

## Introduction

This publication provides tax information relating to dealers of vehicles and watercraft and to body and repair shops. See Publication 25 for general sales and use tax information.

Tax Commission publications are reference tools. They are not all-inclusive and should not be used as legal references.

Tax laws may change due to legislative action. Changes to law will supersede information in this publication.

## Definitions

Vehicle dealer is defined in Utah Code §59-12-102 as any “person engaged in the business of buying, selling, or exchanging a vehicle.” The term includes lessors of vehicles who sell previously leased vehicles at termination of such leases. Vehicles include highway vehicles, off-highway vehicles, trailers, semi-trailers, watercraft, aircraft, and similar items.

## Paying Sales Tax

Sales tax due on vehicle sales by Utah vehicle dealers must be paid with a dealer's sales and use tax return, on or before the established due date.

On vehicles sold by dealers, neither dealers nor their customers may pay sales tax to the Division of Motor Vehicles (DMV) at the time of registration. Even in the case of customers registering vehicles purchased from vehicle dealers (including body/repair shops) licensed for sales tax purposes in Utah, the sales tax must be collected by the dealer and paid to the Tax Commission with the dealer's sales and use tax returns. Purchasers of vehicles from other than licensed vehicle dealers must pay applicable sales tax to the DMV.

## Determining Tax Base

### The following items are taxable:

- charges for dealer preparation, commissions and similar fees;
- charges to customers for waste disposal, hazardous material handling or disposal, etc. (unless the tax is required by Utah or federal law and is a tax on the customer);
- charges for shop supplies (Note: Tax must also be paid on purchases of items used or consumed by the repair shop even though the consumer is charged separately.)
- charges for vehicle theft protection packages if they include window etchings, glass engravings, security devices, or other modifications or additions to the vehicle;
- sales of extended warranties even though the sale of the vehicle may have qualified for exemption under the authorized carrier exemption;
- sales of extended warranties or service plans (tax must be charged at the time the warranty agreement is sold);
- towing charges (if in connection with a taxable service);
- amounts collected as deductibles at time of service; and
- document service fees.

**Note:** Sales of motor vehicles, aircraft, watercraft, modular homes, manufactured homes and mobile homes, while subject to sales and use tax, are exempt from the resort communities tax and the state correctional ~~facilities~~facility tax. However, sales of off-highway vehicles, snowmobiles and trailers are ~~subject to resort communities tax~~not exempt.

### The following items are nontaxable:

- amounts of manufacturer's rebates, whether paid to the purchaser or retained by the dealer as a down payment;
- costs of labor and parts to honor claims against in-house warranties and service plans, or charges to third-party service companies for nationally honored plans;
- fees to transfer a warranty to a new owner;
- the separate charges for interest, liability waivers or insurance;
- Utah safety inspection fees;
- county emission testing fees;
- separate charges for diagnostic testing services if no repairs are made as a result of the test;
- separately stated fuel, parking or storage fees;

- charges for Guaranteed Auto Protection (GAP) coverage plans that protect the purchaser in the event of certain property losses;
- sales of extended warranties if the sale of the vehicle (including watercraft and off-highway vehicles) qualified for exemption under the exclusive use outside of Utah exemption or out-of-Utah delivery exemption; and
- charges for amounts to be paid to the Utah State Tax Commission for titles, registrations, fee-in-lieu of property tax, and license plates on behalf of customers, including the fee for a temporary permit.

## **Towing Charges**

### **What is Taxable**

Towing charges in connection with the sale or repair of tangible personal property are taxable. For example, a towing company responds to a caller who requests that the towing company tow his car to their repair shop and fix his flat tire. The charges for towing services and repair are taxable, even if separately stated on an invoice.

### **What is Exempt**

Towing charges, without any sales or repair, are not taxable. For example, a towing company responds to a caller who requests that her car be towed to a local garage for repair. Because the towing company only performed a service and did not repair any tangible personal property or make any sales, the transaction is not subject to tax.

## **Sales to Employees**

Sales to employees are subject to sales tax.

## **Demonstrator Vehicles**

Owners and licensed sales staff can be assigned a demonstrator vehicle without being assessed sales or use tax. Rental charges for demos are subject to tax. Rental charges include charge backs, whether or not formally designated as a rental. For more information, see Tax Commission Rule R865-19S-82.

## **Paint, Parts and Other Purchases for Resale**

Businesses repairing and servicing vehicles are not required to pay tax on their purchases of items that are sold and become an ingredient or component part of the customer's vehicle. Some examples of nontaxable purchases include: lubricants; welding rods; paint, wax and lacquers used in painting or polishing vehicles; body filler; repair parts; sublet repair labor; paint hardener and rust preventatives.

## **Consumable Shop Supplies**

Tax must be paid on purchases of items used or consumed by the body/repair/service shop, even though a separate charge is made to the customer for such items. Purchases of the following items are taxable to the shop, since they do not become an ingredient or component of the vehicle being repaired or serviced:

- equipment, tools and dies, even though expendable and charged to the customer;
- sandpaper, tape, masking paper, and similar supplies;
- paint thinners and accelerants;
- chemicals and solvents used for cleaning parts or tools;
- parts or supplies used for public relations or advertising purposes (e.g., parts to repair a potential customer's vehicle);
- grinding wheels and compounds; and
- oxygen, acetylene, argon, carbon dioxide, helium, etc.

## **Cost of Parts**

Cost of parts need not be considered for tax when used to repair a vehicle recently sold under an implied warranty and/or to keep the customer's good will.

## **Lease Transactions**

1. Amounts received or charged for a lease or rental of tangible personal property are subject to tax.
2. Up-front payments are taxable to the extent they are part of the purchase or lease price. The portion of up-front payments attributed to nontaxable charges, such as payoffs of previously existing obligations, license/registration/titling fees, etc., are exempt.
3. Lessors are responsible for the tax on payments they receive or credit against the lease and are also responsible for collecting tax on the sale of vehicles at lease termination.

4. Dealers are responsible for tax on payments they receive that are not forwarded to the lessor.
5. A lease that includes a payoff of a previously existing obligation or refinancing by a lease transaction in which title is vested in the lessor constitutes a taxable lease. This is true unless the transaction fits the criteria excluding sale-leaseback transactions from the definition of retail sales in Utah Code §59-12-102.
6. A customer who trades in a leased vehicle must first purchase the vehicle and pay any sales or use tax applicable to that purchase before he can receive a trade-in credit.
7. The trade-in credit for an owned vehicle is allowed against the typical lease situation if the trade equity reduces the periodic lease payments to the lessor.

## Courtesy Delivery

### In-state Dealer Transactions

The dealer making the sale must charge, collect and remit the sales tax at the tax rate applicable to its business location when another in-state dealer makes a courtesy delivery for the seller.

### Out-of-Utah Dealer/Manufacturer's Transactions

A Utah dealer is responsible for collecting Utah sales or use tax when making courtesy deliveries for an out-of-Utah dealer or manufacturer if the Utah dealer assists the purchaser in registration and titling. The local dealer should not issue a dealer report of sale, but Utah sales tax must be collected by the dealer and paid directly to the Tax Commission at the time of registration.

## Exemptions

**Caution:** A dealer may be held individually liable for the tax if it is evident the dealer was a party to a plan to improperly avoid the tax.

### Farmers

Repair parts and labor for farm tractors and equipment (not including registered vehicles) are exempt from sales and use tax. The seller must have an exemption certificate on file. Implement of Husbandry certificates for off-highway farm machinery are not considered registration. Sales and repairs of registered vehicles are not exempt under the agricultural producer exemption.

### Interstate Sales

Sales to consumers are exempt from Utah sales tax when the vehicle, watercraft or merchandise is delivered by a Utah dealer to an out-of-Utah location. Delivery must be made by the dealer or by common carrier. The Affidavit for Exclusive Use Outside of Utah (form TC-721A) does not apply to these transactions. The dealer should attach a note to the temporary permit indicating out-of-Utah delivery along with the fee and mail it to the Tax Commission. The dealer must keep a verification of delivery using form TC-757, Affidavit of Out-of-State Delivery. It is not necessary to send a copy of this form to the Tax Commission.

### Authorized Carriers

Sales tax law allows an exemption for sales, leases or uses of:

1. vehicles by an authorized carrier; or
2. tangible personal property installed on a vehicle that is sold or leased by an authorized carrier, provided that the property is installed before the vehicle is placed in service for the first time.

Authorized carrier is defined as "in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA)."

The exemption applies only to vehicles with a gross vehicle weight of 26,001 pounds or more. This weight restriction is interpreted as meaning the maximum gross laden weight of the vehicle, combination of vehicles, and load carried or drawn, for which the motor vehicle is registered.

In the case of aircraft, authorized carrier means the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate.

To document this exemption, use form TC-719, Sales Tax Exemption Affidavit for Authorized Interstate Carriers.

## Auxiliary Equipment

Auxiliary equipment purchased and permanently installed in or on a vehicle as part of a qualifying vehicle transaction is also exempt. The exemption only applies to sales or leases of vehicles.

Effective July 1, 2007, the sale, use or lease of tangible personal property installed on a vehicle sold to or leased by an authorized carrier is exempt if installed before the vehicle is placed in service for the first time.

For instance, if an authorized carrier enters into a transaction to have a dump body added to a truck, a logo painted on the cab door, or a refrigeration unit installed in a trailer, these transactions qualify for the exemption if attached before the vehicle is placed in service for the first time. This exemption is for authorized carriers only.

Tax Commission form TC-719, Sales Tax Exemption Affidavit for Authorized Interstate Carriers, must be used to verify the exemption.

## **Trailer Dollies**

A trailer dolly (converter gear) is equipment consisting of wheels, at least one axle, and a fifth wheel, that is attached to the king pin of a semi-trailer to convert the semi-trailer to a full trailer. A trailer dolly is required to be licensed and registered as a separate trailer and used in combination with other qualified vehicles and would meet the qualification for exemption when purchased by an authorized carrier and operated pursuant to IRP and IFTA.

## **Multiple Trailers**

Trailers and semi-trailers purchased separately from a power unit, or in numbers in excess of available power units, are allowed the exemption if purchased for use in combination with vehicles meeting the exemption criteria. However, a trailer purchased or leased for use as a temporary office, storage facility or other use not associated with highway transportation is not allowed the exemption.

## **Nonresident Military Personnel Stationed in Utah**

Military personnel stationed in Utah are not exempt from Utah sales or use tax unless they qualify for the exclusive use outside of Utah exemption as detailed below.

## **Nonresident Students Attending Utah Schools**

A student living and attending school in Utah is not exempt from Utah sales or use tax unless they qualify for the exclusive use outside of Utah exemption as detailed below.

## **Resale/Re-lease**

A completed exemption certificate must be on file to claim this exemption.

## **Trade-in Exemption**

An allowance for a trade-in of tangible personal property on the purchase of a vehicle may be excluded from the amount on which the tax is computed. For the trade-in provisions of the Utah law to apply, the trade-in must be part of a single transaction and the transaction must involve only two parties. A customer who trades in a leased vehicle must first purchase the vehicle and pay any sales or use tax applicable to that purchase before he can receive a trade-in credit.

