Sales and Use Tax General Information

Introduction

This publication provides basic sales and use tax information. It includes Utah tax law and Tax Commission rules, but is not all-inclusive. Future law or rule changes may change this publication.

For complete Utah sales tax law, see UCA, Title 59*, Revenue and Taxation,* online at le.utah.gov/xcode/code.html.

Starting a New Business

If you are starting a new business, see **utah.gov/business** or **tax.utah.gov/business**.

Buying a Business — Liability

Check the status of all taxes before you buy a business. Keep enough of the purchase money to cover any unpaid taxes until the former owner gives you a Tax Commission receipt showing that all taxes have been paid, or a certificate showing no taxes are due.

If taxes are still due 30 days after you purchase the business, you will be personally liable for the former owner's unpaid sales taxes. See UCA §59-12-112.

What is Sales and Use Tax?

Sales and use taxes are transaction taxes. This means the *transaction* is taxed, not the actual goods or services. The buyer is the actual taxpayer.

Sales and use taxes are trust fund taxes because the seller holds the tax in trust for Utah until paid to the Tax Commission. The funds may not be used for any other purpose.

Sales tax and use tax have the same exemptions and tax rates. Either sales tax or use tax applies to any transaction — not both.

Sales Tax

Sales tax is applied to retail sales and leases of tangible personal property, products transferred electronically, and certain services. The seller collects sales tax from the buyer and pays it to the Tax Commission monthly or quarterly. See UCA §59-12-103 and Rules R865-12L, R865-19S and R865-21U.

Use Tax

Use tax is applied to purchases of tangible personal property, products transferred electronically, and certain services when sales tax is due but not collected by the seller. A buyer without a sales tax account pays use tax to the Tax Commission on form TC-40, *Individual Income Tax Return.* Examples of use tax due include:

- using items from resale inventories;
- buying goods or services tax-free for personal or business use (advertising supplies, office or shop equipment, computer hardware and software, office supplies, etc.); and
- buying products from unlicensed, out-of-state sellers.

Sales Tax License

Every seller with an established presence in Utah (see *Nexus Filers,* below) must have a *Utah Sales Tax License.* You can apply for a license online at **tap.utah.gov**. Choose *"Apply for a tax account(s) – TC-69"* or go directly to the TAP Business Registration page:

Sales tax licenses are not transferable.

Businesses that typically must register for a sales tax license include:

- retailers selling tangible goods, products transferred electronically or services
- wholesalers purchasing resale inventory
- manufacturers
- leasing companies
- consumers such as professional firms and construction contractors

Nexus Filers

Nexus means a business has established a physical or economic presence in Utah, or is related to a business with a physical presence in Utah.

You have a physical presence in Utah if you:

1. have or use an office, distribution house, sales house, warehouse, service enterprise or other place of business in Utah;
2. maintain a stock of goods or inventory in Utah;
3. regularly solicit orders in Utah, even if the orders are not accepted in Utah (unless your Utah activity is only advertising or solicitation by mail, e-mail, the Internet, telephone etc.);
4. regularly deliver property in Utah other than by common carrier or U.S. mail; or
5. regularly lease or service property located in Utah.

You have an economic presence in Utah if you have sales of more than $100,000 in Utah during the year or the prior year.

A seller also has nexus in Utah if:

1. a. the seller has more than 10 percent interest in a related seller, or

b. a related seller has more than 10 percent interest in the seller, or

c. a related seller wholly owns the seller; and

2. a. the seller sells the same or very similar line of products as the related seller under the same or a very similar business name, or

b. the related seller's place of business or one of its in-state employees is used to advertise, promote or assist sales by the seller.

See Publication 37, *Business Activity and Nexus in Utah.*

Sellers with a physical presence, economic presence, or a related business in Utah must collect and pay sales tax and file returns. You must file sales tax returns every period, even when you have no tax liability.

Voluntary Sellers

Non-nexus sellers do not have to register or collect Utah sales tax. However, they may voluntarily register to collect Utah sales tax at the combined sales tax rate for the delivery location.

When a seller does not collect sales tax on taxable sales, the buyer must pay use tax on purchases brought into Utah for storage, use or consumption.

How to Add a Location

Notify the Tax Commission immediately if you add a location to an existing account. You can add a location by logging in at **tap.utah.gov**, or use form TC-69B, *Additional Business Location for a Sales Tax Account.*

How to Close a Location

Notify the Tax Commission immediately if you close a Utah location. You can close a location by logging in at **tap.utah.gov**, or use form TC-69C, *Notice of Change for a Tax Account.*

How to Close a Sales Tax Account

Notify the Tax Commission immediately if you stop doing business in Utah (see Rule R865-19S-25). You can close your sales tax account by logging in at **tap.utah.gov**, or use form TC-69C, *Notice of Change for a Tax Account.*

If you need help closing your account, call Taxpayer Services at 801-297-2200 or 1-800-662-4335 ext. 2200.

If you do not inform the Tax Commission that you closed your business, we may assess an estimated tax, including late penalties and interest.

Definitions (UCA §59-12-102)

Customized Food

Food that is prepared or heated by a seller for on-site or immediate consumption at the request of a customer. Does not include a customer only asking for a certain quantity.

Delivery Charges

Charges for preparation and delivery to a location chosen by a buyer of tangible personal property, products transferred electronically or services. Delivery charges include (but are not limited to): transportation, shipping, postage, handling, crating and packing.

Purchase price and sales price of tangible personal property do not include delivery charges if stated separately. The delivery charge does not include the cost of transportation to the seller (typically called "freight-in").

Note: A pickup charge to return an item to a location designated by the seller is NOT a delivery charge and is subject to tax.

Fabrication Charges

Charges to fabricate tangible personal property. Fabrication charges are taxable and must be included in the sale price before tax is calculated.

See Tax Commission Rule R865-19S-51

Grocery Food

Substances sold for ingestion or chewing by humans for taste or nutrition. Grocery food does not include alcoholic beverages, tobacco or prepared food.

Grocery food includes items sold without eating utensils by a food maker (other than a bakery and tortilla maker), items sold singly and unheated by weight or volume, and bakery items (bagel, bar, biscuit, bread, bun, cake, cookie, croissant, danish, donut, muffin, pastry, pie, roll, tart, torte or tortilla). A container or packaging used to transport food is not considered an eating utensil provided by the seller.

Note: The term "grocery food" used in Tax Commission forms and publications means "food and food ingredients" as defined by UCA §59-12-102.

See also the *Prepared Food* definition below.

Installation Charges

Charges for permanently installing tangible personal property to real property.

Purchase price and sales price of tangible personal property do not include an installation charge if stated separately.

Installation charges do not include labor charges for repair, renovation, manufacturing or fabrication. Real property sales are nontaxable. When tangible personal property or products transferred electronically become part of the underlying realty upon installation, the purchase and install transaction is considered a real property transaction. The contractor is the final consumer and must pay sales and use tax on the purchase of materials converted to real property.

Prepared Food

1. Food sold in a heated state or heated by a seller.

2. Two or more food ingredients mixed or combined by a seller for a single sale.

3. Food sold with an eating utensil provided by the seller (plate, knife, fork, spoon, glass, cup, napkin, straw, etc.).

Prepared food **does not include:**

- food that a seller only cuts, repackages or pasteurizes; or
- raw eggs, raw fish, raw meat or raw poultry, or a food containing these items if the Food and Drug Administration advises buyers to cook the items to prevent food borne illness.

Products Transferred Electronically

Audio, video and data that are not delivered on physical storage media (CD, DVD, diskette, tape, etc.).

Examples include:

- Music
- Reading material
- Ring tones
- Movies

Purchase Price and Sales Price

The total value for which tangible personal property, products transferred electronically or services are sold, leased or rented.

Purchase price and sales price include:

- the seller's cost of the tangible personal property, products transferred electronically or services;
- the seller's expenses, including:
- the cost of materials,
- labor cost,
- service cost,
- interest,
- a loss,
- the cost of transportation to the seller, and
- tax (including federal excise tax) imposed on the seller; and
- charges by the seller for any service necessary to complete the sale.

Purchase price and sales price do not include:

- delivery charges;
- installation charges;
- cash discounts or discount terms offered to buyers;
- coupons that are not reimbursed by a third party; or
- the following, if separately stated on an invoice, bill of sale or similar document given to the buyer:

a. the amount of a trade-in;

b. interest, financing and carrying charges for credit extended on the sale of tangible personal property, products transferred electronically or services; and

c. a tax or fee legally imposed directly on the buyer.

Real Property

Any right, title, estate or interest in land, including all structures on the land.

