;

334 (iii) support equipment;

335 (iv) special test equipment; or

336 (v) parts used in the repairs or renovations of tooling or equipment described in
337 Subsections (15)(a)(i) through (iv); and
338 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
339 (i) the tooling, equipment, or parts are used or consumed exclusively in the
340 performance of any aerospace or electronics industry contract with the United States
341 government or any subcontract under that contract; and
342 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
343 title to the tooling, equipment, or parts is vested in the United States government as evidenced
344 by:
345 (A) a government identification tag placed on the tooling, equipment, or parts; or
346 (B) listing on a government-approved property record if placing a government
347 identification tag on the tooling, equipment, or parts is impractical;
348 (16) sales of newspapers or newspaper subscriptions;
349 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
350 product transferred electronically traded in as full or part payment of the purchase price, except
351 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
352 trade-ins are limited to other vehicles only, and the tax is based upon:
353 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
354 vehicle being traded in; or
355 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
356 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
357 commission; and
358 (b) Subsection (17)(a) does not apply to the following items of tangible personal
359 property or products transferred electronically traded in as full or part payment of the purchase
360 price:
361 (i) money;
362 (ii) electricity;
363 (iii) water;
364 (iv) gas; or
365 (v) steam;
366 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

367 or a product transferred electronically used or consumed primarily and directly in farming
368 operations, regardless of whether the tangible personal property or product transferred
369 electronically:

370 (A) becomes part of real estate; or

371 (B) is installed by a farmer, contractor, or subcontractor; or

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

375 (b) amounts paid or charged for the following are subject to the taxes imposed by this
376 chapter:

377 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
378 supplies if used in a manner that is incidental to farming; and

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

381 (I) hand tools; or

382 (II) maintenance and janitorial equipment and supplies;

383 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
384 transferred electronically if the tangible personal property or product transferred electronically
385 is used in an activity other than farming; and

386 (B) tangible personal property or a product transferred electronically that is considered
387 to be used in an activity other than farming includes:

388 (I) office equipment and supplies; or

389 (II) equipment and supplies used in:

390 (Aa) the sale or distribution of farm products;

391 (Bb) research; or

392 (Cc) transportation; or

393 (iii) a vehicle required to be registered by the laws of this state during the period
394 ending two years after the date of the vehicle's purchase;

395 (19) sales of hay;

396 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
397 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

398 garden, farm, or other agricultural produce is sold by:

399 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
400 agricultural produce;

401 (b) an employee of the producer described in Subsection (20)(a); or

402 (c) a member of the immediate family of the producer described in Subsection (20)(a);

403 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
404 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

405 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
406 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
407 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
408 manufacturer, processor, wholesaler, or retailer;

409 (23) a product stored in the state for resale;

410 (24) (a) purchases of a product if:

411 (i) the product is:

412 (A) purchased outside of this state;

413 (B) brought into this state:

414 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

415 (II) by a nonresident person who is not living or working in this state at the time of the
416 purchase;

417 (C) used for the personal use or enjoyment of the nonresident person described in
418 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

419 (D) not used in conducting business in this state; and

420 (ii) for:

421 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
422 the product for a purpose for which the product is designed occurs outside of this state;

423 (B) a boat, the boat is registered outside of this state; or

424 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
425 outside of this state;

426 (b) the exemption provided for in Subsection (24)(a) does not apply to:

427 (i) a lease or rental of a product; or

428 (ii) a sale of a vehicle exempt under Subsection (33); and

429 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
430 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
431 following:

432 (i) conducting business in this state if that phrase has the same meaning in this
433 Subsection (24) as in Subsection (63);

434 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
435 as in Subsection (63); or

436 (iii) a purpose for which a product is designed if that phrase has the same meaning in
437 this Subsection (24) as in Subsection (63);

438 (25) a product purchased for resale in the regular course of business, either in its
439 original form or as an ingredient or component part of a manufactured or compounded product;

440 (26) a product upon which a sales or use tax was paid to some other state, or one of its
441 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
442 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
443 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
444 Act;