A single transaction means both the trade-in of the old vehicle and the purchase of the new vehicle take place at the same time and are documented in the same contract, buyer's order and other paperwork. The transaction would involve a fixed specific allowance for the vehicle traded in, a fixed selling price for the new vehicle, a contractual obligation of the seller to both sell the new vehicle and accept the trade-in vehicle, and a contractual obligation of the purchaser to purchase a specific vehicle. The trade-in provisions with regard to the single transaction criteria would not be violated if the new vehicle is ordered from the factory and actual delivery of the new vehicle to the customer is consequently delayed.

The trade-in credit may be allowed if the person trading in a vehicle does not appear as the owner on the title to the trade-in; however, the Tax Commission will follow up on such transactions and assess the customer directly for any taxes due on the acquisition of the vehicle traded in. An owner of a vehicle recently acquired, but not yet titled in the buyer's name, may be required to show all applicable sales or use taxes have been paid on the acquisition of the vehicle if the trade-in credit has been allowed.

Trades of services (e.g., advertising, legal, accounting, etc.), equity in real property, and items taken for sale on consignment are not allowable trades for reduction of the taxable base. A credit given for a trade on a future purchase is not part of the purchase transaction and no reduction for a trade is allowed for sales tax credit.

Do not overstate or duplicate credits on trade-downs or trades on nontaxable sales.

See Tax Commission Rules R865-19S-30 and R865-19S-72.

## **Donations to Exempt Entities**

A dealer who donates a vehicle or other item, or who provides use of such to an organization that would be exempt if a sale had been made, is not required to either collect or pay sales/use tax on the value of the donated property or the use of the property.

## Foreign Diplomat Vehicles

Sales and leases of motor vehicles to foreign diplomats are exempt ONLY IF the dealer receives a Motor Vehicle Tax-Exemption Letter signed by the U. S Department of State, Office of Foreign Missions (OFM) or the American Institute in Taiwan (AIT). Diplomatic Tax Exemption Cards DO NOT exempt vehicle purchases from sales tax.

## Exclusive Use Outside Utah

### Requirements for the Exemption to Apply

Sales of the following items are exempt from sales tax:

- Vehicles that must be registered under the Motor Vehicle Act
- Watercraft that must be registered under the State Boating Act
- Boat trailers
- Outboard motors
- Off-highway vehicles (snowmobile, all-terrain vehicle or motorcycle)

This exemption only applies if one of the above items is not registered in Utah and is either not used in Utah or is used in Utah for:

- non-business purposes 30 days or less in a calendar year, or
- business purposes for the time needed to transport it to the borders

To claim the exemption you must complete form TC-721A, *Sales and Use Tax Exemption Affidavit for Exclusive Use Outside of Utah*.

See Utah Code §59-12-104.

### Qualifying/Non-qualifying Items – Marine

1. Only boats required to be registered under the provisions of the State Boating Act, Utah Code §73-18-7, qualify for the exemption. This would include both motorboats and sailboats as defined by the act. A motorboat is any vessel propelled by machinery, regardless of whether the machinery is the principal source of power. A sailboat is any vessel having one or more sails and propelled by the force of wind. In addition to the boat itself, the exemption will also be allowed for items that are part of the original boat sales transaction and are installed in or on the boat in a permanent manner. Such items, if so installed or attached, would include convertible tops, swim platforms, trim tabs, radios, stereos, speakers, depth finders, spot lights, running lights, antennas, auxiliary batteries, fuel tanks, water tanks, inboard engines, inboard/outdrives, auxiliary outboard mounting brackets, horns, winches, sails, sail halyards and similar installed or integral equipment.
2. A boat trailer, regardless of unladen weight, will qualify for the exemption. Also allowable are the winch, sideboards, spare tires, etc. attached to the trailer and part of the original sales transaction.
3. Any outboard motor, regardless of horsepower, fuel supply or energy source, will qualify. Also included are its remote control and fuel supply tank or battery when sold as part of the original sale of the motor.
4. Boats not required to be registered, such as kayaks, canoes, rowboats or inflatable boats, will not qualify unless specifically designed to be propelled by motor or sail.
5. Equipment that is not part of the original transaction for sale of the boat, motor and/or trailer, or not installed in a permanent manner to the boat, motor or trailer, will not qualify for exemption. Such equipment includes water skis, fishing equipment, other water sports gear, anchors, fire extinguishers, safety equipment, life jackets, ice chests, tool kits, spare parts, camping gear, bumpers, flotation devices, ropes, paddles, etc. The law specifically indicates outboard motors are included. Inboard/outdrive units sold separately from the sale of a boat will not qualify. Sales of items not qualifying must be taxed.
6. Non-qualifying items must be separately stated and separately priced on the invoice or contract of sale to enable proper handling for sales tax purposes.

### Credit Allowed for Other States' Tax

1. Most states allow credit for at least part of the sales or use tax legally due first to another state. Since sales tax is a tax on the transaction and not on the property, the tax is due at the point of sale. If the sale takes place in Utah and an exclusive use outside of Utah affidavit is completed by the purchaser in error or accepted by the dealer in error, no credit will be allowed by Utah for any tax paid to a state other than Utah, since tax was legally due first in Utah.

2. Utah will allow credit for tax properly due and paid first to a state other than Utah.

## Reciprocity

1. Utah has reciprocal agreements with Idaho and Wyoming that allow a person having a primary residence in one state but employed in another to use a vehicle registered with the state of principal residence in the other state for purposes of commuting to the work place.
2. The agreements are specifically for registration of vehicles and do not waive any other fees or taxes levied by the respective states.

## Out-of-Utah Deliveries

1. The Affidavit for Exclusive Use Outside of Utah, form TC-721A, does not support exemption for out-of-Utah deliveries of motor vehicles.
2. The seller must keep evidence of the out-of-Utah delivery to verify the exemption. Affidavit of Out-of-State Delivery, form TC-757, may be used as evidence of this exemption.
3. Frequent deliveries into another state may subject the seller to the other state's tax collection requirements.
4. The out-of-Utah delivery must be an essential part of the sale, and the seller must be obligated by terms of the sales contract to make physical delivery of the vehicle across a state border to the buyer. The seller must make that physical delivery. See Tax Commission Rule R865-19S-44.
5. If the purchaser brings the vehicle back to Utah for use, the vehicle may be subject to Utah use tax, with credit allowed for tax due and paid first to the other state.

## Repossession Credits

Sales tax credit is allowed for repossessions of a motor vehicle provided that the seller collected the sales tax on the vehicle being repossessed and the seller resells the vehicle. Credit for tax on motor vehicle repossessions is allowed to the seller that collected the sales tax as well as a third-party seller that repossessed and resold the vehicle. For a third-party seller to obtain a sales tax credit from the Tax Commission, the seller that collected the sales tax must be out of business and not have any outstanding sales and use tax liabilities.

Repossession credits are determined by the application of a ratio to the taxable base after a reduction for any down payment. The ratio is the unexpired portion (number of monthly payments not made) of the contract to the total length of the contract.

### Example:

The repossession credit is reduced by recoveries, **other than the amount realized through the resale of the repossessed vehicle**, to arrive at the net taxable base (gross amount before attorney or collection agency fees). The net taxable base is then multiplied by the sales tax rate in effect on the date of the original sale to calculate the repossession sales tax credit. If the tax rate has changed since the original sale, divide the repossession sales tax credit by the current tax rate to calculate an adjusted net taxable base.

a. Total taxable base	\$30,000.00
b. Down payment	(\$5,000.00)
c. Balance of taxable base (line a minus line b)	\$25,000.00
d. Number of full months unpaid at time of repossession	40
e. Total contract period	60
f. Ratio (line d divided by line e)	0.6667
g. Credit before recoveries (line c times line f)	\$16,667.50
h. Amount recovered <b>(excludes re-sale proceeds)</b>	(\$3,000.00)
i. Net taxable base (line g minus line h)	\$13,667.50



- |   |          |
|---|----------|
| j. Tax rate from original sale                  | 6.60%    |
| k. Repossession credit<br>(line i times line j) | \$902.06 |

Show the net taxable base or the adjusted net taxable base on the proper line of the current sales tax return and attach an explanation.

Make certain of the amount originally taxed (consider rebates, price adjustments, discounts, etc.) and the rate of tax. Special computations are required for contracts calling for balloon payments at the end of the contract.

## Refund of Sales Tax on Repurchase of a Motor Vehicle

When repurchasing a motor vehicle from a retail customer, motor vehicle manufacturers should also refund sales tax paid at the time the vehicle was purchased.

A manufacturer may recover sales tax amounts refunded to a retail customer by including that amount on the adjustment line of its Utah sales tax return. All sales tax amounts included on the adjustment line must be accompanied by supporting calculations and the following information:

1. name of the retail customer to whom sales tax amounts were refunded;
2. name of the dealer from whom the retail customer purchased the vehicle;
3. date of the original purchase;
4. date the vehicle was repurchased by the manufacturer; and
5. vehicle identification number of the repurchased vehicle.

Sales tax applies to any charges for the use of a vehicle (see "Determining Tax Base, Taxable Sales").

A manufacturer recovering the sales tax amount refunded to a retail customer must maintain all paperwork for three years documenting the repurchase.

## Purchases by Native Americans

### Out of State Purchases

1. When a vehicle is purchased out of state by an enrolled tribal member and driven into Utah within a reservation boundary the purchase is not subject to tax.
2. When a vehicle is purchased out of state by an enrolled tribal member and driven into Utah outside the tribal boundary on its way to the reservation the purchase is subject to tax.

### Purchases in Utah

1. When a vehicle is purchased in Utah by an enrolled tribal member and the delivery takes place off the reservation the purchase is subject to tax.
2. When a vehicle is purchased in Utah by an enrolled tribal member and the vehicle is delivered by the seller to the reservation the purchase is not subject to tax.

### Leases

When a vehicle is leased in Utah off the reservation by an enrolled tribal member but the primary property location is the reservation the lease is not subject to tax.

## Vehicle Transfers to or from Trusts

Any transfers between a trust and its beneficiaries, trustees or members would be subject to sales tax, if all of the following conditions are met:

1. The trust has been established as a separate legal entity;
2. There is an actual transfer of ownership of the vehicle; and
3. There is consideration given or received in exchange for the vehicle.

However, transfer of a vehicle to or from a trust where ownership of the vehicle before and after the transfer is substantially the same is considered an isolated transaction and is exempt from sales tax. Transfers to or from a trust may be in the form of a gift and no consideration is involved; therefore, the transfer would not be subject to sales tax. However, if consideration is involved, sales tax would be imposed on the transfer.

## Washing of Vehicles in Dealer Inventory

Charges for cleaning, washing or detailing vehicles held in resale inventory are not taxable.

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Sales tax publications provide general guidance only. They do not contain all sales or use tax laws or rules. If you need additional information, call 801-297-7705 or 1-800-662-4335, ext. 7705 (outside the Salt Lake area), or email [taxmaster@utah.gov](mailto:taxmaster@utah.gov).