Real property includes construction materials that lose their separate identity as personal property once incorporated into the real property. These include lumber, bricks, nails and cement used to build structures on the land, as well as fixtures such as furnaces and built-in air conditioning systems.

Repair Charges

Charges for labor and parts to repair, renovate or clean tangible personal property or to repair products transferred electronically. Repairs or renovations of tangible personal property do not include installing or removing prewritten computer software.

Repair charges for parts are subject to sales tax unless the part is exempt under UCA §59-12-104. Repair charges for labor are subject to sales tax unless the personal property being repaired is exempt under §59-12-104. The determination of whether repair labor is exempt from sales tax is based on the personal property being repaired, not on whether the parts used in the repair are exempt.

For charges to repair, renovate or clean real property or tangible personal property permanently attached to real property, see Publication 42.

Restaurant

A retail establishment whose business is the sale of food and beverages for immediate consumption. The definition of *restaurant* does not include theaters, but does include dinner theaters. See UCA §59-12-602.

Exception: In counties that impose the tourism tax, it does not apply to food sales from deli areas, pizza take-out counters or salad bars within a grocery store or convenience store whose primary business is the sale of fuel or food not prepared for immediate consumption. These sales are exempt from the tourism tax even if the store has seats or stools for customers. However, if a grocery or convenience store has a full-service restaurant, the tourism tax is due on sales in that restaurant.

Tangible Personal Property

Property that can be seen, weighed, measured, felt or touched, or is perceptible to the senses in any manner. Tangible personal property includes electricity, water, gas, steam, prewritten software and animals.

Tangible Personal Property Permanently Attached to Real Property

A special classification of tangible personal property.

Tangible personal property is considered permanently attached to real property if:

1. the attachment is essential to use the tangible personal property, and

2. the tangible personal property will remain attached over its useful life.

This includes an accessory attached to tangible personal property, if it is needed to operate the tangible personal property and is attached solely for that purpose.

The classification is further supported if removal would largely damage either the tangible personal property or the real property.

The permanently attached tangible personal property keeps its classification even if it is temporarily detached for onsite repair or renovation.

The permanently-attached classification does not include:

1. movable tangible personal property attached for convenience, stability, or for an obviously temporary purpose;

2. tangible personal property that is detached for offsite repair or renovation; or

3. a dishwasher, refrigerator, freezer, microwave, stove, washer, dryer or similar item.

Transient Room

Accommodations in hotels, motels, inns, trailer courts, campgrounds, tourist homes and similar stays of less than 30 consecutive days. *Transient room* does not include meeting rooms.

Sales-based Tax Rates and Types

Tax rates vary from one community to another, depending on the taxes each community imposes. Find tax rates online at **tax.utah.gov/sales/rates**.

Determining Tax Rate (Point-of-Sale Sourcing)

Sourcing means assigning a sale to a taxing jurisdiction to determine the sales tax rate. Sales are sourced by transaction type.

Chart 1: General Sourcing Rules

Transaction Type

Source to:

Exceptions

Retail sale of **tangible personal property in Utah (including vending machine operators and sellers who sell from mobile inventory)***

Seller's fixed place of business (whether or not the goods or services are delivered)

Location where inventory is warehoused for vending machine operators and sellers who sell from mobile inventory

Sales at special events (fairs, swap meets, races, etc.) are sourced to the event location.

Sales of construction materials converted to real property in a special development zone (see *Construction Material Sales in Development Zones,* **below).**

Retail sale of **taxable services in Utah when seller also sells tangible personal property***

Seller's fixed place of business OR customer's location
(seller's preference)

If the seller sells tangible personal property on the same invoice as the service, the transaction must be sourced to the seller's fixed place of business.

Sales at special events (fairs, swap meets, etc.) are sourced to the event location.

Retail sale of **taxable services in Utah when seller does not sell any tangible personal property***

Customer's location

Retail sale of **tangible personal property (including manufactured/mobile/modular homes, motor vehicles, aircrafts and watercrafts) or taxable services when the order is received outside Utah***

Buyer's location (the place the buyer receives the service or property)

Retail sale of **admissions**

Location of activity or event (regardless of ticket purchase location)

Retail sale of prewritten computer software where there is no transfer of a copy of the software to the buyer

See Publication 64

Retail sale by a ready-mix concrete manufacturer, nonmetallic mineral mining and quarrying operation, and asphalt paving mixture and block manufacturer

Fulfilment location from where the product is dispatched

Lease or rental of **tangible personal property* (other than motor vehicles, semi-trailers, trailers 10,000 pounds or less, and aircraft)**

Location the customer receives the goods or services for down payment and first payment

Location of the item for subsequent payments

If there are no recurring payments:

- **source to the location the customer receives the goods or services.**

- **source to the customer's location if shipped from outside the state to a Utah customer.**

Lease or rental of **motor vehicles, semitrailers, trailers 10,000 pounds or less, and aircraft**

Customer's location (address) for all payments, including down and first payments

If there are no recurring payments, source to the seller's fixed place of business.

*Including products transferred electronically.

See UCA §§59-12-211, 59-12-212, 59-12-213 and 59-12-214.

Construction Material Sales in a Development Zone

A seller may establish delivery locations for qualified development zones and report sales of construction materials converted to real property on TC-62 Schedule A. Do not source construction material sales to a development zone unless you have already established a delivery location with the Tax Commission for that zone.

Construction materials are tangible personal property. For construction materials not converted to real property in a special development zone, use the sourcing rules for tangible personal property shown above in Chart 1.

Qualified special development zones include:

- Capital City Revitalization Zone
- Housing and Transit Reinvestment Zone
- Utah Fairpark Area Investment and Restoration District
- Point of the Mountain State Land Authority
- Military Installation Development Authority
- Utah Inland Port Authority
- Utah Lake Authority
- Eligible Basic Special District
- Major Sporting Event Venue Zone

Tax Rate Changes

Tax rates and jurisdictional boundaries can change quarterly. The Tax Commission posts these changes 60 days before the effective date. Check tax rates regularly at **tax.utah.gov/sales/rates**.

Rate Changes During Billing Cycles

When the sales tax rate changes during a billing cycle, it is applied differently depending on whether the rate increases or decreases:

- If the tax rate **increases**, the new rate applies to the **first billing period** starting on or after the effective date.

- If the tax rate **decreases**, the new rate applies to the **first billing statement payment** rendered (sent) on or after the effective date.

Example 1: Rate INCREASE

Payments for a 36-month vehicle lease are due on the 15th day of each month. After the lease went into effect, the sales tax rate **increased**, effective October 1. The October 15 payment is for the **billing period** beginning September 16, which was before the new rate went into effect. The October 15 payment is taxed at the old (lower) rate, even though the payment is made after the new rate went into effect. The November 15 payment will be for the period beginning October 16 and will be taxed at the new (higher) rate.

Example 2: Rate DECREASE

Using Example 1 above, instead of an increase there was a tax rate **decrease** effective October 1. The billing statement for the October 15 payment is sent on September 16. Although the payment is due October 15, it is taxed at the old (higher) rate because the **billing statement** was sent before the new (lower) rate went into effect. All future bills will be taxed at the new rate.

Combined Sales Tax Rate

The taxes listed in Chart 2 are included in the combined sales tax rate and are filed on the sales tax return (TC-62S or TC-62M). The combined sales tax rate is applied to all taxable transactions, except as noted in the chart.

Chart 2: Taxes in the Combined Rate

Tax

Imposed By

Rate

Exemptions

State Sales and Use

State

4.85%

The state sales tax rate for grocery food is 1.75 percent. These transactions are also subject to local option and county option and results in a total combined rate on grocery food of 3 percent throughout Utah. The state sales tax rate for residential fuel is 2 percent which results in a combined rate 2.85 percent less throughout Utah.

Local Option

County, city or town

1.00%

None

County Option

County

0.25%

None

Resort/Impacted Communities

City or town

Up to 1.60%

Grocery food sales. Sales of motor vehicles, aircraft, watercraft, modular homes, manufactured homes or mobile homes are exempt from resort communities tax, but are subject to the remaining portion of sales and use tax. This exemption does not apply to trailers, off-highway vehicles, snowmobiles, truck-mounted campers, etc.