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

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

449 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
450 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
451 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
452 the President, Office of Management and Budget;

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

455 (a) not registered in this state; and

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

457 (ii) used in this state:

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

- 460 (I) 30 days in any calendar year; or
- 461 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 462 the borders of this state; or
- 463 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 464 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 465 state;
- 466 (31) sales of aircraft manufactured in Utah;
- 467 (32) amounts paid for the purchase of telecommunications service for purposes of
- 468 providing telecommunications service;
- 469 (33) sales, leases, or uses of the following:
- 470 (a) a vehicle by an authorized carrier; or
- 471 (b) tangible personal property that is installed on a vehicle:
- 472 (i) sold or leased to or used by an authorized carrier; and
- 473 (ii) before the vehicle is placed in service for the first time;
- 474 (34) (a) 45% of the sales price of any new manufactured home; and
- 475 (b) 100% of the sales price of any used manufactured home;
- 476 (35) sales relating to schools and fundraising sales;
- 477 (36) sales or rentals of durable medical equipment if:
- 478 (a) a person presents a prescription for the durable medical equipment; and
- 479 (b) the durable medical equipment is used for home use only;
- 480 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 481 Section [72-11-102](#); and
- 482 (b) the commission shall by rule determine the method for calculating sales exempt
- 483 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 484 (38) sales to a ski resort of:
- 485 (a) snowmaking equipment;
- 486 (b) ski slope grooming equipment;
- 487 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 488 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 489 described in Subsections (38)(a) through (c);
- 490 (39) subject to Subsection [59-12-103\(2\)\(j\)](#), sales of natural gas, electricity, heat, coal,

491 fuel oil, or other fuels for industrial use;

492 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
493 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
494 [59-12-102](#);

495 (b) if a seller that sells or rents at the same business location the right to use or operate
496 for amusement, entertainment, or recreation one or more unassisted amusement devices and
497 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
498 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
499 amusement, entertainment, or recreation for the assisted amusement devices; and

500 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
501 Utah Administrative Rulemaking Act, the commission may make rules:

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

504 (ii) establishing the procedures and requirements for a seller to separately account for
505 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
506 assisted amusement devices;

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

508 (i) a governmental entity; or

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

510 (A) a school; or

511 (B) the State Board of Education; or

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

513 (42) amounts paid for admission to an athletic event at an institution of higher
514 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
515 20 U.S.C. Sec. 1681 et seq.;

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

517 (i) an area agency on aging; or

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

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

520 (44) sales or leases of semiconductor fabricating, processing, research, or development
521 materials regardless of whether the semiconductor fabricating, processing, research, or

522 development materials:

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

524 (b) ultimately become incorporated into real property;

525 (45) an amount paid by or charged to a purchaser for accommodations and services
526 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
527 59-12-104.2;

528 (46) the lease or use of a vehicle issued a temporary sports event registration certificate
529 in accordance with Section 41-3-306 for the event period specified on the temporary sports
530 event registration certificate;

531 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
532 adopted by the Public Service Commission only for purchase of electricity produced from a
533 new alternative energy source built after January 1, 2016, as designated in the tariff by the
534 Public Service Commission; and

535 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
536 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
537 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
538 customer would have paid absent the tariff;

539 (48) sales or rentals of mobility enhancing equipment if a person presents a
540 prescription for the mobility enhancing equipment;

541 (49) sales of water in a:

542 (a) pipe;

543 (b) conduit;

544 (c) ditch; or

545 (d) reservoir;

546 (50) sales of currency or coins that constitute legal tender of a state, the United States,
547 or a foreign nation;

548 (51) (a) sales of an item described in Subsection (51)(b) if the item:

549 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

550 (ii) has a gold, silver, or platinum content of 50% or more; and

551 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

552 (i) ingot;