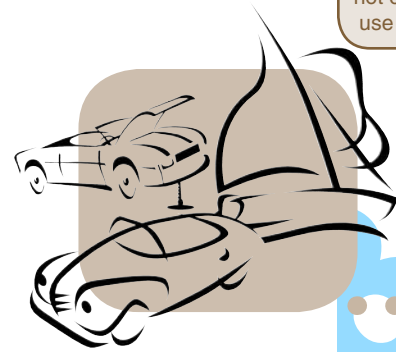
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# Sales Tax Information for Vehicle & Watercraft Dealers and Body & Repair Shops

## Utah State Tax Commission

210 North 1950 West  
Salt Lake City, Utah 84134  
801-297-2200  
1-800-662-4335  
tax.utah.gov



If you need an accommodation under the Americans with Disabilities Act, email [taxada.utah.gov](mailto:taxada.utah.gov), or call 801-297-3811 or TDD 801-297-2020. Please allow three working days for a response.

## Contents

Introduction.....	1
Definitions.....	1
Paying Sales Tax .....	1
Determining Tax Base .....	1
Towing Charges .....	2
Sales to Employees .....	2
Demonstrator Vehicles .....	2
Paint, Parts and Other Purchases for Resale .....	2
Consumable Shop Supplies .....	2
Cost of Parts .....	2
Lease Transactions.....	2
Courtesy Delivery .....	3
In-state Dealer Transactions .....	3
Out-of-Utah Dealer/Manufacturer's Transactions .....	3
Exemptions.....	3
Farmers .....	3
Interstate Sales.....	3
Authorized Carriers.....	3
Auxiliary Equipment.....	3
Trailer Dollies .....	3
Multiple Trailers .....	3
Nonresident Military Personnel Stationed in Utah .....	4
Nonresident Students Attending Utah Schools.....	4
Resale/Re-lease .....	4
Trade-in Exemption .....	4
Donations to Exempt Entities.....	4
Foreign Diplomat Vehicles .....	4
Exclusive Use Outside Utah .....	4
Requirements for the Exemption to Apply .....	4
Qualifying/Non-qualifying Items – Marine .....	4
Credit Allowed for Other States' Tax .....	5
Reciprocity .....	5
Out-of-Utah Deliveries .....	5
Repossession Credits.....	5
Refund of Sales Tax on Repurchase of a Motor Vehicle.....	6
Purchases by Native Americans.....	6
Out of State Purchases .....	6
Purchases in Utah.....	6
Leases .....	6
Vehicle Transfers to or from Trusts .....	6
Washing of Vehicles in Dealer Inventory .....	6

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Towing charges, without any sales or repair, are not taxable. For example, a towing company responds to a caller who requests that her car be towed to a local garage for repair. Because the towing company only performed a service and did not repair any tangible personal property or make any sales, the transaction is not subject to tax.

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Sales to employees are subject to sales tax.

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Owners and licensed sales staff can be assigned a demonstrator vehicle without being assessed sales or use tax. Rental charges for demos are subject to tax. Rental charges include charge backs, whether or not formally designated as a rental. For more information, see Tax Commission Rule R865-19S-82.

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Businesses repairing and servicing vehicles are not required to pay tax on their purchases of items that are sold and become an ingredient or component part of the customer's vehicle. Some examples of nontaxable purchases include: lubricants; welding rods; paint, wax and lacquers used in painting or polishing vehicles; body filler; repair parts; sublet repair labor; paint hardener and rust preventatives.

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- sandpaper, tape, masking paper, and similar supplies;
- paint thinners and accelerants;
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- parts or supplies used for public relations or advertising purposes (e.g., parts to repair a potential customer's vehicle);
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- oxygen, acetylene, argon, carbon dioxide, helium, etc.

## **Cost of Parts**

Cost of parts need not be considered for tax when used to repair a vehicle recently sold under an implied warranty and/or to keep the customer's good will.

## **Lease Transactions**

1. Amounts received or charged for a lease or rental of tangible personal property are subject to tax.
2. Up-front payments are taxable to the extent they are part of the purchase or lease price. The portion of up-front payments attributed to nontaxable charges, such as pay-offs of previously existing obligations, license/registration/titling fees, etc., are exempt.

3. Lessors are responsible for the tax on payments they receive or credit against the lease and are also responsible for collecting tax on the sale of vehicles at lease termination.
4. Dealers are responsible for tax on payments they receive that are not forwarded to the lessor.
5. A lease that includes a payoff of a previously existing obligation or refinancing by a lease transaction in which title is vested in the lessor constitutes a taxable lease. This is true unless the transaction fits the criteria excluding sale-leaseback transactions from the definition of retail sales in Utah Code §59-12-102.
6. A customer who trades in a leased vehicle must first purchase the vehicle and pay any sales or use tax applicable to that purchase before he can receive a trade-in credit.
7. The trade-in credit for an owned vehicle is allowed against the typical lease situation if the trade equity reduces the periodic lease payments to the lessor.

## Courtesy Delivery

### In-state Dealer Transactions

The dealer making the sale must charge, collect and remit the sales tax at the tax rate applicable to its business location when another in-state dealer makes a courtesy delivery for the seller.

### Out-of-Utah Dealer/Manufacturer's Transactions

A Utah dealer is responsible for collecting Utah sales or use tax when making courtesy deliveries for an out-of-Utah dealer or manufacturer if the Utah dealer assists the purchaser in registration and titling. The local dealer should not issue a dealer report of sale, but Utah sales tax must be collected by the dealer and paid directly to the Tax Commission at the time of registration.

## Exemptions

**Caution:** A dealer may be held individually liable for the tax if it is evident the dealer was a party to a plan to improperly avoid the tax.

### Farmers

Repair parts and labor for farm tractors and equipment (not including registered vehicles) are exempt from sales and use tax. The seller must have an exemption certificate on file. Implement of Husbandry certificates for off-highway farm machinery are not considered registration. Sales and repairs of registered vehicles are not exempt under the agricultural producer exemption.

### Interstate Sales

Sales to consumers are exempt from Utah sales tax when the vehicle, watercraft or merchandise is delivered by a Utah dealer to an out-of-Utah location. Delivery must be made by the dealer or by common carrier. The Affidavit for Exclusive Use Outside of Utah (form TC-721A) does not apply to these transactions. The dealer should attach a note to the temporary permit indicating out-of-Utah delivery along with the fee and mail it to the Tax Commission. The dealer must keep a verification of delivery using form TC-757, Affidavit of Out-of-State Delivery. It is not necessary to send a copy of this form to the Tax Commission.

## Authorized Carriers

Sales tax law allows an exemption for sales, leases or uses of:

1. vehicles by an authorized carrier; or
2. tangible personal property installed on a vehicle that is sold or leased by an authorized carrier, provided that the property is installed before the vehicle is placed in service for the first time.

Authorized carrier is defined as "in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA)."

The exemption applies only to vehicles with a gross vehicle weight of 26,001 pounds or more. This weight restriction is interpreted as meaning the maximum gross laden weight of the vehicle, combination of vehicles, and load carried or drawn, for which the motor vehicle is registered.

In the case of aircraft, authorized carrier means the holder of a Federal Aviation Administration operating certificate or air carrier's operating certificate.

To document this exemption, use form TC-719, Sales Tax Exemption Affidavit for Authorized Interstate Carriers.

## Auxiliary Equipment

Auxiliary equipment purchased and permanently installed in or on a vehicle as part of a qualifying vehicle transaction is also exempt. The exemption only applies to sales or leases of vehicles.

Effective July 1, 2007, the sale, use or lease of tangible personal property installed on a vehicle sold to or leased by an authorized carrier is exempt if installed before the vehicle is placed in service for the first time.

For instance, if an authorized carrier enters into a transaction to have a dump body added to a truck, a logo painted on the cab door, or a refrigeration unit installed in a trailer, these transactions qualify for the exemption if attached before the vehicle is placed in service for the first time. This exemption is for authorized carriers only.

Tax Commission form TC-719, Sales Tax Exemption Affidavit for Authorized Interstate Carriers, must be used to verify the exemption.

## Trailer Dollies

A trailer dolly (converter gear) is equipment consisting of wheels, at least one axle, and a fifth wheel, that is attached to the king pin of a semi-trailer to convert the semi-trailer to a full trailer. A trailer dolly is required to be licensed and registered as a separate trailer and used in combination with other qualified vehicles and would meet the qualification for exemption when purchased by an authorized carrier and operated pursuant to IRP and IFTA.

## Multiple Trailers

Trailers and semi-trailers purchased separately from a power unit, or in numbers in excess of available power units, are allowed the exemption if purchased for use in combination with vehicles meeting the exemption criteria. However, a trailer purchased or leased for use as a temporary office, storage facility or other use not associated with highway transportation is not allowed the exemption.

## Nonresident Military Personnel Stationed in Utah

Military personnel stationed in Utah are not exempt from Utah sales or use tax unless they qualify for the exclusive use outside of Utah exemption as detailed below.

## Nonresident Students Attending Utah Schools

A student living and attending school in Utah is not exempt from Utah sales or use tax unless they qualify for the exclusive use outside of Utah exemption as detailed below.

## Resale/Re-lease

A completed exemption certificate must be on file to claim this exemption.

## Trade-in Exemption

An allowance for a trade-in of tangible personal property on the purchase of a vehicle may be excluded from the amount on which the tax is computed. For the trade-in provisions of the Utah law to apply, the trade-in must be part of a single transaction and the transaction must involve only two parties. A customer who trades in a leased vehicle must first purchase the vehicle and pay any sales or use tax applicable to that purchase before he can receive a trade-in credit.

A single transaction means both the trade-in of the old vehicle and the purchase of the new vehicle take place at the same time and are documented in the same contract, buyer's order and other paperwork. The transaction would involve a fixed specific allowance for the vehicle traded in, a fixed selling price for the new vehicle, a contractual obligation of the seller to both sell the new vehicle and accept the trade-in vehicle, and a contractual obligation of the purchaser to purchase a specific vehicle. The trade-in provisions with regard to the single transaction criteria would not be violated if the new vehicle is ordered from the factory and actual delivery of the new vehicle to the customer is consequently delayed.

The trade-in credit may be allowed if the person trading in a vehicle does not appear as the owner on the title to the trade-in; however, the Tax Commission will follow up on such transactions and assess the customer directly for any taxes due on the acquisition of the vehicle traded in. An owner of a vehicle recently acquired, but not yet titled in the buyer's name, may be required to show all applicable sales or use taxes have been paid on the acquisition of the vehicle if the trade-in credit has been allowed.

Trades of services (e.g., advertising, legal, accounting, etc.), equity in real property, and items taken for sale on consignment are not allowable trades for reduction of the taxable base. A credit given for a trade on a future purchase is not part of the purchase transaction and no reduction for a trade is allowed for sales tax credit.

Do not overstate or duplicate credits on trade-downs or trades on nontaxable sales.

See Tax Commission Rules R865-19S-30 and R865-19S-72.

## Donations to Exempt Entities

A dealer who donates a vehicle or other item, or who provides use of such to an organization that would be exempt if a sale had been made, is not required to either collect or pay sales/use tax on the value of the donated property or the use of the property.