Rural Health Care County, city or town Up to 1.00% Grocery food sales

Public Transit

County, city or town

Up to 0.30%

Grocery food sales

Public Transit, Airport Facility or State Highway Projects

County, city or town

0.25%

Grocery food sales

Highways

City or town Up to 0.30%

Grocery food sales

Recreational Facilities and Botanical, Cultural and Zoological Organizations

County, city or town

0.10%

Grocery food sales

Town Option

Town

Up to 1.00%

Grocery food sales

City or Town Option City or town Up to .20%

Grocery food sales

Mass Transit Fixed Guideway

County

Up to 0.30%

Grocery food sales

County Option Transportation

County

Up to 0.25%

Grocery food sales

State Correctional Facility Sales and Use Tax

City or town

Up to 0.50%

Grocery food sales. Sales of motor vehicles, aircraft, watercraft, modular homes, manufactured homes or mobile homes are exempt from the state correctional facility tax. This exemption does not apply to trailers, off-highway vehicles, snowmobiles, truck-mounted campers, etc.

Supplemental State Sales and Use

State

Up to 0.05%

Grocery food sales

County of the Second Class Airport, Highway and Public Transit

County, city or town

Up to 0.25%

Grocery food sales

County Option Highways and Public Transit

County, city or town

0.25%

Grocery food sales

Emergency Services

County, city, town or special service district

Up to 1.00%

Grocery food sales

Related Taxes and Fees

The following sales-related taxes and fees are filed on separate returns:

Chart 3: Related Taxes and Fees

Tax

Imposed By

Rate

Applies To

Discount

Reported On

State Transient Room

State

1.07%

Tourist home, hotel, motel or trailer court rental for less than 30 consecutive days

6%

Sales Transient Room Return

State Transient Room

State

.25%

Tourist home, hotel, motel or trailer court rental for less than 30 consecutive days in Salt Lake County

6%

Sales Transient Room Return

County Transient Room

All counties except Salt Lake

Up to 4.5%

Tourist home, hotel, motel or trailer court rental for less than 30 consecutive days

None

Sales Transient Room Return

County Transient Room

Salt Lake County

Up to 4.25%

Tourist home, hotel, motel or trailer court rental for less than 30 consecutive days

None

Sales Transient Room Return

Municipal Transient Room

City or town

Up to 1.5%

Tourist home, hotel, motel or trailer court rental for less than 30 consecutive days

Cities and towns that meet certain requirements may impose an additional transient room tax.

None

Sales Transient Room Return

Tourism Transient Room

Salt Lake County

Up to 0.5%

Tourist home, hotel, motel or trailer court rental for less than 30 consecutive days

None

Sales Transient Room Return

Motor Vehicle Rental

State

2.50%

Short-term leases and rentals or car-sharing (less than 30 days) of motor vehicles, unless the vehicle:

- temporarily replaces a motor vehicle being repaired under a repair or insurance agreement,

- is registered for a gross laden weight of 14,001 or more pounds, or
- is a moving van for personal household goods

None

Sales Tourism Leasing Return

Short-term Leasing

County

Up to 7.0%

Short-term leases and rentals or car-sharing (less than 30 days) of motor vehicles, unless the vehicle:

- temporarily replaces a motor vehicle being repaired under a repair or insurance agreement,
- is registered for a gross laden weight of 14,001 or more pounds, or
- is a moving van for personal household goods

1%

Sales Tourism Leasing Return

Short-term rentals of Off-highway and Recreational Vehicles

County

Up to 7.0%

Short-term rentals of off-highway and recreational vehicles, including: snowmobiles; motorcycles; all-terrain type I, II and III vehicles; travel trailers; camping trailers and fifth wheel trailers. Does not apply to motor vehicles.

1%

Sales Tourism Leasing Return

Restaurant and Customized Food

County

Up to 1.0%

Food, food ingredients and prepared food sold by a restaurant, or customized food sold by a convenience store, gas station or grocery store

None

Sales Prepared Food Return

911 Emergency
Services Charge

State

$0.73 per access line

Local exchange service switched access line, radio communication access line, voice-over-Internet-protocol (VoIP)

1.5%

Emergency Services Telecom

Radio Network Charge to fund the public safety communications network

State

$0.27 per access line

Local exchange service switched access line, radio communication access line, voice-over-Internet-protocol (VoIP)

None

Emergency Services Telecom

Unified Statewide 911 Emergency Service Charge

State

$0.25 per access line

Local exchange service switched access line, radio communication access line, voice-over-Internet-protocol (VoIP)

1.5%

Emergency Services Telecom

Municipal Telecom License Tax

City or town

Up to 3.5%

Charges for telecommunications services

None

Municipal Telecom License Tax

Municipal Energy Sales and Use Tax

City or town

Up to 6.0%

Sales of natural gas and electricity

1%

Sales Municipal Energy

Prepaid Disposable Phones and Prepaid Disp. Phone Minutes

State

4.9% of transaction amount

A prepaid wireless 911 service charge of 3.7 percent and a prepaid wireless telecommunications service charge of 1.2 percent (4.9 percent combined) are imposed on the sales price of prepaid disposable cell phone minutes.

3%

Misc Sales Fees – Charges Ret

Waste Tire Fee

State

$1.00 per tire

Sales of new tires with a rim size up to 24½ inches. Sales tax exemptions do not apply to the fee.

The fee does not apply to used tires, bicycle tires, tires attached to human-propelled devices, or tires sold and delivered out of Utah.

2.50%

Misc Sales Fees – Charges Ret

Electronic Vehicle Charging

State

12.5%

Sales of electricity by a charging station to charge an electric vehicle or for a vehicle charging subscription

6%

Misc Sales Fees – Charges Ret

Other Information

The following miscellaneous taxes and fees may also apply. Contact the Tax Commission for more information.

- Motor fuel, aviation fuel, and special fuel taxes
- Locomotive fuel
- Lubricating oil fee
- Beer, cigarette, e-cigarette, tobacco and nicotine products taxes

- Royalty payment on unprocessed brine shrimp eggs
- Multi-channel audio and video tax
- Sexually explicit business and escort service tax

Sales and Use Tax Exemptions

Utah law provides some exemptions from sales and use tax. See UCA §59-12-104 for more information.

Exemption Certificates

When an exemption certificate is required, the buyer must provide the seller with the exemption information in one of two ways:

1. **On a paper exemption certificate:** form TC-721, *Exemption Certificate;* or form TC-721G, *Exemption Certificate for Governments & Schools.*

   A buyer needs to provide a signature when using a paper certificate.

2. **Electronically**

   If the exemption information is provided electronically, all the information required on the paper form must be included.

A seller can accept exemption certificates at face value. A seller is not liable for improper exemptions unless the seller takes part in claiming a fraudulent exemption.

Sellers must keep exemption certificates in their records as documentation. A seller may use a certificate on file for its customers' future purchases. A seller must require a new exemption certificate if more than 12 months have passed since the buyer's last purchase. A buyer must notify the seller if a certificate on file is cancelled, modified or limited.

Types of Exemptions

There are three types of sales tax exemptions, based on:

1. **Entity** (exemption certificate required for sales to an exempt entity)
2. **Use** (exemption certificate required)
3. **Product** (exemption certificate not required)

Entity-Based Exemptions

An entity-based exemption is determined by who buys or sells the product.

Some common exemptions are:

- Sales to a public transit district or a subcontractor of a public transit district, if the tangible personal property is clearly identified and installed or converted to real property owned by the public transit district.
- Sales to United States government agencies.

- Sales to entities exempt from state taxes by federal law.
- Sales to Utah state and local government agencies (see Publication 56 for lodging-related sales).
- Sales of construction materials to most Utah government agencies — only if installed by the agencies' employees.

Construction materials bought by or for public elementary and secondary schools are exempt from sales tax. The construction materials must be clearly identified and segregated, and they must be installed or converted to real property owned by the school. See Rule R865-19S-23.

To qualify for this exemption, the purchase must be made with the government agency's funds. A purchase does not qualify for this exemption if a government employee makes the purchase with personal funds, even if the government agency reimburses the employee.

- Sales to U.S. government employees traveling on official business, if they present one of the following:
- a complete and signed form TC-721G, *Exemption Certificate for Governments, Foreign Diplomats & Schools;*
- a check from the government agency;
- a purchase order; or
- a voucher.

Sellers must keep proof that the purchase qualifies for the exemption, such as a copy of the government check, purchase order, voucher or signed form TC-721G.

- Sales made to or by:
- a local agency on aging;
- a senior citizen center owned by a county, city or town; and
- a senior citizen center that contracts with a local agency on aging.
- Purchases by certain enrolled members of Native American tribes (including the tribe itself), if:
- the member has a tribal card showing a Federal Bureau Number;
- the purchased item is delivered to the enrolled tribal member's own reservation (in the case of the Ute Indian Tribe, the item must be purchased on or delivered to tribal trust lands within the Uintah and Ouray reservations); and
- in the case of sales to the tribe itself, the buyer must present a purchase order, exemption certificate, or similar evidence of tribal identity.

