

**R865. Tax Commission, Auditing.**

**R865-12L. Local Sales and Use Tax.**

**R865-12L-18. Participation of Counties, Cities, and Towns in Determination, Administration, Operation, and Enforcement of Local Option Sales and Use Tax Pursuant to Utah Code Ann. Sections 59-1-403, 59-12-202, 59-12-204, and 59-12-205.**

(1) The commission has exclusive authority, subject to the provisions of Subsection (2), to determine taxpayer liability for the local option sales and use tax, and to administer, operate, and enforce the provisions of Title 59, Chapter 12, including the provisions of Section 59-12-201, et seq. The commission shall:

(a) ascertain, assess, and collect any sales and use tax imposed pursuant to Title 59, Chapter 12;

(b) determine taxpayer liability for the sales and use tax;

(c) represent the counties', cities', and towns' interests in all administrative proceedings commenced pursuant to Title 63G, Chapter 4, or otherwise, involving the state or local option sales and use tax; and

(d) adjudicate all administrative proceedings commenced pursuant to Title 63G, Chapter 4, or otherwise, involving the state or local option sales and use tax.

(2) Counties, cities, and towns shall have access to records and information on file with the commission, and have notice and rights to intervene in or to appeal from a proposed final agency action of the commission as follows:

(a) (i) In any case in which the commission, following a formal adjudicative proceeding commenced pursuant to Title 63G, Chapter 4, takes final agency action that would reduce the amount of sales and use tax liability alleged in the notice of deficiency, the commission will provide notice of a proposed agency action to all qualified counties, cities, and towns.

(ii) A county, city, or town is a qualified county, city, or town for purposes of Subsection (2)(a)(i) if the proposed final agency action reduces the local option sales and use tax distributable to that individual county, city, or town by more than \$10,000 below the amount of that tax that would have been distributable to that county, city, or town had the notice of deficiency not been reduced.

(b) Upon notification from the commission of proposed final agency action, the authorized representative of the qualified county, city, or town has the right to review the record of the formal hearing and all commission records relating to the proposed final agency action in accordance with the provisions of Subsection (6).

(c) Within ten days following receipt of notice of a proposed final agency action, a qualified county, city, or town may intervene in the commission proceeding by filing a notice of intervention with the commission.

(d) Within 20 days after filing a notice of intervention, a qualified county, city, or town that objects to the proposed final agency action in whole or in part, may file with the commission a petition for reconsideration setting out all facts, arguments and authorities in support of its contention that the proposed final agency action is erroneous, and shall serve copies of the petition on the taxpayer and the appropriate commission division.

(e) The taxpayer and the appropriate commission division may each file a response to the petition for reconsideration filed by a qualified county, city, or town within 20 days of receipt of the petition for reconsideration.

(f) After consideration of the petition for reconsideration and any response, and any further proceedings it deems appropriate, the commission may affirm, modify, or amend its proposed final agency action. The taxpayer and any qualified county, city, or town that has filed a petition for reconsideration may appeal the final agency action in accordance with applicable statutes and rules.

(3) Counties, cities, and towns shall only have notice of and rights to intervene in or to appeal from a proposed final agency action of the commission in sales and use tax cases as are provided herein.

(4) Counties, cities, and towns are subject to the confidentiality provisions of Subsections 59-1-403(1) and (5) and standards as set forth in Section 59-2-206 concerning all commission taxpayer sales and use tax records to which they are granted access.

(5) Counties, cities, and towns shall be provided information regarding sales and use tax collections as necessary to verify that the local sales and use tax revenues collected by the commission are distributed to each county, city, and town in accordance with Sections 59-12-205 and 59-12-206, including access to the commission's reports of vendor sales, sales tax distribution reports and breakdown of local revenues.

(6) When a county, city, or town objects to a proposed final agency action of the commission pursuant to the provisions of Subsection (1), the authorized representative of a county, city, or town shall, subject to the confidentiality provisions of Subsection (4), have access to commission sales and use tax records as necessary for the county, city, or town to contest the commission's final agency action.

**KEY: taxation, sales tax, restaurants, collections**

Effective: 8/14/2008