## Foreign Diplomat Vehicles

Sales and leases of motor vehicles to foreign diplomats are exempt ONLY IF the dealer receives a Motor Vehicle Tax-Exemption Letter signed by the U. S Department of State, Office of Foreign Missions (OFM) or the American Institute in Taiwan (AIT). Diplomatic Tax Exemption Cards DO NOT exempt vehicle purchases from sales tax.

## Exclusive Use Outside Utah

### Requirements for the Exemption to Apply

Sales of the following items are exempt from sales tax:

- Vehicles that must be registered under the Motor Vehicle Act
- Watercraft that must be registered under the State Boating Act
- Boat trailers
- Outboard motors
- Off-highway vehicles (snowmobile, all-terrain vehicle or motorcycle)

This exemption only applies if one of the above items is not registered in Utah and is either not used in Utah or is used in Utah for:

- non-business purposes 30 days or less in a calendar year, or
- business purposes for the time needed to transport it to the borders

To claim the exemption you must complete form TC-721A, *Sales and Use Tax Exemption Affidavit for Exclusive Use Outside of Utah*.

See Utah Code §59-12-104.

### Qualifying/Non-qualifying Items – Marine

1. Only boats required to be registered under the provisions of the State Boating Act, Utah Code §73-18-7, qualify for the exemption. This would include both motorboats and sailboats as defined by the act. A motorboat is any vessel propelled by machinery, regardless of whether the machinery is the principal source of power. A sailboat is any vessel having one or more sails and propelled by the force of wind. In addition to the boat itself, the exemption will also be allowed for items that are part of the original boat sales transaction and are installed in or on the boat in a permanent manner. Such items, if so installed or attached, would include convertible tops, swim platforms, trim tabs, radios, stereos, speakers, depth finders, spot lights, running lights, antennas, auxiliary batteries, fuel tanks, water tanks, inboard engines, inboard/outdrives, auxiliary outboard mounting brackets, horns, winches, sails, sail halyards and similar installed or integral equipment.
2. A boat trailer, regardless of unladen weight, will qualify for the exemption. Also allowable are the winch, sideboards, spare tires, etc. attached to the trailer and part of the original sales transaction.
3. Any outboard motor, regardless of horsepower, fuel supply or energy source, will qualify. Also included are its remote control and fuel supply tank or battery when sold as part of the original sale of the motor.



4. Boats not required to be registered, such as kayaks, canoes, rowboats or inflatable boats, will not qualify unless specifically designed to be propelled by motor or sail.
5. Equipment that is not part of the original transaction for sale of the boat, motor and/or trailer, or not installed in a permanent manner to the boat, motor or trailer, will not qualify for exemption. Such equipment includes water skis, fishing equipment, other water sports gear, anchors, fire extinguishers, safety equipment, life jackets, ice chests, tool kits, spare parts, camping gear, bumpers, flotation devices, ropes, paddles, etc. The law specifically indicates outboard motors are included. Inboard/outdrive units sold separately from the sale of a boat will not qualify. Sales of items not qualifying must be taxed.
6. Non-qualifying items must be separately stated and separately priced on the invoice or contract of sale to enable proper handling for sales tax purposes.

### Credit Allowed for Other States' Tax

1. Most states allow credit for at least part of the sales or use tax legally due first to another state. Since sales tax is a tax on the transaction and not on the property, the tax is due at the point of sale. If the sale takes place in Utah and an exclusive use outside of Utah affidavit is completed by the purchaser in error or accepted by the dealer in error, no credit will be allowed by Utah for any tax paid to a state other than Utah, since tax was legally due first in Utah.
2. Utah will allow credit for tax properly due and paid first to a state other than Utah.

### Reciprocity

1. Utah has reciprocal agreements with Idaho and Wyoming that allow a person having a primary residence in one state but employed in another to use a vehicle registered with the state of principal residence in the other state for purposes of commuting to the work place.
2. The agreements are specifically for registration of vehicles and do not waive any other fees or taxes levied by the respective states.

### Out-of-Utah Deliveries

1. The Affidavit for Exclusive Use Outside of Utah, form TC-721A, does not support exemption for out-of-Utah deliveries of motor vehicles.
2. The seller must keep evidence of the out-of-Utah delivery to verify the exemption. Affidavit of Out-of-State Delivery, form TC-757, may be used as evidence of this exemption.
3. Frequent deliveries into another state may subject the seller to the other state's tax collection requirements.
4. The out-of-Utah delivery must be an essential part of the sale, and the seller must be obligated by terms of the sales contract to make physical delivery of the vehicle across a state border to the buyer. The seller must make that physical delivery. See Tax Commission Rule R865-19S-44.
5. If the purchaser brings the vehicle back to Utah for use, the vehicle may be subject to Utah use tax, with credit allowed for tax due and paid first to the other state.

## Repossession Credits

Sales tax credit is allowed for repossessions of a motor vehicle provided that the seller collected the sales tax on the vehicle being repossessed and the seller resells the vehicle. Credit for tax on motor vehicle repossessions is allowed to the seller that collected the sales tax as well as a third-party seller that repossessed and resold the vehicle. For a third-party seller to obtain a sales tax credit from the Tax Commission, the seller that collected the sales tax must be out of business and not have any outstanding sales and use tax liabilities.

Repossession credits are determined by the application of a ratio to the taxable base after a reduction for any down payment. The ratio is the unexpired portion (number of monthly payments not made) of the contract to the total length of the contract.

### Example:

The repossession credit is reduced by recoveries, other than the amount realized through the resale of the repossessed vehicle, to arrive at the net taxable base (gross amount before attorney or collection agency fees). The net taxable base is then multiplied by the sales tax rate in effect on the date of the original sale to calculate the repossession sales tax credit. If the tax rate has changed since the original sale, divide the repossession sales tax credit by the current tax rate to calculate an adjusted net taxable base.

a. Total taxable base	\$30,000.00
b. Down payment	(\$5,000.00)
c. Balance of taxable base (line a minus line b)	\$25,000.00
d. Number of full months unpaid at time of repossession	40
e. Total contract period	60
f. Ratio (line d divided by line e)	0.6667
g. Credit before recoveries (line c times line f)	\$16,667.50
h. Amount recovered (excludes re-sale proceeds)	(\$3,000.00)
i. Net taxable base (line g minus line h)	\$13,667.50
j. Tax rate from original sale	6.60%
k. Repossession credit (line i times line j)	\$902.06

Show the net taxable base or the adjusted net taxable base on the proper line of the current sales tax return and attach an explanation.

Make certain of the amount originally taxed (consider rebates, price adjustments, discounts, etc.) and the rate of tax. Special computations are required for contracts calling for balloon payments at the end of the contract.

## Refund of Sales Tax on Repurchase of a Motor Vehicle

When repurchasing a motor vehicle from a retail customer, motor vehicle manufacturers should also refund sales tax paid at the time the vehicle was purchased.

A manufacturer may recover sales tax amounts refunded to a retail customer by including that amount on the adjustment line of its Utah sales tax return. All sales tax amounts included on the adjustment line must be accompanied by supporting calculations and the following information:

1. name of the retail customer to whom sales tax amounts were refunded;
2. name of the dealer from whom the retail customer purchased the vehicle;
3. date of the original purchase;
4. date the vehicle was repurchased by the manufacturer; and
5. vehicle identification number of the repurchased vehicle.

Sales tax applies to any charges for the use of a vehicle (see "Determining Tax Base, Taxable Sales").

A manufacturer recovering the sales tax amount refunded to a retail customer must maintain all paperwork for three years documenting the repurchase.

## Vehicle Transfers to or from Trusts

Any transfers between a trust and its beneficiaries, trustees or members would be subject to sales tax, if all of the following conditions are met:

1. The trust has been established as a separate legal entity;
2. There is an actual transfer of ownership of the vehicle; and
3. There is consideration given or received in exchange for the vehicle.

However, transfer of a vehicle to or from a trust where ownership of the vehicle before and after the transfer is substantially the same is considered an isolated transaction and is exempt from sales tax. Transfers to or from a trust may be in the form of a gift and no consideration is involved; therefore, the transfer would not be subject to sales tax. However, if consideration is involved, sales tax would be imposed on the transfer.

## Washing of Vehicles in Dealer Inventory

Charges for cleaning, washing or detailing vehicles held in resale inventory are not taxable.

## Purchases by Native Americans

### Out of State Purchases

1. When a vehicle is purchased out of state by an enrolled tribal member and driven into Utah within a reservation boundary the purchase is not subject to tax.
2. When a vehicle is purchased out of state by an enrolled tribal member and driven into Utah outside the tribal boundary on its way to the reservation the purchase is subject to tax.

### Purchases in Utah

1. When a vehicle is purchased in Utah by an enrolled tribal member and the delivery takes place off the reservation the purchase is subject to tax.
2. When a vehicle is purchased in Utah by an enrolled tribal member and the vehicle is delivered by the seller to the reservation the purchase is not subject to tax.

### Leases

When a vehicle is leased in Utah off the reservation by an enrolled tribal member but the primary property location is the reservation the lease is not subject to tax.

Sales tax publications provide general guidance only. They do not contain all sales or use tax laws or rules. If you need additional information, call 801-297-7705 or 1-800-662-4335, ext. 7705 (outside the Salt Lake area), or email [taxmaster@utah.gov](mailto:taxmaster@utah.gov).

# Sales and Use Tax General Information

**REDLINE**

## 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.

## Utah Tax Code

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## Starting a New Business

If you are starting a new business, see Publication 38, *Doing Business in Utah*, at [tax.utah.gov/forms](http://tax.utah.gov/forms).

## 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 Utah Code §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, quarterly or annually using form TC-62PC, *Sales Tax Payment Coupon*. See Utah Code §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*. Submit form TC-69, *Utah State Business and Tax Registration*, or register online at [osbr.utah.gov](http://osbr.utah.gov) to apply for a license. 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 direct or representational presence in a certain state.

You have Utah nexus 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.

Exception: Your Utah activity is only advertising or solicitation by mail, e-mail, the Internet, telephone or similar means.

4. regularly deliver property in Utah other than by common carrier or U.S. mail.
5. regularly lease or service property located in Utah.

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

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

Having Utah nexus requires a seller to collect and pay sales taxes and file returns. If you have Utah nexus, you must file sales tax returns every period, even when you have no tax liability.

## Non-Nexus Sellers

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

Non-nexus sellers who register for the first time on or after Jan. 1, 2014 may keep 18 percent of the Utah sales tax they collect. To receive this discount, a seller must file electronically using the Tax Commission website or the Streamlined Sales and Use Tax Agreement's simplified electronic return (SER). Sellers that take the 18 percent seller discount may not take the 1.31 percent seller discount for filing monthly.

**Note:** The 18 percent seller discount will expire for a non-nexus seller if Congress or the U.S. Supreme Court takes action that requires the seller to collect and pay state sales taxes.

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

## How to Add an Outlet

Notify the Tax Commission immediately if you add an outlet to an existing account. You can add an outlet at [tap.utah.gov](http://tap.utah.gov), or use form TC-69B, *Additional Business Location for a Sales Tax Account*.