Sales made off the reservation to enrolled members of the tribe are taxable. They are exempt from tax only if the seller (or a licensed common carrier) delivers the purchased item(s) to the reservation.

- Sales to foreign diplomats. The U.S. State Department and the American Institute in Taiwan grant a tax exemption to eligible foreign officials assigned to the United States. Tax exempt foreign officials and government offices are issued a Tax Exemption Card, valid nationwide. The card lists the person's name, photograph, mission employed by, expiration date and identification number.

The exemption cards are used at point-of-sale for exemption from state and local sales, restaurant and lodging/occupancy taxes. These cards DO NOT exempt taxes on utilities, gasoline or vehicle purchases (see Publication 5 for more information about vehicle purchases and Publication 66 for more information about gasoline purchases). The type of exemption is shown by an eagle, owl, deer or buffalo on the bottom corner of the card. The items exempted are listed on the back of the card.

Sellers must keep a copy of the card or a valid exemption certificate as proof of the exempt sale.

For more information on the Tax Exemption Program, see the Office of Foreign Missions (OFM) web site, **state.gov/ofm/tax**, or contact the OFM San Francisco regional office at 415-744-2910.

- Sales of feed, seed, baling ties, etc. to commercial farms.
- Sales of tangible personal property and products transferred electronically for primary use in farming operations. Also, charges for labor, parts and supplies to repair and maintain off-road agricultural machinery.
- Sales of electricity and fuel for industrial use as defined in UCA §59-12-102.
- Sale or lease of semiconductor fabricating, processing, research or development materials.
- Sales relating to schools and fundraising (see Publication 35).
- Sales to religious or charitable institutions.
- If the purchase is $1,000 or more, the buyer takes the exemption at the point of sale.
- If the purchase is less than $1,000, the buyer claims the exemption by submitting form TC-62N, *Utah Sales Tax Refund Request,* to the Tax Commission.
- If a public utility makes the sale to a religious or charitable institution, the exemption must be taken at the point of sale.
- If a contract exists between the seller and the religious or charitable institution, the buyer may take the exemption at the point of sale regardless of the dollar amount of the sale.

To be eligible for the exemption, the organization must be exempt under IRC Section 501(c)(3) or (c)(19) and have a sales tax exemption number from the Tax Commission. Submit form TC-160 to get a tax exemption number.

- Sales of construction materials to a religious or charitable institution, or to a contractor buying for a religious or charitable institution.
- Sales of aircraft, boat and river-running tours.
- Amounts paid for aircraft tours are exempt if the craft enters a federal airway (designated by the Federal Aviation Administration) during the tour.
- Amounts paid for boat tours, scenic cruises, and similar services are exempt from tax if the waters of the tour or cruise are used as highways for interstate commerce.

For more information, see Rule R865-19S-113.

- Sales of grocery food, prepared food or alcoholic beverages by a church or a charitable institution, if the items are not available to the general public.

- Sales of grocery food, prepared food or alcoholic beverages by a higher education institution, if the items are not available to the general public and are prepaid as part of a student meal plan offered by the institution.

- Sales of grocery food, prepared food or alcoholic beverages provided at a medical or nursing facility for inpatient meals. See Rule R865-19S-61.

- Sales to or by a Utah aircraft maintenance, repair and overhaul provider to maintain, repair, overhaul or refurbish a fixed-wing turbine-powered aircraft that is not registered in Utah.

- Sales to an operator of a qualifying energy storage manufacturing facility for:

1. tangible personal property that is built into an energy storage device or equipment at the facility, and

2. machinery, equipment, and normal repair or replacement parts used only in the operation of the facility.

Use-Based Exemptions

A use-based exemption is determined by the buyer's use of the product.

The following are exempt:

- Sales of certain vehicles for exclusive use outside of Utah.

- Products purchased for resale in the regular course of business, either in their original forms or as ingredients or components of a manufactured or compounded product. This exemption applies to digital products licensed or purchased for resale.

- Sales for resale or lease. The lease of tangible personal property and products transferred electronically is also exempt if it meets all of the following conditions:

- the property is part of a sale-leaseback transaction,

- sales or use tax was paid on the initial purchase of the property, and

- the leased property will be capitalized and the lease payments will be accounted for as payments made under a financing arrangement.

- Purchases of tangible personal property and products transferred electronically when sales and use tax is paid to another state, unless the other state's tax rate is lower than Utah's rate. When the tax rate is lower than Utah's rate, the buyer must pay the difference. No adjustment or credit is allowed if the other state's tax rate is greater than Utah's rate.

- Purchases of fuel, gas and electricity predominantly used for industrial use.

- Purchases or leases of machinery, equipment, repair or replacement parts or materials (except office equipment and supplies) used or consumed:
- by a qualified manufacturing facility or scrap recycler to produce an item sold as tangible personal property.
- used in a Utah mining production process or research and development, by a business described in NAICS 212, Mining (except Oil and Gas) or NAICS 213113, Support Activities for Coal Mining.
- by a qualified web search portal facility or medical laboratory for the operation of the establishment.
- Purchases or leases of machinery, equipment and normal operating repair or replacement parts, with an economic life of three or more years, used in Utah to perform qualified research.
- Purchases of construction materials used to construct a new or expanding life science research and development facility in Utah. The facility must be owned, leased or rented by a life science establishment, and research and development must take place in at least 51 percent of the total area of the facility. The construction materials must be clearly identified, segregated and installed or converted to real property. Life science establishments are described in NAICS 33911, 334510 and 334517.
- Purchases of materials for the construction, operation, maintenance, repair or replacement of facilities owned by or constructed for:

1. a distribution electrical cooperative, or
2. a wholesale electrical cooperative.

- Purchases of machinery, equipment or normal operating repair or replacement parts that:

1. are used in a qualifying data center as defined in UCA §59-12-102,
2. are used in the operations of the qualifying data center or in an occupant's operations in the qualifying data center, and
3. have an economic life of one or more years.

- Charges for labor to repair or renovate tangible personal property or products transferred electronically, if the personal property being repaired is exempt under UCA §59-12-104.
- Sales of parts used in the repair or renovation of the following exempt tangible personal property:
- tools or equipment used exclusively under an aerospace or electronics industry contract with the United States government;
- tangible personal property and products transferred electronically used or consumed primarily and directly in farming operations;
- snow-making equipment, ski slope grooming equipment, and passenger ropeways;
- Sales of non-returnable containers, labels, bags, shipping cases and casing to a manufacturer, processor, wholesaler or retailer for use in packaging tangible personal property for resale.

- Purchases of lists or databases used to address direct mail.
- Purchases or leases by a telephone service provider of equipment, machinery or software that have a useful economic life of one or more years and are used for the following telecommunication purposes:
- enabling or facilitating,
- 911 service,
- maintenance or repair,
- switching or routing, or
- transmission.
- Purchases of property from another state that is brought into Utah, only if the property is:

1. used for business,
2. first used outside Utah,
3. not a vehicle, and
4. not rented or leased.

- Purchases of certain consumable items by short-term lodging providers, only if the items are:

1. used by guests,
2. included in the full sales price of the lodging, and
3. not listed separately on the invoice.

See Publication 56.

- Purchases of items (except machinery, equipment, parts, office supplies, electricity, gas, heat, steam or fuel) that are essential for and entirely consumed to provide the taxable service of:

1. telecommunications;
2. admissions;
3. cleaning, repair or renovation of tangible personal property (including laundry and dry cleaning services); or
4. short-term lodging.

- Purchases or leases of items used to create prepared food, only if:

1. the ownership of both the seller and the buyer are the same, and
2. either the seller or the buyer paid Utah sales tax prior to making the sale.

- Purchases of machinery and equipment by amusement, gambling and recreation industries (NAICS Subsector 713), only if:

1. the machinery or equipment has an economic life of three or more years,

2. the machinery or equipment will be used by payers of admissions or user fees, and

3. at least 51 percent of the buyer's sales revenue for the previous calendar quarter came from admissions or user fees.

- Purchases of machinery and equipment, or normal operating repair or replacement parts, only if the machinery:

1. is used by an electronic financial payment service (NAICS Code 522320), and

2. has an economic life of three or more years.

- Purchases of adaptive driving equipment that is:

- not yet installed in a motor vehicle; or

- installed by a previous owner on a motor vehicle purchased from a dealer, only if the price of the equipment is separately stated in the motor vehicle purchase contract.

Product-Based Exemptions

A product-based exemption is determined by the type of product. An exemption certificate is not required.

The following are exempt:

- Isolated or occasional sales, if the sale is made by a person who does not typically sell that type of product. This exemption does not apply to sales of products for resale or to the sale of a vehicle or vessel that must be titled or registered in Utah.