- 553 (ii) bar;
- 554 (iii) medallion; or
- 555 (iv) decorative coin;
- 556 (52) amounts paid on a sale-leaseback transaction;
- 557 (53) sales of a prosthetic device:
 - 558 (a) for use on or in a human; and
 - 559 (b) (i) for which a prescription is required; or
 - 560 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 561 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 562 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 563 or equipment is primarily used in the production or postproduction of the following media for
- 564 commercial distribution:
 - 565 (i) a motion picture;
 - 566 (ii) a television program;
 - 567 (iii) a movie made for television;
 - 568 (iv) a music video;
 - 569 (v) a commercial;
 - 570 (vi) a documentary; or
 - 571 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
 - 572 commission by administrative rule made in accordance with Subsection (54)(d); or
 - 573 (b) purchases, leases, or rentals of machinery or equipment by an establishment
 - 574 described in Subsection (54)(c) that is used for the production or postproduction of the
 - 575 following are subject to the taxes imposed by this chapter:
 - 576 (i) a live musical performance;
 - 577 (ii) a live news program; or
 - 578 (iii) a live sporting event;
 - 579 (c) the following establishments listed in the 1997 North American Industry
 - 580 Classification System of the federal Executive Office of the President, Office of Management
 - 581 and Budget, apply to Subsections (54)(a) and (b):
 - 582 (i) NAICS Code 512110; or
 - 583 (ii) NAICS Code 51219; and

584 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
585 commission may by rule:

586 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

587 or

588 (ii) define:

589 (A) "commercial distribution";

590 (B) "live musical performance";

591 (C) "live news program"; or

592 (D) "live sporting event";

593 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
594 on or before June 30, 2027, of tangible personal property that:

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

596 (A) is an alternative energy electricity production facility;

597 (B) is located in the state; and

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

599 (II) has its generation capacity increased by one or more megawatts on or after July 1,
600 2004, as a result of the use of the tangible personal property;

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

602 (iii) is used to make the facility or the increase in capacity of the facility described in
603 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

604 transmission grid including:

605 (A) a wind turbine;

606 (B) generating equipment;

607 (C) a control and monitoring system;

608 (D) a power line;

609 (E) substation equipment;

610 (F) lighting;

611 (G) fencing;

612 (H) pipes; or

613 (I) other equipment used for locating a power line or pole; and

614 (b) this Subsection (55) does not apply to:

- 615 (i) tangible personal property used in construction of:
- 616 (A) a new alternative energy electricity production facility; or
- 617 (B) the increase in the capacity of an alternative energy electricity production facility;
- 618 (ii) contracted services required for construction and routine maintenance activities;
- 619 and
- 620 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 621 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
- 622 acquired after:
- 623 (A) the alternative energy electricity production facility described in Subsection
- 624 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 625 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
- 626 in Subsection (55)(a)(iii);
- 627 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 628 on or before June 30, 2027, of tangible personal property that:
- 629 (i) is leased or purchased for or by a facility that:
- 630 (A) is a waste energy production facility;
- 631 (B) is located in the state; and
- 632 (C) (I) becomes operational on or after July 1, 2004; or
- 633 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 634 2004, as a result of the use of the tangible personal property;
- 635 (ii) has an economic life of five or more years; and
- 636 (iii) is used to make the facility or the increase in capacity of the facility described in
- 637 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
- 638 transmission grid including:
- 639 (A) generating equipment;
- 640 (B) a control and monitoring system;
- 641 (C) a power line;
- 642 (D) substation equipment;
- 643 (E) lighting;
- 644 (F) fencing;
- 645 (G) pipes; or