## How to Close an Outlet

Notify the Tax Commission immediately if you close a Utah outlet. You can close an outlet at [tap.utah.gov](http://tap.utah.gov), or use form TC-69C, *Notice of Change for a Tax Account*. The closed outlet will no longer appear on your pre-printed sales tax return.

## How to Close a Sales Tax Account

Notify the Tax Commission immediately if you stop doing business in Utah (see Rule R865-19S-25). 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 (Utah Code §59-12-102)

### 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").

### 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 Utah Code §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 Utah Code §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 Utah Code §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 food 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 and prewritten software.

## 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 appliance.

### **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](http://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.

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 or taxable services from 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

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 Utah Code §§59-12-211, 59-12-212, 59-12-213 and 59-12-214.

## 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](http://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.

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#### 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.

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#### 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.

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## 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
4.70%
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 2.7 percent less throughout Utah.
Local Option
County, city or town
1.00%
None
County Option
County
0.25%
None
Resort 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 ~~impacted communities'~~ 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

0.25%

Grocery food sales

## Related Taxes and Fees

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

### Chart 3: Related Taxes and Fees

Tax

Imposed By

Rate

Applies To

Discount

Reported On

State Transient Room

State

0.32%

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

6%

TC-62T

County Transient Room

County

Up to 4.25%

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

None

TC-62T

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

TC-62T

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

TC-62T

Motor Vehicle Rental

State

2.50%

Short-term leases and rentals (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 12,001 or more pounds, or
- is a moving van for personal household goods

None

TC-62L

Short-term Leasing

County

Up to 7.0%

Short-term leases and rentals (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 12,001 or more pounds, or
- is a moving van for personal household goods

1%

TC-62L

Restaurant

County

Up to 1.0%

Food, food ingredients and prepared food sold by a restaurant

None

TC-62F

911 Emergency

Services Charge

State

\$0.71 per access line

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

1.5%

Electronically

Radio Network Charge to fund the public safety communications network

State

\$0.18 per access line

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

None

Electronically

Unified statewide 911 Emergency Service Charge

State

\$0.09 per access line

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

1.5%

Electronically

Municipal Telecom License Tax

City or town

**Up to 3.5%**

**Charges for telecommunications services**

**None**

**Electronically**

**Municipal Energy Sales and Use Tax**

**City or town**

**Up to 6.0%**

**Sales of natural gas and electricity**

**1%**

**TC-62E**

**Prepaid Disposable Phones and Prepaid Disp. Phone Minutes**

**State**

**2.45% of transaction amount**

**Sales of prepaid disposable cell phones and disposable cell phone minutes.**

**3%**

**TC-62W**

**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%**

**TC-62W**

## Other Information

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

- Motor fuel, aviation fuel, and special fuel taxes
- Lubricating oil fee
- Beer, cigarette and tobacco 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 Utah Code §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 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](http://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 Utah Code §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) 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.

## 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.
- ~~Property~~Products purchased for resale in the regular course of business ~~for resale in Utah~~, either in ~~its~~their original ~~form~~forms or as ~~an ingredient~~ingredients or ~~component~~components of a ~~finished~~manufactured or compounded product.
- 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 or leases of machinery, equipment and repair or replacement parts with an economic life of three or more years that are used in a cogeneration facility (see Utah Code §54-2-1), or a qualified manufacturer or scrap recycler (see Standard Industrial Classification Manual (SIC) classification 2000-3999; or North American Industrial Classification System (NAICS) codes within sector 31-33).
- Purchases or leases of machinery, equipment and repair or replacement parts that are used in a Utah facility described in NAICS code 336111, Automobile Manufacturing.
- Purchases or leases of machinery, equipment or parts with an economic life of three or more years that are used in a mining production process or in research and development, by a business described in NAICS 212, Mining (except Oil and Gas) or NAICS 213113, Support Activities for Coal Mining.
- Purchases or leases of machinery, equipment and normal operating repair or replacement parts with an economic life of less than three years used in a Utah facility described in NAICS code 325120, Industrial Gas Manufacturing, for the manufacturing of hydrogen.
- Purchases or leases of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions and supplies used in a Utah refinery to produce gasoline, diesel fuel, or their blendstocks or for other activities described in Utah Code §59-12-104(89).
- Purchases or leases of machinery, equipment, materials and repair or replacement parts, and materials that are used or consumed exclusively in the manufacturing process of a Utah drilling equipment manufacturing facility.
- Purchases or leases of machinery, equipment and repair or replacement parts with an economic life of three or more years used to operate a new or expanding web search portal in Utah. Web search portal is described in 2002 NAICS 518112.
- 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.
- Charges for labor to repair or renovate tangible personal property or products transferred electronically, if the personal property being repaired is exempt under Utah Code §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 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.

## **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 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 telephone service charged to a prepaid telephone calling card.
- 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.
- 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 Utah Code §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 for theaters, movies, operas, museums, planetariums, shows, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, jeep tours, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity. User fees include access charges for videos, video games, television programs and cable or satellite broadcasts, if that access occurs anywhere other than the buyer's home.
  - 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 entitle the buyer to discounted or free merchandise or services that are subject to sales tax. For example:
    1. Memberships that let card holders enter a warehouse and buy merchandise free of additional markup.
    2. Video memberships that let members rent videos at a reduced price.
- 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.

## 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

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## 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 use accrual basis accounting to report sales and use tax (see exceptions below). 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).

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 file a *Sales and Use Tax Return* for each filing period. Depending on the nature of your business, your return is either form TC-62S or form TC-62M. If you file TC-62M, you must also file schedules with your return (see *Forms and Schedules*, below).

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

Only file once for each filing period.

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.

### Paper Returns

The Tax Commission mails personalized returns to every seller (unless a seller asks not to receive paper returns). However, you must file returns and pay taxes by the due date, even if you don't receive a return. Get blank forms and schedules online at [tax.utah.gov/forms](http://tax.utah.gov/forms).

### Online Sales Tax Return

You may file your *Sales and Use Tax Returns* and schedules online at [tap.utah.gov](http://tap.utah.gov).

### Filing Frequency

Your filing frequency depends on your yearly sales tax liability:

- If your sales tax liability is less than \$1,000 per year, you may file annually.
- If your sales tax liability is between \$1,000 and \$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

## 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 sellers with multiple Utah business locations 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 with Utah nexus.

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 business locations, based on the seller's location.
- **Schedule AG**, for sales of grocery food from multiple fixed 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, or consumption of 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 and annual 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.

$$W \div (1 + R) = \text{adjustment}$$

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

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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](http://tap.utah.gov). You may use this service whether you file electronically or on paper. Online payments can be made by credit card (American Express, Discover or MasterCard) 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](http://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.

You may also pay with ACH credit. See *Electronic Funds Transfer - EFT* at [tax.utah.gov/billing/payments](http://tax.utah.gov/billing/payments).

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**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.

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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](http://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](http://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](http://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 by paper return, include your legal explanation plus supporting documents that verify the transaction(s) is not subject to sales tax. If amending electronically, 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. If amending or adjusting on paper, include the following with your return:

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

If amending or adjusting electronically, 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 outlets.
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

### 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.

### 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.

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#### 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.

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#### 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.

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#### 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.

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## Cigarette, Tobacco and E-Cigarette Products

A business selling cigarettes and/or tobacco products or e-cigarette products must be licensed for each selling location. Apply on form TC-69. See more information in Pub 65, *Tax Information for Cigarettes, Tobacco Products and Electronic Cigarette Products*. Get forms and pubs online at [tax.utah.gov/forms](http://tax.utah.gov/forms).

**Cigarette tax** is paid by buying stamps from the Tax Commission. Only registered and bonded businesses may buy, receive and affix stamps. Cigarette stamps must be affixed to each package within 72 hours of receipt of the package. Any cigarette pack without a Utah stamp is subject to a \$25 penalty and confiscation.

**Tobacco products tax** is due from the first buyer within Utah. A retail store must be registered and bonded if it buys directly from an out-of-Utah source not collecting the tax. Pay the tobacco products tax with form TC-553, due the last day of the month following each calendar quarter.

Consumers buying cigarettes or tobacco products online must pay the sales tax and cigarette or tobacco products tax on form TC-720C.

The sale of cigarettes and/or tobacco products is subject to state and local sales tax. The amount subject to sales tax includes the cigarette tax or the tobacco products tax.

## 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.

The sale of gift cards and gift certificates is 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.

## 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.

## 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.

## 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.

## 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.

## 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.

## 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](mailto: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.

## Trade-in on Manufactured Homes

Utah Code §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.

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**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 ( $\$52,000 \times .45$ )	\$23,400	Portion of net sales price subject to sales tax ( $\$52,000 - \$23,400$ )	\$28,600

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## 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 is located. 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.

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Sales tax publications provide general guidance only. They do not contain all sales or use tax laws or rules. If you need additional information, call 801-297-7705 or 1-800-662-4335, ext. 7705 (outside the Salt Lake area), or email [taxmaster@utah.gov](mailto:taxmaster@utah.gov).

## Forms

The following forms are available at [tax.utah.gov/forms/](http://tax.utah.gov/forms/) or by calling the Tax Commission automated forms order hot-line at 801-297-6700 or toll free 1-800-662-4335 ext. 6700.

- TC-51 – Nexus Questionnaire
- TC-55A – Claim for Refund of MV Fees or Sales Tax
- TC-62S – Utah Sales and Use Tax Return, Single Place of Business
- TC-62M – Sales and Use Tax Return, Multiple Places of Business
- TC-62M Schedule A – Sales of Non-Food and Prepared Food from Fixed Utah Locations
- TC-62M Schedule AG – Sales of Grocery Food from Fixed Utah Locations
- TC-62M Schedule J – Sales of Non-Food and Prepared Food from Places Other Than Fixed Utah Locations
- TC-62M Schedule JG – Sales of Grocery Food from Places Other Than Fixed Utah Locations
- TC-62E – Municipal Energy Sales and Use Tax
- TC-62F – Restaurant Tax Return
- TC-62L – Motor Vehicle Rental Tax Return
- TC-62N – Sales Tax Refund Request for Religious or Charitable Organizations
- TC-62P – Instructions for Filing Refund Claims for Sales Tax Paid on Pollution Control Facilities
- TC-62Q – Utah Sales Tax Sourcing Schedule
- TC-62X – Sales Exempt from ~~Resort Tax~~ Impacted Communities Taxes
- TC-62T – Transient Room Tax Return
- TC-62W – Waste Tire Recycling Fee Return
- TC-69 – Utah State Business and Tax Registration Application
- TC-69B – Additional Business Locations for a Sales Tax Account
- TC-73 – Sales Tax Exemption Contract
- TC-85 – Agreement for Remitting through Electronic Funds Transfer (EFT)
- TC-160 – Application for Sales Tax Exemption for Religious and Charitable Institutions
- TC-553 – Tobacco Products Tax Return
- TC-719 – Sales Tax Exemption Affidavit for Authorized Interstate Carriers

- TC-720 – Order for Cigarette Revenue Stamps, or TAX for Products Imported for Use, Storage or Consumption
- TC-721 – Exemption Certificate
- TC-721A – Sales and Use Tax Exemption Affidavit for Exclusive Use Outside Utah
- TC-721G – Exemption Certificate for Governments, Foreign Diplomats & Schools
- TC-721NR – Sales Tax Exemption Certificate for Non-Utah Retailers Accepting Delivery of Merchandise in Utah
- TC-738 – Petition for Redetermination
- TC-757 – Affidavit of Out-of-State Delivery
- TC-762 – Lease/Rental Sales Tax Affidavit

## Sales Tax Publications

The following publications are available at [tax.utah.gov/forms/](http://tax.utah.gov/forms/) or by calling the Tax Commission forms order hot-line at (801) 297-6700 or 1-800-662-4335 ext. 6700.