- Purchases of prescription drugs. A drug is defined as a compound, substance or preparation that is used to diagnose, cure, mitigate, treat or prevent disease, or to affect the structure or function of the human body. Food, dietary supplements, alcoholic beverages and prosthetic devices are not considered drugs. Sales of drugs are exempt from sales and use tax only if the buyer presents a prescription.

- Sales or rentals of durable medical equipment, including replacement and repair parts. Sales or rentals of durable medical equipment are exempt from sales and use tax only if the buyer presents a prescription for the equipment.

- Sales or rentals of mobility-enhancing equipment to help a person with limited mobility move from one place to another. Sales or rentals of mobility-enhancing equipment are exempt from sales and use tax only if the buyer presents a prescription for the equipment.

- Sales of prosthetic devices, including repair and replacement parts. Eyeglasses and contact lenses are not prosthetic devices. Sales or rentals of prosthetic devices are exempt from sales and use tax only if a prescription is required for the device or it is purchased by a hospital or medical facility.

- Sales of disposable home medical equipment or supplies that cannot withstand repeated use. Sales of disposable home medical equipment or supplies are exempt from sales and use tax only if the buyer presents a prescription for the equipment or supplies. The equipment and supplies must be eligible for payment under

Title XVIII, federal Social Security Act or the state plan for medical assistance under Title XIX, federal Social Security Act.

- Forty-five percent of the sales price of a new manufactured home, and 100 percent of the sales price of a used manufactured home.
- Fees for indoor skydiving, rock climbing or surfing if a trained instructor is included and actively instructing the participant.
- Fees for unassisted amusement devices, such as arcade games.
- Sales of unassisted carwashes, and unassisted dry cleaning and laundry services.
- Interstate sales delivered by common carrier or by the seller to a place outside Utah. The licensed seller or retailer must keep a copy of the bill of lading, freight bill, form TC-757 or other proof of out-of-Utah delivery. If the property is delivered within Utah to a buyer, the tax applies, even if the buyer takes the property out of Utah. See Rule R865-19S-44.
- Sales of motor fuels and special fuels subject to Utah fuel excise tax.
- Sales of hay.
- Exclusive sale of seedling plants, or garden, farm or other agricultural produce, if sold during the harvest season by the producer, an employee of the producer, or by a member of the producer's immediate family. If the producer sells any other product, tax is due on all sales.
- Sales of food by a home cook.
- Sales of telephone service charged to a prepaid telephone calling card.
- Sales of services that are subject to the multi-channel video or audio service tax (e.g., cable TV and home satellite).
- Sales of newspapers or newspaper subscriptions.
- Sales of water in a pipe, conduit, ditch or reservoir.
- Room and trailer space rentals for 30 consecutive days or more.
- Sales of currency or coinage that is legal tender of the United States or of a foreign nation.
- Sales of an ingot, bar, medallion or decorative coin containing at least 50 percent gold, silver or platinum that is not legal tender of any nation.
- Sales of a note, leaf, foil or film that are used as a currency but are not legal tender and contain at least 50 percent gold, silver or platinum (not including any transparent polymer holder, coating or encasement).
- Admissions to higher education athletic events.
- Sales of textbooks, if:

1. the textbook is required for a higher education course,

2. the seller is not a bookstore owned by an institution of higher education,

3. the buyer is enrolled in a course offered by an institution of higher education, and

4. at least 51 percent of the seller's sales for the previous calendar quarter are sales of textbooks for a higher education course.

A Utah institution of higher education means: Dixie State University, Salt Lake Community College, Snow College, Southern Utah University, University of Utah, Utah System of Technical Colleges, Utah State University, Utah Valley University, Utah State University Eastern, Weber State University.

Sellers must keep records to verify these conditions for each sale. Additionally, a seller's records must include exemption certificates (TC-721) showing the buyer is enrolled in courses offered by an institution of higher education.

- Sales of fuel cells (see UCA §54-15-102).

- Charges for database access if the primary purpose is to access information from the database. The exemption does not include purchases of digital audioworks, digital audio-visual works or digital books.

Calculating Sales Tax

Taxable Transactions

Sales and leases of tangible personal property, products transferred electronically, and certain services are taxable to the final consumer. The following transactions are taxable unless an exemption applies:

- Retail sales or purchases of tangible personal property and products transferred electronically within Utah.

- The storage, use or consumption in Utah of tangible personal property and products transferred electronically.

- Rentals and leases of tangible personal property and products transferred electronically, if:

- the location of the product is in Utah;

- the lessee took possession of the product in Utah; or

- the product is stored, used or otherwise consumed in Utah.

- Labor to repair, renovate and clean tangible personal property and products transferred electronically. This includes maintenance agreements.

- Labor to repair, upgrade or maintain products transferred electronically. This includes maintenance agreements.

- Laundry and dry cleaning services when the labor is not performed by the buyer.

- Admission or user fees. See definition in *Additional Information.*

- Use of assisted amusement devices when the device or ride is not operated by the buyer.

- Assisted cleaning or washing of tangible personal property if the cleaning or washing labor is not performed by the buyer.
- Stays at tourist homes, hotels, motels, campgrounds, trailer courts and similar accommodations usually rented for less than 30 consecutive days.
- In-state telecom services.
- Meals (prepared food) at restaurants or other eating places.
- Sales for commercial use of gas, electricity, heat, coal, fuel-oil or other fuels. (Sales of these items for industrial use may qualify for an entity-based exemption.)
- Sales for residential use of gas, electricity, heat, coal, fuel-oil or other fuels. These products are taxed at the state rate of 2 percent plus any applicable local and/or public transit tax.
- Sales of grocery food. Taxed statewide at the rate of 3 percent. (Sales of prepared food are taxed at the full combined rate.)
- Sales of prepaid telephone calling cards, including vending machine sales of prepaid telephone calling cards, if the card can be used for in-state calls.
- Sales of memberships that allow access to discounted or free products or services that are subject to sales tax (such as warehouse memberships that let card holders buy products free of extra markup). All purchases made with these membership cards are subject to sales tax at the time of purchase unless an exemption applies.
- Sales of products transferred electronically, if a physical copy of the product would be taxable. For example, the purchase of a music CD is taxable, so downloaded music is also taxable. For more information, see the *Additional Information* section.
- Sales of subscriptions and other access to streaming services and games.
- Sales of leased tangible personal property from the lessor to the lessee (including vehicle lease buyouts).

Taxes and Fees Imposed on the Seller

Municipalities may impose and collect a license fee or tax, other than taxes imposed under the *Utah Sales and Use Tax Act,* as allowed by law. You must include city-imposed taxes (other than taxes imposed under the *Utah Sales and Use Tax Act*) in the taxable sales you report on your Utah *Sales and Use Tax Return.*

Example: A seller makes a $100 sale in a city that has imposed a 2 percent gross receipts tax on revenues. City and state taxes are calculated as follows:

Taxable sales	$100.00
City-imposed tax @ 2%	2.00
Amount subject to state and local taxes	$102.00
Combined sales tax rate @ 6.125%	x.06125

State and local sales taxes paid to the state $6.25
Transaction total (cost of item plus taxes) $108.25

Taxes and Fees Imposed by a Seller

A qualified rental business may charge a recovery fee of 1.5 percent of the rental charge for heavy equipment, if the renter is not a government entity. The recovery fee must be stated separately on the invoice and is not subject to sales and use tax. To qualify, the rental business must be located in Utah, classified under NAICS codes 532310 or 532412, and have at least 51 percent of its revenue come from heavy equipment rentals.

Payments by Gold or Silver Coin

If you agree to accept gold or silver coin in payment for a purchase, you must state in your books and records and on any invoice all of the following:

1. The purchase price of the item in gold or silver coin and in dollars.

2. The amount of sales tax due in gold or silver coin and in dollars.

3. The tax rate that applies to the purchase.

4. The date of the purchase.

You must use the most current London fixing price for the type of coin used to determine the tax due in dollars.

Filing and Reporting Requirements

Accounting Methods

Sellers must report all sales and use tax on goods sold and consumed during a filing period on the return for that filing period (see Filing Frequency). Using cash-basis reporting, “total sales” means the total amount of all cash, credit, installment and conditional sales made during the filing period, whereas accrual-basis accounting recognizes the sale when the item is provided or the service is performed.

You may only use cash-basis reporting if one of the following circumstances applies:

- a sale includes delivery or installation of tangible personal property at a location OTHER than the seller’s place of business (the seller must state the delivery or installation on the invoice), or

- a buyer who converts tangible personal property into real property chooses to report use tax on a cash basis — only if the buyer is not required to pay use tax on a monthly basis.