646 (H) other equipment used for locating a power line or pole; and
647 (b) this Subsection (56) does not apply to:
648 (i) tangible personal property used in construction of:
649 (A) a new waste energy facility; or
650 (B) the increase in the capacity of a waste energy facility;
651 (ii) contracted services required for construction and routine maintenance activities;
652 and
653 (iii) unless the tangible personal property is used or acquired for an increase in capacity
654 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
655 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
656 described in Subsection (56)(a)(iii); or
657 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
658 in Subsection (56)(a)(iii);
659 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
660 or before June 30, 2027, of tangible personal property that:
661 (i) is leased or purchased for or by a facility that:
662 (A) is located in the state;
663 (B) produces fuel from alternative energy, including:
664 (I) methanol; or
665 (II) ethanol; and
666 (C) (I) becomes operational on or after July 1, 2004; or
667 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
668 a result of the installation of the tangible personal property;
669 (ii) has an economic life of five or more years; and
670 (iii) is installed on the facility described in Subsection (57)(a)(i);
671 (b) this Subsection (57) does not apply to:
672 (i) tangible personal property used in construction of:
673 (A) a new facility described in Subsection (57)(a)(i); or
674 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
675 (ii) contracted services required for construction and routine maintenance activities;
676 and

677 (iii) unless the tangible personal property is used or acquired for an increase in capacity
678 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
679 (A) the facility described in Subsection (57)(a)(i) is operational; or
680 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

681 (58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product
682 transferred electronically to a person within this state if that tangible personal property or
683 product transferred electronically is subsequently shipped outside the state and incorporated
684 pursuant to contract into and becomes a part of real property located outside of this state; and
685 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
686 state or political entity to which the tangible personal property is shipped imposes a sales, use,
687 gross receipts, or other similar transaction excise tax on the transaction against which the other
688 state or political entity allows a credit for sales and use taxes imposed by this chapter;

689 (59) purchases:
690 (a) of one or more of the following items in printed or electronic format:
691 (i) a list containing information that includes one or more:
692 (A) names; or
693 (B) addresses; or
694 (ii) a database containing information that includes one or more:
695 (A) names; or
696 (B) addresses; and
697 (b) used to send direct mail;

698 (60) redemptions or repurchases of a product by a person if that product was:
699 (a) delivered to a pawnbroker as part of a pawn transaction; and
700 (b) redeemed or repurchased within the time period established in a written agreement
701 between the person and the pawnbroker for redeeming or repurchasing the product;

702 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
703 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
704 and
705 (ii) has a useful economic life of one or more years; and
706 (b) the following apply to Subsection (61)(a):
707 (i) telecommunications enabling or facilitating equipment, machinery, or software;

708 (ii) telecommunications equipment, machinery, or software required for 911 service;
709 (iii) telecommunications maintenance or repair equipment, machinery, or software;
710 (iv) telecommunications switching or routing equipment, machinery, or software; or
711 (v) telecommunications transmission equipment, machinery, or software;
712 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
713 personal property or a product transferred electronically that are used in the research and
714 development of alternative energy technology; and
715 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
716 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
717 purchases of tangible personal property or a product transferred electronically that are used in
718 the research and development of alternative energy technology;
719 (63) (a) purchases of tangible personal property or a product transferred electronically
720 if:
721 (i) the tangible personal property or product transferred electronically is:
722 (A) purchased outside of this state;
723 (B) brought into this state at any time after the purchase described in Subsection
724 (63)(a)(i)(A); and
725 (C) used in conducting business in this state; and
726 (ii) for:
727 (A) tangible personal property or a product transferred electronically other than the
728 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
729 for a purpose for which the property is designed occurs outside of this state; or
730 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
731 outside of this state and not required to be registered in this state under Section [41-1a-202](#) or
732 [73-18-9](#) based on residency;
733 (b) the exemption provided for in Subsection (63)(a) does not apply to:
734 (i) a lease or rental of tangible personal property or a product transferred electronically;
735 or
736 (ii) a sale of a vehicle exempt under Subsection (33); and
737 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
738 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

739 following:

740 (i) conducting business in this state if that phrase has the same meaning in this

741 Subsection (63) as in Subsection (24);

742 (ii) the first use of tangible personal property or a product transferred electronically if

743 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

744 (iii) a purpose for which tangible personal property or a product transferred

745 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

746 Subsection (24);

747 (64) sales of disposable home medical equipment or supplies if:

748 (a) a person presents a prescription for the disposable home medical equipment or

749 supplies;