- 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 38 – Doing Business 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

## Information Online

### Utah State Tax Commission Website

**[tax.utah.gov](http://tax.utah.gov)**

This site has links to:

- Forms and publications
- Current and past sales tax rates
- Internal Revenue Service
- Utah Counties (business license, property tax)
- Multistate Tax Compact
- Other States' Revenue Departments

### State of Utah Website

**[utah.gov](http://utah.gov)**

This site has links to:

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

# Sales and Use Tax

## General Information



If you need an accommodation under the Americans with Disabilities Act, email [taxada@utah.gov](mailto:taxada@utah.gov), or call 801-297-3811 or TDD 801-297-2020. Please allow three working days for a response.

## Contents

Sales and Use Tax General Information .....	2	Goods Consumed by the Seller .....	13
Introduction .....	2	Employee Incentives and Discounts .....	13
Utah Tax Code .....	2	Bad Debts .....	14
Starting a New Business .....	2	Online Payments .....	14
Buying a Business — Liability .....	2	Electronic Funds Transfer (EFT) .....	14
What is Sales and Use Tax? .....	2	Penalties .....	14
Sales Tax License .....	2	Interest .....	14
Nexus Filers .....	2	Overpayments and Refunds .....	14
Non-Nexus Sellers .....	3	Purchaser Refunds .....	14
How to Add an Outlet .....	3	Use Tax and Bad Debts .....	14
How to Close an Outlet .....	3	Seller Amendments and Adjustments .....	14
How to Close a Sales Tax Account .....	3	Record Keeping Requirements .....	15
Definitions (Utah Code §59-12-102) .....	3	Reminders .....	15
Sales-based Tax Rates and Types .....	4	Additional Information .....	15
Determining Tax Rate (Point-of-Sale Sourcing) .....	4	Bundled Transactions .....	15
Chart 1: General Sourcing Rules .....	5	Carwashes .....	15
Tax Rate Changes .....	5	Cigarette, Tobacco and E-Cigarette Products .....	15
Rate Changes During Billing Cycles .....	5	Coupons .....	16
Combined Sales Tax Rate .....	6	Coupon Books, Gift Cards and Gift Certificates .....	16
Chart 2: Taxes in the Combined Rate .....	6	Direct Mail .....	16
Related Taxes and Fees .....	7	Food Stamps and WIC .....	16
Chart 3: Related Taxes and Fees .....	7	Money Order, Fax and Photocopy Charges .....	16
Other Information .....	8	Newspapers and Postage .....	16
Sales and Use Tax Exemptions .....	8	Premiums and Gifts .....	16
Exemption Certificates .....	8	Returnable Containers .....	16
Types of Exemptions .....	8	Returned Merchandise .....	16
Entity-Based Exemptions .....	8	Special Events .....	16
Use-Based Exemptions .....	9	Third-party Drop Shipping .....	16
Product-Based Exemptions .....	11	Trade-in on Manufactured Homes .....	17
Calculating Sales Tax .....	11	Vending Machine Sales .....	17
Taxable Transactions .....	11	Videos and DVDs .....	17
Taxes and Fees Imposed on the Seller .....	12	Forms .....	17
Payments by Gold or Silver Coin .....	12	Sales Tax Publications .....	18
Filing and Reporting Requirements .....	12	Information Online .....	18
Accounting Methods .....	12		
Returns .....	13		
Paper Returns .....	13		
Online Sales Tax Return .....	13		
Filing Frequency .....	13		
Forms and Schedules .....	13		
What to File .....	13		
Seller Discount .....	13		

# 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.

### Utah Tax Code

Utah Tax Code is published by Matthew Bender & Co., Inc. under the trademark LexisNexis. You must pay a subscription fee to access the online site. To order a hardcopy, contact the publisher at:

Matthew Bender & Co., Inc.  
Attn: Customer Support  
1275 Broadway  
Albany, NY 12204-2694  
1-800-562-1197

You can get Utah Code, Title 59, *Revenue and Taxation*, at no charge at [le.utah.gov/UtahCode/title.jsp](http://le.utah.gov/UtahCode/title.jsp). Utah tries to keep current information online; however, code published at LexisNexis may be more current.

### Starting a New Business

If you are starting a new business, see Publication 38, *Doing Business in Utah*, at [tax.utah.gov/forms](http://tax.utah.gov/forms).

### 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 Utah Code §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, quarterly or annually using form TC-62PC, *Sales Tax Payment Coupon*. See Utah Code §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*. Submit form TC-69, *Utah State Business and Tax Registration*, or register online at [osbr.utah.gov](http://osbr.utah.gov) to apply for a license. 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 direct or representational presence in a certain state.

You have Utah nexus 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.

Exception: Your Utah activity is only advertising or solicitation by mail, e-mail, the Internet, telephone or similar means.

4. regularly deliver property in Utah other than by common carrier or U.S. mail.
5. regularly lease or service property located in Utah.

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



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

Having Utah nexus requires a seller to collect and pay sales taxes and file returns. If you have Utah nexus, you must file sales tax returns every period, even when you have no tax liability.

## Non-Nexus Sellers

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

Non-nexus sellers who register for the first time on or after Jan. 1, 2014 may keep 18 percent of the Utah sales tax they collect. To receive this discount, a seller must file electronically using the Tax Commission website or the Streamlined Sales and Use Tax Agreement's simplified electronic return (SER). Sellers that take the 18 percent seller discount may not take the 1.31 percent seller discount for filing monthly.

**Note:** The 18 percent seller discount will expire for a non-nexus seller if Congress or the U.S. Supreme Court takes action that requires the seller to collect and pay state sales taxes.

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

## How to Add an Outlet

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

## How to Close an Outlet

Notify the Tax Commission immediately if you close a Utah outlet. You can close an outlet at **tap.utah.gov**, or use form TC-69C, *Notice of Change for a Tax Account*. The closed outlet will no longer appear on your pre-printed sales tax return.

## How to Close a Sales Tax Account

Notify the Tax Commission immediately if you stop doing business in Utah (see Rule R865-19S-25). 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 (Utah Code §59-12-102)

### 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").

## 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 Utah Code §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 Utah Code §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 Utah Code §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 and prewritten software.

## 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 appliance.

## 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](http://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
<b>Retail sale</b> of tangible personal property in Utah (including vending machine operators and sellers who sell from mobile inventory)*	<b>Seller's fixed place of business</b> (whether or not the goods or services are delivered) <b>Location where inventory is warehoused</b> for vending machine operators and sellers who sell from mobile inventory	Sales at special events (fairs, swap meets, races, etc.) are <b>sourced to the event location</b> .
<b>Retail sale</b> of taxable services in Utah when seller also sells tangible personal property*	<b>Seller's fixed place of business OR customer's location</b> (seller's preference)	If the seller sells tangible personal property on the same invoice as the service, the transaction must be <b>sourced to the seller's fixed place of business</b> . Sales at special events (fairs, swap meets, etc.) are <b>sourced to the event location</b> .
<b>Retail sale</b> of taxable services in Utah when seller does not sell any tangible personal property*	<b>Customer's location</b>	
<b>Retail sale</b> of tangible personal property or taxable services <b>from outside Utah</b> *	<b>Buyer's location</b> (the place the buyer receives the service or property)	
<b>Retail sale</b> of admissions	<b>Location of activity or event</b> (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	
<b>Lease or rental</b> of tangible personal property* (other than motor vehicles, semi-trailers, trailers 10,000 pounds or less, and aircraft)	<b>Location the customer receives the goods or services</b> for down payment and first payment <b>Location of the item</b> for subsequent payments	If there are no recurring payments: <ul style="list-style-type: none"> <li>• <b>source to the location the customer receives the goods or services.</b></li> <li>• <b>source to the customer's location</b> if shipped from outside the state to a Utah customer.</li> </ul>
<b>Lease or rental</b> of motor vehicles, semitrailers, trailers 10,000 pounds or less, and aircraft	<b>Customer's location (address)</b> 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 Utah Code §§59-12-211, 59-12-212, 59-12-213 and 59-12-214.

## 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](http://tax.utah.gov/sales/rates).

- 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.

## 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:

### 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	4.70%	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 2.7 percent less throughout Utah.
Local Option	County, city or town	1.00%	None
County Option	County	0.25%	None
Resort 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.

Tax	Imposed By	Rate	Exemptions
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	0.25%	Grocery food sales

## Related Taxes and Fees

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

**Chart 3: Related Taxes and Fees**

Tax	Imposed By	Rate	Applies To	Discount	Reported On
State Transient Room	State	0.32%	Tourist home, hotel, motel or trailer court rental for less than 30 consecutive days	6%	TC-62T
County Transient Room	County	Up to 4.25%	Tourist home, hotel, motel or trailer court rental for less than 30 consecutive days	None	TC-62T
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	TC-62T
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	TC-62T
Motor Vehicle Rental	State	2.50%	Short-term leases and rentals (less than 30 days) of motor vehicles, <b>unless the vehicle:</b> <ul style="list-style-type: none"> <li>temporarily replaces a motor vehicle being repaired under a repair or insurance agreement,</li> <li>is registered for a gross laden weight of 12,001 or more pounds, or</li> <li>is a moving van for personal household goods</li> </ul>	None	TC-62L
Short-term Leasing	County	Up to 7.0%	Short-term leases and rentals (less than 30 days) of motor vehicles, <b>unless the vehicle:</b> <ul style="list-style-type: none"> <li>temporarily replaces a motor vehicle being repaired under a repair or insurance agreement,</li> <li>is registered for a gross laden weight of 12,001 or more pounds, or</li> <li>is a moving van for personal household goods</li> </ul>	1%	TC-62L
Restaurant	County	Up to 1.0%	Food, food ingredients and prepared food sold by a restaurant	None	TC-62F
911 Emergency Services Charge	State	\$0.71 per access line	Local exchange service switched access line, radio communication access line, voice-over-Internet-protocol (VoIP)	1.5%	Electronically



Tax	Imposed By	Rate	Applies To	Discount	Reported On
Radio Network Charge to fund the public safety communications network	State	\$0.18 per access line	Local exchange service switched access line, radio communication access line, voice-over-Internet-protocol (VoIP)	None	Electronically
Unified statewide 911 Emergency Service Charge	State	\$0.09 per access line	Local exchange service switched access line, radio communication access line, voice-over-Internet-protocol (VoIP)	1.5%	Electronically
Municipal Telecom License Tax	City or town	Up to 3.5%	Charges for telecommunications services	None	Electronically
Municipal Energy Sales and Use Tax	City or town	Up to 6.0%	Sales of natural gas and electricity	1%	TC-62E
Prepaid Disposable Phones and Prepaid Disp. Phone Minutes	State	2.45% of transaction amount	Sales of prepaid disposable cell phones and disposable cell phone minutes.	3%	TC-62W
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%	TC-62W

## Other Information

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

- Motor fuel, aviation fuel, and special fuel taxes
- Lubricating oil fee
- Beer, cigarette and tobacco products taxes
- Royalty payment on unprocessed brine shrimp eggs
- Multi-channel audio and video tax
- Sexually explicit business and escort service tax

Sellers must keep exemption certificates in their records as documentation. A seller may use a certificate on file for its customers' future purchases. 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)

## Sales and Use Tax Exemptions

Utah law provides some exemptions from sales and use tax. See Utah Code §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.