Returns

Every sales and use tax account must electronically file a *Sales and Use Tax Return* for each filing period. Depending on the nature of your business, you may also need to file schedules with your return (see *Forms and Schedules,* below). File returns and schedules at **tap.utah.gov**.

If you are liable for sales-related taxes (transient room, restaurant and customized food, motor vehicle rental, waste tire, etc.), you must file a return for each type of tax or fee.

Returns are due the last day of the month following each filing period. When a due date falls on a weekend or legal holiday, the return is due the next business day.

Filing Frequency

Your filing frequency depends on your yearly sales tax liability:

- If your sales tax liability is less than $50,000 per year, you may file quarterly.
- If your sales tax liability is $50,000 or more, you must file monthly.

The Tax Commission will set your filing frequency and notify you if it changes.

You will file the following at the same time you file your sales tax return:

- Municipal energy sales and use tax
- Municipal telecom license tax
- Lubricating oil recycling fee
- Waste tire recycling fee
- Multi-channel video and audio service tax
- 911 emergency services charge
- Radio network charge to fund the public safety communications network
- Unified statewide 911 emergency service charge
- Disposable cell phone fee
- Electric vehicle charging tax

Forms and Schedules

What to File

TC-62S, *Sales and Use Tax Return, Single Place of Business* — For sellers with one fixed Utah location. TC-62S filers do not need to file schedules.

TC-62M, *Sales and Use Tax Return, Multiple Places of Business* — For all other sellers, including those with multiple Utah business locations, no Utah location, or no fixed place of business. Sellers file TC-62M if they need to report:

- vending machine sales with multiple inventory locations,
- sales in Utah from a non-fixed place of business,
- sales exempt from the resort tax in a resort community,
- sales exempt from the state correctional facility tax in Salt Lake City,

- sales of tangible personal property or products transferred electronically that are sent into Utah by sellers outside of Utah.

TC-62M filers must also file one or more of the following schedules:

- **Schedule A**, for sales of non-food and prepared food from multiple fixed Utah business locations, based on the seller's location.
- **Schedule AG**, for sales of grocery food from multiple fixed Utah business locations, based on the seller's location.
- **Schedule J**, for sales of non-food and prepared food reported based on the customer's location, products shipped to customers in Utah, or tangible personal property or products transferred electronically at a location other than a fixed place of business.
- **Schedule JG** for sales of grocery food reported based on the customer's location.
- **Schedule X** for sales exempt from the resort communities tax or the state correctional facility tax.

Seller Discount

Monthly sales tax filers may take a seller discount equal to 1.31 percent of the combined sales tax. Monthly tourism tax filers may take a seller discount equal to 1 percent of the tourism short-term leasing tax adopted by the county. Sellers of grocery food may take the seller discount of 1.31 percent as if they had collected tax at the full combined rate. Quarterly filers may not take the seller discount.

Goods Consumed by the Seller

Items consumed by the seller are subject to use tax on the amount of the seller's cost, not the potential sales price. Items consumed by the seller include:

- items taken from inventory and used by the seller,
- samples given away for advertising, and
- products consumed by employees without payment.

When you buy products from local businesses for storage or use, you must pay tax at the time of purchase. For example, office supplies and equipment (such as cash register tapes, returnable containers and furniture) are taxable at the point of sale.

A seller may purchase tax-free grocery bags, sacks and other non-returnable packaging material that go out the door with the customer.

No tax is due on items discarded because of spoilage, broken packaging and similar incidents, because they are not consumed by the seller.

The purchase of printed advertising inserts is taxable unless the inserts contain the name and publication date of the newspaper distributing the inserts and are included in and distributed with the newspaper. See Rule R865-19S-65.

Report use tax on your *Sales and Use Tax Return.*

Employee Incentives and Discounts

If a seller's employees earn credit (dollars or points) toward purchases of its goods or services as part of an incentive program, the dollar value of the credit is included in the total sales price. Employee incentive program credit is not an employee discount.

Employee discounts that are not reimbursed by third parties are discounts that are not included in the sales price.

Bad Debts

Only a seller may claim bad debts. A seller may take a sales tax adjustment for bad debts. You must deduct nontaxable amounts (such as cash back to the customer and exempt charges) from the total amount of the bad debt amount to arrive at the net write-off amount.

To find the amount of the adjustment you may claim on your *Sales and Use Tax Return,* divide the net write-off (W) by one (1) plus the local combined sales tax rate (R) at the time of sale.

W ÷ (1 + R) = adjustment

Example: A retailer has a net write-off of $100. The retailer's combined sales tax rate is 6.5 percent (.065). The retailer divides $100 by 1.065 to arrive at an adjustment claim of $93.90.

You may not take a credit for repossessed items other than motor vehicles. See Publication 5, *Sales Tax Information for Motor Vehicle/Marine Dealer/Body & Repair Shops.*

Online Payments

You can pay sales tax online at **tap.utah.gov** with a credit card (American Express, Discover, MasterCard or Visa) or electronic check (direct debit to a checking or savings account).

A convenience fee is applied to some payment methods to cover service costs. If a convenience fee is required, it is clearly listed before you complete the transaction. If you pay online, you must still file a separate return if one is due.

Electronic Funds Transfer (EFT)

If your annual sales tax liability is $96,000 or more, you must pay by Electronic Funds Transfer (EFT). Pay online by ACH debit at **tap.utah.gov**.

You can schedule EFT payments up to 130 days before the due date and the payment can be withdrawn from your account on the day you select. (WARNING: If the day you select is later than the return due date, we will assess penalty and interest.)

You may also pay with ACH credit. See *Electronic Funds Transfer - EFT* at **tax.utah.gov/billing/payments**.

Caution: Do not use other payment methods, such as credit cards, to pay **current returns** if you must pay by EFT. Other payment methods do not meet EFT filing requirements and you will lose your seller discount.

EFT filers may pay **past-due liabilities** with other payment methods.

Penalties

The penalty for failure to file a tax-due return by the due date is the greater of $20 or up to 10 percent of the unpaid tax, based on the date the return is filed. Failure to file a tax return includes filing a tax return without enough information for us to correctly distribute local tax revenues. We will add another failure-to-pay penalty, the greater of $20 or up to 10 percent of the tax balance, if the tax balance remains unpaid 90 days after the due date.

The penalty for failure to pay the full amount of tax due on a timely-filed return, or within 30 days of a notice of deficiency, is the greater of $20 or up to 10 percent of the tax due, based on the payment date. **Unpaid tax includes tax paid without a tax return.**

You will also lose the seller discount if you file your monthly return late or underpay the tax due.

Penalties are imposed at a graduated rate, based on the time period of the delinquency.

See Publication 58, *Utah Interest and Penalties,* online at **tax.utah.gov/forms**.

Interest

Interest is assessed from the original due date until the tax liability is paid in full. See Publication 58, *Utah Interest and Penalties,* online at **tax.utah.gov/forms**.

Overpayments and Refunds

You may file a claim for a credit or an overpayment refund within either three years from the return due date or two years of paying the tax to the Tax Commission, whichever is later. However, you may not file a claim for a credit or a refund on a tax deficiency that has been legally settled. If we deny your claim, you may file a *Petition for Redetermination.*

Purchaser Refunds

If you pay Utah sales tax to a seller and later find the purchase was taxed incorrectly, ask the seller to credit or refund the overpaid tax. If the seller is no longer in business or does not provide a credit or refund, you may request a refund directly from the Tax Commission using form TC-62PR, *Application for Purchaser Refund of Utah Sales Tax.* For more information, see **tax.utah.gov/sales/refund-request**.

Use Tax and Bad Debts

To claim a refund or credit for use tax and bad debts, amend the sales tax return the tax was reported on, or make an adjustment on your next sales tax return.

You must explain the legal basis for your refund. If amending a return, explain your legal basis as prompted and provide supporting documents upon request.

If you have multiple business locations and/or a non-fixed location you must amend or adjust the appropriate return schedules for the location(s) where you originally reported the tax.

Seller Amendments and Adjustments

If you are a seller who has credited or refunded previously reported sales taxes, you may either amend the return(s) the taxes were originally reported on or claim an adjustment on your next sales tax return. Your amendment or adjustment must include the following:

1. Explanation of the changes

2. Documentation provided by the purchaser proving they were exempt from the tax (such as an Exemption Certificate)

3. Proof that you credited or refunded the tax to the purchaser

4. Adjustments only: calculation of adjustment amount (refunded tax divided by current period's tax rate)

5. Adjustments only: schedule showing which period(s) the taxes were originally reported to the Tax Commission and, if multiple locations, the locations being adjusted

Explain your basis as prompted and provide the above documents upon request.