750 (b) the disposable home medical equipment or supplies are used exclusively by the

751 person to whom the prescription described in Subsection (64)(a) is issued; and

752 (c) the disposable home medical equipment and supplies are listed as eligible for

753 payment under:

754 (i) Title XVIII, federal Social Security Act; or

755 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

756 (65) sales:

757 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

758 District Act; or

759 (b) of tangible personal property to a subcontractor of a public transit district, if the

760 tangible personal property is:

761 (i) clearly identified; and

762 (ii) installed or converted to real property owned by the public transit district;

763 (66) sales of construction materials:

764 (a) purchased on or after July 1, 2010;

765 (b) purchased by, on behalf of, or for the benefit of an international airport:

766 (i) located within a county of the first class; and

767 (ii) that has a United States customs office on its premises; and

768 (c) if the construction materials are:

769 (i) clearly identified;

- 770 (ii) segregated; and
- 771 (iii) installed or converted to real property:
 - 772 (A) owned or operated by the international airport described in Subsection (66)(b); and
 - 773 (B) located at the international airport described in Subsection (66)(b);
- 774 (67) sales of construction materials:
 - 775 (a) purchased on or after July 1, 2008;
 - 776 (b) purchased by, on behalf of, or for the benefit of a new airport:
 - 777 (i) located within a county of the second class; and
 - 778 (ii) that is owned or operated by a city in which an airline as defined in Section
 - 779 59-2-102 is headquartered; and
 - 780 (c) if the construction materials are:
 - 781 (i) clearly identified;
 - 782 (ii) segregated; and
 - 783 (iii) installed or converted to real property:
 - 784 (A) owned or operated by the new airport described in Subsection (67)(b);
 - 785 (B) located at the new airport described in Subsection (67)(b); and
 - 786 (C) as part of the construction of the new airport described in Subsection (67)(b);
 - 787 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
 - 788 common carrier that is a railroad for use in a locomotive engine;
 - 789 (69) purchases and sales described in Section 63H-4-111;
 - 790 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
 - 791 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
 - 792 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
 - 793 lists a state or country other than this state as the location of registry of the fixed wing turbine
 - 794 powered aircraft; or
 - 795 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
 - 796 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
 - 797 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
 - 798 lists a state or country other than this state as the location of registry of the fixed wing turbine
 - 799 powered aircraft;
 - 800 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

- 801 (a) to a person admitted to an institution of higher education; and
- 802 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 803 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 804 textbook for a higher education course;
- 805 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 806 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
- 807 level of municipal services;
- 808 (73) amounts paid or charged for construction materials used in the construction of a
- 809 new or expanding life science research and development facility in the state, if the construction
- 810 materials are:
- 811 (a) clearly identified;
- 812 (b) segregated; and
- 813 (c) installed or converted to real property;
- 814 (74) amounts paid or charged for:
- 815 (a) a purchase or lease of machinery and equipment that:
- 816 (i) are used in performing qualified research:
- 817 (A) as defined in Section 41(d), Internal Revenue Code; and
- 818 (B) in the state; and
- 819 (ii) have an economic life of three or more years; and
- 820 (b) normal operating repair or replacement parts:
- 821 (i) for the machinery and equipment described in Subsection (74)(a); and
- 822 (ii) that have an economic life of three or more years;
- 823 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 824 food if:
- 825 (a) for a sale:
- 826 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 827 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 828 tangible personal property prior to making the sale; or
- 829 (b) for a lease:
- 830 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 831 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

832 personal property prior to making the lease;

833 (76) (a) purchases of machinery or equipment if:

834 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

835 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

836 System of the federal Executive Office of the President, Office of Management and Budget;

837 (ii) the machinery or equipment:

838 (A) has an economic life of three or more years; and

839 (B) is used by one or more persons who pay admission or user fees described in

840 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

841 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

842 (A) amounts paid or charged as admission or user fees described in Subsection

843 59-12-103(1)(f); and

844 (B) subject to taxation under this chapter; and

845 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

846 commission may make rules for verifying that 51% of a purchaser's sales revenue for the