### 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](http://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 Utah Code §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) 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.

## 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.
- 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 or leases of machinery, equipment and repair or replacement parts with an economic life of three or more years that are used in a cogeneration facility (see Utah Code §54-2-1), or a qualified manufacturer or scrap recycler (see Standard Industrial Classification Manual (SIC) classification 2000-3999 or North American Industrial Classification System (NAICS) codes within sector 31-33).
- Purchases or leases of machinery, equipment and repair or replacement parts that are used in a Utah facility described in NAICS code 336111, Automobile Manufacturing.
- Purchases or leases of machinery, equipment or parts with an economic life of three or more years that are used in a mining production process or in research and development, by a business described in NAICS 212, Mining (except Oil and Gas) or NAICS 213113, Support Activities for Coal Mining.
- Purchases or leases of machinery, equipment and normal operating repair or replacement parts with an economic life of less than three years used in a Utah facility described in NAICS code 325120, Industrial Gas Manufacturing, for the manufacturing of hydrogen.
- Purchases or leases of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions and supplies used in a Utah refinery to produce gasoline, diesel fuel, or their blendstocks or for other activities described in Utah Code §59-12-104(89).
- Purchases or leases of machinery, equipment, materials and repair or replacement parts, and materials that are used or consumed exclusively in the manufacturing process of a Utah drilling equipment manufacturing facility.
- Purchases or leases of machinery, equipment and repair or replacement parts with an economic life of three or more years used to operate a new or expanding web search portal in Utah. Web search portal is described in 2002 NAICS 518112.
- 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.
- Charges for labor to repair or renovate tangible personal property or products transferred electronically, if the personal property being repaired is exempt under Utah Code §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 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.

## 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 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 ap-

plies, 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 telephone service charged to a prepaid telephone calling card.
- 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.
- 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 Utah Code §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 for theaters, movies, operas, museums, planetariums, shows, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, jeep tours, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity. User fees include access charges for videos, video games, television programs and cable or satellite broadcasts, if that access occurs anywhere other than the buyer's home.
- 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 entitle the buyer to discounted or free merchandise or services that are subject to sales tax. For example:
  1. Memberships that let card holders enter a warehouse and buy merchandise free of additional markup.
  2. Video memberships that let members rent videos at a

reduced price.

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.

## 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

## 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 use accrual basis accounting to report sales and use tax (see exceptions below). 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).

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 file a *Sales and Use Tax Return* for each filing period. Depending on the nature of your business, your return is either form TC-62S or form TC-62M. If you file TC-62M, you must also file schedules with your return (see *Forms and Schedules*, below).

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

Only file once for each filing period.

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.

## Paper Returns

The Tax Commission mails personalized returns to every seller (unless a seller asks not to receive paper returns). However, you must file returns and pay taxes by the due date, even if you don't receive a return. Get blank forms and schedules online at [tax.utah.gov/forms](http://tax.utah.gov/forms).

## Online Sales Tax Return

You may file your *Sales and Use Tax Returns* and schedules online at [tap.utah.gov](http://tap.utah.gov).

## Filing Frequency

Your filing frequency depends on your yearly sales tax liability:

- If your sales tax liability is less than \$1,000 per year, you may file annually.
- If your sales tax liability is between \$1,000 and \$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

## 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 sellers with multiple Utah business locations 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 with Utah nexus.

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 business locations, based on the seller's location.
- **Schedule AG**, for sales of grocery food from multiple fixed 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, or consumption of 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 and annual 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.

$$W \div (1 + R) = \text{adjustment}$$

**Example:** A retailer has a net write-off of \$100. The combined sales tax rate in the retailer's community is 6.5 percent. 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](http://tap.utah.gov). You may use this service whether you file electronically or on paper. Online payments can be made by credit card (American Express, Discover or MasterCard) 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](http://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.

You may also pay with ACH credit. See *Electronic Funds Transfer - EFT* at [tax.utah.gov/billing/payments](http://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](http://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](http://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](http://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 by paper return, include your legal explanation plus supporting documents that verify the transaction(s) is not subject to sales tax. If amending electronically, 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. If amending or adjusting on paper, include the following with your return:

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

If amending or adjusting electronically, 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 outlets.
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

### 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.

### 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 and E-Cigarette Products

A business selling cigarettes and/or tobacco products or e-cigarette products must be licensed for each selling location. Apply on form TC-69. See more information in Pub 65, *Tax Information for Cigarettes, Tobacco Products and Electronic Cigarette Products*. Get forms and pubs online at [tax.utah.gov/forms](http://tax.utah.gov/forms).

**Cigarette tax** is paid by buying stamps from the Tax Commission. Only registered and bonded businesses may buy, receive and affix stamps. Cigarette stamps must be affixed to each package within 72 hours of receipt of the package. Any cigarette pack without a Utah stamp is subject to a \$25 penalty and confiscation.

**Tobacco products tax** is due from the first buyer within Utah. A retail store must be registered and bonded if it buys directly from an out-of-Utah source not collecting the tax. Pay the tobacco products tax with form TC-553, due the last day of the month following each calendar quarter.

Consumers buying cigarettes or tobacco products online must pay the sales tax and cigarette or tobacco products tax on form TC-720C.

The sale of cigarettes and/or tobacco products is subject to state and local sales tax. The amount subject to sales tax includes the cigarette tax or the tobacco products tax.

## 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.

The sale of gift cards and gift certificates is 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.

## 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.

## 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.

## 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.

## 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.

## 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.

## 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](mailto: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.

## Trade-in on Manufactured Homes

Utah Code §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

## 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 is located. 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 provide general guidance only. They do not contain all sales or use tax laws or rules. If you need additional information, call 801-297-7705 or 1-800-662-4335, ext. 7705 (outside the Salt Lake area), or email [taxmaster@utah.gov](mailto:taxmaster@utah.gov).

## Forms

The following forms are available at [tax.utah.gov/forms/](http://tax.utah.gov/forms/) or by calling the Tax Commission automated forms order hotline at 801-297-6700 or toll free 1-800-662-4335 ext. 6700.

TC-51	– Nexus Questionnaire
TC-55A	– Claim for Refund of MV Fees or Sales Tax
TC-62S	– Utah Sales and Use Tax Return, Single Place of Business
TC-62M	– Sales and Use Tax Return, Multiple Places of Business
TC-62M Schedule A	– Sales of Non-Food and Prepared Food from Fixed Utah Locations
TC-62M Schedule AG	– Sales of Grocery Food from Fixed Utah Locations
TC-62M Schedule J	– Sales of Non-Food and Prepared Food from Places Other Than Fixed Utah Locations
TC-62M Schedule JG	– Sales of Grocery Food from Places Other Than Fixed Utah Locations
TC-62E	– Municipal Energy Sales and Use Tax
TC-62F	– Restaurant Tax Return
TC-62L	– Motor Vehicle Rental Tax Return
TC-62N	– Sales Tax Refund Request for Religious or Charitable Organizations
TC-62P	– Instructions for Filing Refund Claims for Sales Tax Paid on Pollution Control Facilities
TC-62Q	– Utah Sales Tax Sourcing Schedule
TC-62X	– Sales Exempt from Impacted Communities Taxes
TC-62T	– Transient Room Tax Return
TC-62W	– Waste Tire Recycling Fee Return
TC-69	– Utah State Business and Tax Registration Application
TC-69B	– Additional Business Locations for a Sales Tax Account
TC-73	– Sales Tax Exemption Contract
TC-85	– Agreement for Remitting through Electronic Funds Transfer (EFT)
TC-160	– Application for Sales Tax Exemption for Religious and Charitable Institutions
TC-553	– Tobacco Products Tax Return
TC-719	– Sales Tax Exemption Affidavit for Authorized Interstate Carriers
TC-720	– Order for Cigarette Revenue Stamps, or TAX for Products Imported for Use, Storage or Consumption
TC-721	– Exemption Certificate
TC-721A	– Sales and Use Tax Exemption Affidavit for Exclusive Use Outside Utah

- TC-721G – Exemption Certificate for Governments, Foreign Diplomats & Schools
- TC-721NR – Sales Tax Exemption Certificate for Non-Utah Retailers Accepting Delivery of Merchandise in Utah
- TC-738 – Petition for Redetermination
- TC-757 – Affidavit of Out-of-State Delivery
- TC-762 – Lease/Rental Sales Tax Affidavit

## Sales Tax Publications

The following publications are available at [tax.utah.gov/forms/](http://tax.utah.gov/forms/) or by calling the Tax Commission forms order hot-line at (801) 297-6700 or 1-800-662-4335 ext. 6700.

- 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 38 – Doing Business 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

## Information Online

### Utah State Tax Commission Website [tax.utah.gov](http://tax.utah.gov)

This site has links to:

- Forms and publications
- Current and past sales tax rates
- Internal Revenue Service
- Utah Counties (business license, property tax)
- Multistate Tax Compact
- Other States' Revenue Departments

### State of Utah Website [utah.gov](http://utah.gov)

This site has links to:

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

## Introduction

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

Find general sales and use tax information in Publication 25.

## Delivery Locations

The location where a transaction is completed is the location where a purchaser receives gas or electricity sold by a public utility. This is the customer's residential or business address. The location of the meter is normally the point of sale or use.

The Tax Commission establishes a sales tax account's delivery location outlets according to the information provided by the account holder. These outlets are pre-printed on form TC-62M Schedule A in addition to brick-and-mortar outlets.

Public utilities report sales and use tax on form TC-62M and Schedule A. Each jurisdiction where service is delivered is listed as a delivery location on Schedule A.

## Municipal Energy Sales and Use Tax

A municipality may levy municipal energy sales and use tax of up to 6 percent of the delivered value of taxable energy (gas and electricity) sold or used within its borders. This is in addition to any local-option sales and use taxes the municipality imposes.

The easiest way to file all municipal energy sales and use tax returns, reports and payments is online, using Taxpayer Access Point (TAP), our online account management system. TAP:

- is fast
- is accurate
- calculates for you
- is available 24/7

You will need the following information to set up online access to your accounts:

- Federal Employer Identification Number (FEIN) or Social Security Number (SSN),
- Utah 14-digit account number
- Your PIN

The return and payment are both due at the same time as your *Sales and Use Tax Return*.