If you have multiple business locations and/or a non-fixed location you must also amend or adjust the appropriate return schedules for the location(s) where you originally reported the tax.

Do not adjust your sales and use tax return to claim a credit for taxes paid to another seller. Instead, you must seek a refund from the seller or apply for a refund from the Tax Commission using form TC-62PR, *Application for Purchaser Refund of Utah Sales Tax.* (See *Purchaser Refunds.*)

Record Keeping Requirements

From Rule R865-19S-22

Every retailer, lessor or person doing business in Utah must keep complete records used to determine their sales and use tax liabilities. You must keep records for three years from the date you file your tax return. Your records must be available to the Tax Commission in their original format (paper or electronic).

Your records should:

- show all gross receipts from Utah sales or leases of tangible personal property, products transferred electronically, or services.

- show deductions and exemptions claimed on sales tax returns.

- show bills, invoices and similar proof of all tangible personal property and products transferred electronically bought for sale, consumption or lease in Utah.

- include original supporting documents (bills, receipts, invoices, cash register tapes, etc.) and all schedules or working papers used to prepare tax returns.

Note: It is a third-~~-~~degree felony to knowingly sell, buy, install, transfer, use or possess any automated sales suppression device or phantomware with the intent to defraud.

See additional record keeping requirements in Rule R861-1A-35.

Reminders

The information in this publication is only a summary and does not include all sales or use tax laws and rules.

1. You must collect sales tax on all taxable sales of tangible personal property, products transferred electronically and services to the final consumer.

2. You must file a *Sales and Use Tax Return* for every period, even when no tax is due.

3. You must notify the Tax Commission in writing if you change business locations or add or close sales locations.

4. If you stop doing business, you must notify the Tax Commission in writing within 30 days of the final date you were required to collect sales tax.

5. You must keep your records for three years from the filing date of a return.

6. Records are subject to audit by the Tax Commission.

7. Sales tax licenses are not transferable.

8. Goods purchased tax-free but used or consumed by you or your company must be reported on the *Sales and Use Tax Return.* You must pay use tax on goods you or your company consume.

9. You must keep exemption certificates from your exempt customers to prove nontaxable sales.

10. You must document out-of-state sales with a bill of lading or other proof of shipment. The terms of the sale must require shipment of the property across Utah's borders by the seller.

11. Round tax up to the next whole cent whenever the third decimal place is greater than four.

Additional Information

Admission or User Fees

Admission means the right or privilege to enter a place, and includes payments for the right to use or view any type of entertainment.

What is Taxable

- Admission or user fees to theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks and rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing and wrestling matches, closed circuit television broadcasts, billiard or pool parlors, bowling lanes, golf and miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural or athletic activity.
- Access charges for videos, video games, television programs and cable or satellite broadcasts, if that access occurs anywhere other than the buyer's house.
- Boat launching and day use fees.
- Season passes.

What is Exempt

- Admission or user fees paid by qualified religious or charitable organizations in the course of their regular activities.

See *Religious and Charitable Institutions,* below.

- Annual membership dues paid to private organizations by members who establish the level of membership dues. See Rule R865-19S-33.
- Admission to an indoor skydiving, rock climbing or surfing facility, if a trained instructor is present with the participant for the duration of the activity and actively instructs the participant. See UCA §59-12-104(91).
- Hunting and fishing licenses.
- Admission fees to athletic events at institutions of higher learning.
- Admission fees to athletic events or activities for public or private schools (grades K-12) if amounts paid are not passed through to a third party unrelated to the school systems.
- Use of an unassisted amusement device. If the seller provides both assisted and unassisted amusement device rentals, they must be separately stated sales or it is taxable.
- The following charges, if separately stated on an invoice:
- Sign-up fees for participation in amateur athletics are exempt if sponsored by state government or a nonprofit organization whose primary purpose (as stated in its bylaws) is to sponsor, promote and encourage amateur athletics.
- Sign-up fees for participation in school activities. This does not include fees for attendance as a spectator.
- Public or private lessons. “Lesson” means active instruction in the development of skills, knowledge and ability to perform an activity. But if a lesson is combined with an admission or user fee and not separately stated, the lesson is taxable.

Exempt purchases

Purchases of machinery or equipment by an establishment in NAICS Subsector 713 (amusement, gambling and recreation) are exempt from sales tax if:

1. the machinery or equipment has an economic life of three or more years,
2. the machinery or equipment is used by customers who pay admissions or user fees, and
3. 51 percent or more of the purchaser’s revenue is from taxable admission or user fees.

Advertisers

An “advertiser” is any person or entity that places advertisements in a publication, broadcast or electronic medium. A person or entity is an advertiser only with respect to their actual advertisements.

What is Taxable

All purchases of tangible personal property by an advertiser are subject to sales and use tax.

What is Exempt

Placement of advertisements by advertisers are not subject to sales and use tax.

See Rules R865-19S-110, R865-19S-111.

Agricultural Producers

See Publication 45.

Bundled Transactions

A bundled transaction is the retail sale of two or more separate products that are sold for one combined price. If any part of the bundled transaction is subject to tax, the entire transaction is taxed unless the seller keeps separate records of the tax-exempt portion of the transaction.

Car-sharing

Certified individual-owned car-share vehicles are subject to a reduced sales tax rate by the car-share program. To become certified, a car-share vehicle owner must complete form TC-159 and provide the required documentation to the Tax Commission. Car-share vehicles rented for periods of less than 30 days are also subject to state and county short-term motor vehicle rental taxes unless a vehicle is being rented to temporarily replace a vehicle that is being repaired under a repair or insurance agreement.

Carwashes

Assisted carwashes are subject to sales and use tax. A carwash is assisted if the labor to clean or wash is primarily performed by a carwash employee. Assisted carwashes that only include the cleaning or washing of a vehicle's exterior are exempt from sales tax.

A business location that sells both assisted (including washing or cleaning of the vehicle interior) and unassisted carwashes must collect tax on all its sales unless those assisted and unassisted sales are recorded separately.

Example 1

A customer buys a carwash and the car is washed by machines. This is an unassisted carwash and is not subject to sales tax.

Example 2

A customer buys a machine carwash, but a carwash employee vacuums the interior and cleans the inside windows. This is a taxable assisted carwash and is subject to sales tax.

Example 3

As a fundraising activity, a scout troop offers to dry cars coming out of a carwash. The scouts are not paid by the carwash, so their labor is not a factor in whether the carwashes are assisted or unassisted.

Cigarette, Tobacco, Nicotine Products and E-Cigarette Products

A business selling cigarettes and/or tobacco products or e-cigarette products must be licensed for each selling location. See Pub 65, Tax Information for Cigarettes, Tobacco Products, Nicotine Products and Electronic Cigarette Products.

Sales of cigarettes and/or tobacco products are subject to sales tax.

Computer Software

See Publication 64.

Coupons

Coupons for which a seller is reimbursed by a third party (such as a manufacturer or distributor) do not reduce the sales amount subject to tax. The taxable amount is the sales price of the item before the value of the coupon is deducted.

An in-store coupon issued by the seller is considered a reduction in the sales price. The taxable amount is the amount paid for an item after deducting the value of the in-store coupon.

Coupon Books, Gift Cards and Gift Certificates

The sale of coupon books is taxable. Collect sales tax on the sales price when the books are sold. Buying paper for the books and the printing of the books are resale purchases exempt from tax.

Sales of gift cards and gift certificates are not taxable. Treat the cards and certificates like cash and collect sales tax on taxable transactions. Buying card stock or paper to make the card or certificate is taxable.

Delivery Charges

Delivery charges are not subject to sales tax if stated separately on the invoice. The delivery charge does not include the cost of transportation to the seller (typically called “freight-in”).

Direct Mail

A direct mailer may either pay sales tax directly to the printer or give the printer a signed exemption certificate (form TC-721). Direct mail is not exempt from sales tax. An exemption certificate simply shifts who is responsible to report and pay the tax. By using an exemption certificate, the direct mailer reports the tax on its *Sales and Use Tax Return* rather than the printer collecting the tax.

Food Stamps and WIC

Sales of food paid with federal food stamps or Women, Infants and Children (WIC) coupons are exempt from sales and use tax.

Government Entities

See Publication 70.

Labor

See Publication 42 for more information about labor related to real property.

What is Taxable

- Labor to repair, clean, wash or renovate tangible personal property.

What is Exempt

- Labor to service, repair, renovate or improve real property.
- Diagnostics, testing, inspection or service when no repair, renovation or installation to tangible personal property have been made.
- Installation charges if separately stated on an invoice.

Lodging Accommodations

See Publication 56.