847 previous calendar quarter is:

848 (i) amounts paid or charged as admission or user fees described in Subsection

849 59-12-103(1)(f); and

850 (ii) subject to taxation under this chapter;

851 (77) purchases of a short-term lodging consumable by a business that provides

852 accommodations and services described in Subsection 59-12-103(1)(i);

853 (78) amounts paid or charged to access a database:

854 (a) if the primary purpose for accessing the database is to view or retrieve information

855 from the database; and

856 (b) not including amounts paid or charged for a:

857 (i) digital audio work;

858 (ii) digital audio-visual work; or

859 (iii) digital book;

860 (79) amounts paid or charged for a purchase or lease made by an electronic financial

861 payment service, of:

862 (a) machinery and equipment that:

- 863 (i) are used in the operation of the electronic financial payment service; and
864 (ii) have an economic life of three or more years; and
865 (b) normal operating repair or replacement parts that:
866 (i) are used in the operation of the electronic financial payment service; and
867 (ii) have an economic life of three or more years;
868 (80) sales of a fuel cell as defined in Section [54-15-102](#);
869 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
870 product transferred electronically if the tangible personal property or product transferred
871 electronically:
872 (a) is stored, used, or consumed in the state; and
873 (b) is temporarily brought into the state from another state:
874 (i) during a disaster period as defined in Section [53-2a-1202](#);
875 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
876 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
877 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);
878 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
879 in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
880 Recreation Program;
881 (83) amounts paid or charged for a purchase or lease of molten magnesium;
882 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
883 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
884 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
885 parts:
886 (a) are used in:
887 (i) the operation of the qualifying data center; or
888 (ii) the occupant's operations in the qualifying data center; and
889 (b) have an economic life of one or more years;
890 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
891 vehicle that includes cleaning or washing of the interior of the vehicle;
892 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
893 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used

894 or consumed:

895 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
896 in Section 79-6-701 located in the state;

897 (b) if the machinery, equipment, normal operating repair or replacement parts,
898 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

899 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
900 added to gasoline or diesel fuel;

901 (ii) research and development;

902 (iii) transporting, storing, or managing raw materials, work in process, finished
903 products, and waste materials produced from refining gasoline or diesel fuel, or adding
904 blendstock to gasoline or diesel fuel;

905 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
906 refining; or

907 (v) preventing, controlling, or reducing pollutants from refining; and

908 (c) if the person holds a valid refiner tax exemption certification as defined in Section
909 [79-6-701](#);

910 (87) amounts paid to or charged by a proprietor for accommodations and services, as
911 defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA accommodations tax
912 imposed under Section [63H-1-205](#);

913 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
914 operating repair or replacement parts, or materials, except for office equipment or office
915 supplies, by an establishment, as the commission defines that term in accordance with Title
916 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

917 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
918 American Industry Classification System of the federal Executive Office of the President,
919 Office of Management and Budget;

920 (b) is located in this state; and

921 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
922 materials in the operation of the establishment; ~~and~~

923 (89) amounts paid or charged for an item exempt under Section [59-12-104.10](#)[-];

924 (90) sales of a note, leaf, foil, or film, if the item:

925 (a) is used as currency;
926 (b) does not constitute legal tender of a state, the United States, or a foreign nation; and
927 (c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any
928 transparent polymer holder, coating, or encasement; and

929 (91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or
930 surfing facility, if a trained instructor:

931 (a) is present with the participant, in person or by video, for the duration of the activity;
932 and

933 (b) actively instructs the participant, including providing observation or feedback.

934 Section 4. **Effective date.**

935 (1) Except as provided in Subsection (2), this bill takes effect on May 4, 2022.

936 (2) The changes to Section [59-12-104](#) take effect on July 1, 2022.

937 Section 5. **Retrospective operation.**

938 The changes to Sections [59-7-302](#) and [59-7-303](#) have retrospective operation to a
939 taxable year beginning on or after January 1, 2022.