Money Order, Fax and Photocopy Charges

Money order fees and charges to send a fax are not subject to sales tax. Photocopy charges and charges to receive a fax are taxable.

Motor Vehicles

See Publication 5.

Newspapers and Postage

Sales of newspapers and postage stamps are exempt from sales tax.

To qualify as a newspaper, a publication must:

- be published daily or weekly,
- be printed for circulation among the general public,
- contain matters of general interest,
- report on current events, and
- not create a book when multiple issues are put together.

Sales of tabloids (e.g., *Enquirer, Star, Globe*) and magazines (e.g., *Newsweek, Ladies Home Journal, Time*) are taxable.

Photographers and Photography

Sales of photographs and videos (prints, proofs, CDs, negatives, slides, electronic files and licenses to use) are taxable as sales of tangible personal property. Products, services and fees related to photography are also taxable.

See UCA §59-12-103 and Rule R865-19S-75.

What is Taxable

- Photographs, proofs and negatives, in any physical or electronic form
- Videos, whether transferred on physical media or electronically
- Processing film or negatives

- Developing, printing and enlarging photographs
- Retouching, tinting, coloring and other photograph alterations
- Stock photography and photograph licenses
- Tangible personal property, such as frames, albums, cameras, film, etc.
- Any expense related to photography, even when stated separately on a customer's invoice. For example:
- Sitting fees, hourly fees, creative fees, etc.
- Fees for models, props, stylists, wardrobe, makeup, equipment rental, etc.
- Travel expenses

What is Exempt

- Sales to out-of-state customers, unless a customer receives the property in Utah
- Sales to customers who provide an exemption certificate

Premiums and Gifts

A premium or gift given away with the sale of a taxable product is part of that sale, and the purchase of the premium or gift by the seller is not taxable.

Items given away without requiring a special purchase and items given away as advertising are consumed by the seller. The seller must pay tax on the seller's cost of those items.

Religious & Charitable Institutions

Purchases and sales made in the conduct of regular activities by qualified religious and charitable institutions are exempt from sales and use tax. The IRS must recognize an entity as exempt from tax under IRC Section 501(c)(3) or (c)(19).

To qualify for the exemption, an entity must submit form TC-160, *Application for Sales Tax Exemption Number,* to the Tax Commission with a copy of the IRS determination letter. If approved, the Tax Commission will issue an exempt account and preprinted refund coupons.

How to Make Tax-Exempt Purchases

A religious~~,~~ or charitable institution may make purchases tax-free with an exemption certificate (TC-721RC) if:

1. a purchase is $1,000 or more, or
2. it has a contract with the seller, or
3. the seller is a public utility that keeps the institution's exemption certificate on file.

In all other cases, the institution must pay full-price and then submit a refund request to the Tax Commission.

The parties may create their own contract or use form TC-73, *Sales Tax Exemption Contract.*

Rental With and Without an Operator

A business that rents out equipment without an operator must charge the customer sales tax. But a business that rents out equipment WITH an operator does NOT charge the customer sales tax, since the sale is considered to be a service. In that case, the business must pay sales tax when they buy the equipment, since the business is considered to be the consumer.

Returnable Containers

Deposits on returnable containers, bottles, pallets and drums are subject to tax. When containers are returned for refund of the deposit, sales tax should be refunded. Bottle deposits are exempt from tax when purchased with food stamps or Women, Infants and Children (WIC) coupons.

Returned Merchandise

A customer who receives credit for returned merchandise is entitled to a refund of the sales tax. If a customer is given a partial refund or allowance, the customer is entitled to a refund of sales tax on the portion of the original sales price refunded.

Schools

See Publication 35.

Special Events

A special event is a one-time event or an event that runs for six months or less where taxable sales occur. Sales tax is collected on taxable transactions at special events. A seller who participates in a special event must register for a temporary sales tax license, even if the seller has a current sales tax license.

For more information or to get a temporary sales tax license, call 801-297-6303 or toll free 1-800-662-4335, ext. 6303, or email **specialevent@utah.gov**.

Third-party Drop Shipping

In third-party drop shipping, a customer buys tangible personal property or products transferred electronically from a business that does not have the item in stock. The business buys the items from a wholesaler who sends it directly to the customer.

There are two separate transactions in third-party drop shipping. The first transaction, between the customer and the business, is subject to tax. The second transaction, between the business and the wholesaler, is exempt from tax as a purchase for resale.

If the business has a Utah sales tax license, it must collect and pay the sales tax. If the business is not required to have a Utah sales tax license, it does not have to collect the tax. However, the customer must report and pay the tax directly to the Tax Commission.

Tips and Gratuities

See Publication 55.

Tour Operators & Outfitters

See Publication 69.

Trade-in on Manufactured Homes

UCA §59-12-104 provides an exemption of 45 percent of the sales price of a new manufactured home and 100 percent of the sales price of a used manufactured home.

When there is a trade-in, calculate the sales price subject to the exemption as follows:

1. Subtract the trade-in amount from the full sales price. The difference is the net sales price.

2. Multiply the net sales price by the allowed exemption (45 or 100 percent) to determine the exempt amount.

3. Subtract the exempt amount from the net sales price. This is the portion of the net sales price subject to sales tax.

Example: A dealer accepts a trade-in at a value of $8,000 against the purchase of a new manufactured home valued at $60,000. The calculation is:

Original sales price $60,000
Less trade-in amount - 8,000 Net sales price $52,000
Portion of net sales price exempt
from sales tax ($52,000 x .45) $23,400 Portion of net sales price subject
to sales tax ($52,000 - $23,400) $28,600

Trade-Ins on Motor Vehicles

See Publication 5.

Vending Machine Sales

Sales of tangible personal property from vending machines are taxable. Vending machine sales of items that cannot be ingested, such as cigarettes or novelty toys, are taxed at the full combined rate.

Vending machine sales of prepared food, such as sandwiches or slices of pizza, are also taxed at the full combined rate. For vending machine sales of grocery food, such as packs of gum or bags of pretzels, the statewide combined rate is 3.0 percent.

Tax is included in the vended price. To find the dollar amount of sales without tax, divide the sales by one (1) plus the combined tax rate in the community where the vending machine inventory is warehoused. For example:

- Where the combined rate is 6.0 percent, divide by 1.060.
- Where the combined rate is 6.125 percent, divide by 1.06125.
- Where the combined rate on grocery food is 3.0 percent, divide by 1.030.

A seller of food, beverage and dairy products for $1 or less may choose to pay tax on 150 percent of the seller's cost (including incoming freight costs) rather than on the sales price. When this option is taken, the taxable amount (150 percent of cost) must be reported on the *Sales and Use Tax Return* as goods consumed.

If the vending machine is owned and serviced by a vending machine company, the vending machine company is responsible for the tax.

Videos and DVDs

Rentals of videotapes and DVDs are taxed as sales of tangible personal property.

Sales Tax Publications

Get the following publications at **tax.utah.gov/forms**.

Pub 5 – Sales Tax Information for Motor Vehicle/Marine Dealer/Body & Repair Shops

Pub 25 – Sales and Use Tax General Information

Pub 35 – Sales Tax Guidelines for Public and Private Elementary and Secondary Schools

Pub 37 – Business Activity and Nexus in Utah

Pub 40 – Personal Liability for Unpaid Sales, Fuel and Withholding Taxes

Pub 42 – Sales Tax Information for Sales, Installation and Repair of Tangible Personal Property Attached to Real Property

Pub 45 – Sales Tax Information for Nurseries, Florists, Landscapers and Related Industries

Pub 53 – Sales Tax Information for Health Care

Pub 54 – Sales Tax Information for Public Utilities

Pub 55 – Sales Tax Information for Restaurants

Pub 56 – Sales Tax Information for Lodging Providers

Pub 58 – Utah Interest and Penalties

Pub 62 – Sales Tax Information for Telecommunications Service Providers

Pub 64 – Sales Tax Information for Computer Services Providers

Pub 65 – Tax Information for Cigarettes, Tobacco Products and Electronic Cigarette Products

Pub 67 – Cannabinoid Products Tax

Pub 69 – Sales Tax Information for Guides and Outfitters

Pub 70 – Sales Tax Information for Utah State and Local Government Agencies

Pub 71 – Sales and Use Tax Information for Marketplace Sellers and Marketplace Facilitators

Information Online

Utah State Tax Commission Website

tax.utah.gov

This site has links to:

- Forms and publications
- Current and past sales tax rates
- Other information and topics on sales and use tax

State of Utah Website

utah.gov

This site has links to:

- Workforce Services (unemployment)
- Labor (worker's compensation)
- Commerce (corporations, DBA registration)