Exemptions from sales and use taxes do not apply to the municipal energy sales and use tax. However, municipalities must exempt:

- sales and use of motor fuel, special fuel and aviation fuel subject to motor and special fuel tax;
- sales and use of gas and electricity that the municipality is prohibited from taxing under federal law, the U.S. Constitution or the Utah Constitution;
- gas and electricity brought into Utah by a nonresident for the nonresident's personal use;
- sales or use of gas and electricity for any purpose other than use as a fuel or energy;
- sales or use of gas and electricity to a person if the primary use is for compounding or producing gas and electricity or a fuel subject to the motor and special fuel tax;
- sales of gas and electricity for use outside of the municipality imposing the tax;
- sales and use of gas and electricity purchased or stored in Utah for resale; or,
- sales of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah.

A municipality that generates electricity for customers within its borders may exempt customers who, as of July 1, 1997, were receiving electrical energy from a supplier other than the municipality and whose needs the municipality cannot meet.

The Tax Commission receives and distributes tax revenues for the participating localities, unless the municipality is the energy supplier, or the energy supplier collects at least \$1 million in municipal energy sales and use taxes annually from its Utah customers. In those cases, the energy supplier pays the municipal energy sales and use taxes it collects directly to the municipality and electronically files an annual information return (TC-62ER, *Municipal Energy Sales and Use Tax Report*) with the Tax Commission.



The delivered value is the arm's length sales price of the energy, including any transportation, freight, service or customer demand charges, or other costs incurred in obtaining the energy. The point of delivery of gas and electricity is normally the location of the meter.

A user of natural gas or electricity who has paid municipal energy sales and use tax to a supplier on a portion of the delivered value of the energy (evidenced by a separate charge on the invoice from the supplier) may credit the taxes paid to the supplier against the tax it pays the Tax Commission. The tax is distributed to the municipality that levied the tax.

Taxpayers who pay the municipal energy sales and use tax on a monthly basis qualify for a 1 percent seller discount.

## Energy Suppliers

An energy supplier includes an entity that bills a consumer for costs to transport taxable energy to that consumer. An entity that has Utah nexus and bills an end user for taxable energy transportation costs must include on the billing the municipal energy sales and use tax calculated on the transportation costs.

Some gas consumers buy energy from third-party suppliers, but another entity transports the gas. In such cases the transporter ~~charges~~ does NOT charge municipal energy sales and use tax on the transportation, ~~but not on~~. The consumer must become licensed for municipal energy sales and use tax and report the product. See Administrative Rule R865-19S-103: amount directly to the Tax Commission (form TC-62E).

Anyone who delivers taxable energy to the point of sale or use, but provides only the transportation component of the taxable energy, must report delivery volumes each quarter. Use Schedule TC-62ET to report delivery volumes for each user to whom you provide only the transportation component of the taxable energy's delivered volume.

## Multi-Channel Audio and Video Service

Amounts paid or charged for multi-channel video or audio services provided by a multi-channel video or audio service provider within Utah are taxable at the statewide rate of 6.25 percent. The provider or seller of multi-channel video and audio services must calculate, collect, report and pay the tax to the Tax Commission. Use form TC-62W, *Miscellaneous Sales Taxes, Fees and Charges Return*. Calculate the tax on the base price plus any franchise fee combined into the total service charge.

The return and payment are both due at the same time as your *Sales and Use Tax Return*. You may pay online at [taxexpress.ap.utah.gov](http://taxexpress.ap.utah.gov).

A multi-channel video or audio service provider is defined as any person or group of persons that:

- provides multi-channel video or audio service and directly or indirectly owns a significant interest in the multi-channel video or audio service; or
- otherwise controls or is responsible, through any arrangement, for the management and operation of the multi-channel video or audio service.

A multi-channel video or audio service provider includes the following, except those specifically exempted by state or federal law:

- a cable operator,
- a SMATV operator,
- a CATV provider,
- a direct-to-home satellite service provider,
- a multi-point distribution provider,
- a DBS provider, and
- a MMDS provider.

A multi-channel video or audio service provider may claim a nonrefundable tax credit against the multi-channel video or audio tax imposed on the provider. The credit is in an amount equal to 50 percent of the total amount of county or municipality franchise fees paid by the provider to all counties and municipalities that impose the franchise fee. The credit must be claimed each filing period on the return filed for that period and may not be carried forward or back. The tax credit does not reduce the cost of the service when calculating tax due.

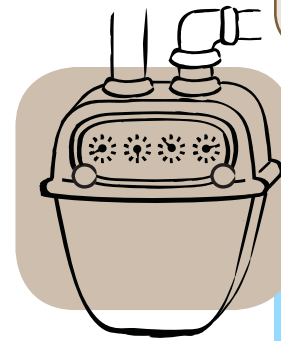
The provider must pass through to its customers the amount of nonrefundable credit claims for a filing period and it must be done in the same period for which the credit is claimed by the provider. The tax rate may not be reduced to compensate for the claimed credit.



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Draft 5/22/18

# Sales Tax Information for Public Utilities



If you need an accommodation under the Americans with Disabilities Act, email [taxada@utah.gov](mailto:taxada@utah.gov), or call 801-297-3811 or TDD 801-297-2020. Please allow three working days for a response.

## Introduction

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- Utah 14-digit account number
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The return and payment are both due at the same time as your *Sales and Use Tax Return*.

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- sales and use of motor fuel, special fuel and aviation fuel subject to motor and special fuel tax;
- sales and use of gas and electricity that the municipality is prohibited from taxing under federal law, the U.S. Constitution or the Utah Constitution;
- gas and electricity brought into Utah by a nonresident for the nonresident's personal use;
- sales or use of gas and electricity for any purpose other than use as a fuel or energy;
- sales or use of gas and electricity to a person if the primary use is for compounding or producing gas and electricity or a fuel subject to the motor and special fuel tax;
- sales of gas and electricity for use outside of the municipality imposing the tax;
- sales and use of gas and electricity purchased or stored in Utah for resale; or,
- sales of electricity produced from a new alternative energy source, as designated in the tariff by the Public Service Commission of Utah.

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- provides multi-channel video or audio service and directly or indirectly owns a significant interest in the multi-channel video or audio service; or
- otherwise controls or is responsible, through any arrangement, for the management and operation of the multi-channel video or audio service.

A multi-channel video or audio service provider includes the following, except those specifically exempted by state or federal law:

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- a SMATV operator,
- a CATV provider,
- a direct-to-home satellite service provider,
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- a DBS provider, and
- a MMDS provider.

A multi-channel video or audio service provider may claim a nonrefundable tax credit against the multi-channel video or audio tax imposed on the provider. The credit is in an amount equal to 50 percent of the total amount of county or municipality franchise fees paid by the provider to all counties and municipalities that impose the franchise fee. The credit must be claimed each filing period on the return filed for that period and may not be carried forward or back. The tax credit does not reduce the cost of the service when calculating tax due.

The provider must pass through to its customers the amount of nonrefundable credit claims for a filing period and it must be done in the same period for which the credit is claimed by the provider. The tax rate may not be reduced to compensate for the claimed credit.

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## General Information

The Utah State Tax Commission administers the cigarette and tobacco tax laws in Utah and ensures all cigarettes, tobacco products and electronic cigarette products are sold by licensed sellers.

~~The Tax Commission works with state and local health departments to prevent cigarette, tobacco and electronic cigarette product sales to minors.~~

The Tax Commission also works with the State Fire Marshal to ensure that cigarettes and tobacco products sold in Utah are fire-safe. Fire Safe Cigarettes (FSC) are designed to stop burning when left unattended.

## Definitions

**Cigarette:** Any roll for smoking made wholly or in part of tobacco, ~~irrespective of no matter the~~ size or shape, ~~and whether or not such the~~ tobacco is flavored, adulterated, or mixed with any other ingredient, ~~the wrapper~~ ~~and wrapped in a~~ cover ~~of which is~~ made of ~~paper or any other substance or material anything~~ except tobacco: ~~(such as paper).~~

**Electronic Cigarette (E-Cigarette):** A device that simulates smoking a cigarette, pipe or cigar, which contains a heating element, battery or electronic circuit that produces a vapor of nicotine or another substance.

**E-Cigarette Substance:** Any substance, including liquid containing nicotine, intended for use in an e-cigarette.

**E-Cigarette Product:** An e-cigarette or an e-cigarette substance.

**Little cigar:** A roll for smoking made wholly or in part of tobacco, that uses an integrated ~~cellulose~~ ~~cellulose~~ acetate or similar filter, and that is wrapped in a substance containing tobacco, but is not exclusively natural leaf tobacco.

**Moist snuff:** Tobacco that:

- is finely cut, ground or powdered,
- has at least 45 percent moisture content, and
- is not meant to be smoked or placed in the nasal cavity.

**Nonparticipating manufacturer (NPM):** A tobacco product manufacturer that is not a participant in the Master Settlement Agreement (MSA) between the State of Utah and the leading U.S. tobacco product manufacturers.

To identify NPM products, see the *Utah Cigarette Directory* at [tax.utah.gov/cigarette/cig-directory.pdf](http://tax.utah.gov/cigarette/cig-directory.pdf). NPM products are highlighted and identified by brand name. Examples of NPM brands are Complete, Kingsboro, Premis, Roger, Traditions and Zig Zag (this list is not all-inclusive).

**Other tobacco products:** Products containing tobacco that do not meet the definitions of “cigarette,” “moist snuff” or “little cigars.” Examples: cigars, roll your own (RYO) tobacco, and pipe tobacco and cigarettes produced from a rolling machine (this list is not all-inclusive).

**Participating manufacturer (PM):** A tobacco product manufacturer that is a participant in the Master Settlement Agreement (MSA) between the State of Utah and the leading U.S. tobacco product manufacturers. Examples of PM brands are: Marlboro, Camel, Lucky Strike, Kent and Liggett Select (this list is not all inclusive).

## Who Can Sell Cigarettes, Tobacco Products and E-Cigarette Products

You must be licensed by the Tax Commission to legally sell cigarettes, tobacco products and e-cigarette products in Utah. We will only issue a license to the person owning or operating a place which sells the products. A person who does not operate a business cannot be licensed. See Utah Code §59-14-202(1).

We will not issue a cigarette/tobacco license until a seller has paid the license fee and posted a bond, if applicable. See Utah Code §59-14-201.

See *Licenses, Fees and Bonds* on page 2.

## Vending Machines

Each cigarette vending machine is ~~considered~~ a separate place of business. **Exception:** When more than one machine operates at a single location, only one of those machines ~~needs to~~must be licensed.

See Rule R865-20T-3(A).

## What is Legal to Sell

Only cigarettes and RYO tobacco listed in the *Utah Cigarette Directory* ([tax.utah.gov/cigarette/cig-directory.pdf](http://tax.utah.gov/cigarette/cig-directory.pdf)) may be legally sold in Utah.

Cigarettes sold in Utah must also be fire-safe (see *figure 1*). The Fire Marshal maintains a list of fire-safe brands online at [firemarshal.utah.gov/cigarette-fire-safety-program/](http://firemarshal.utah.gov/cigarette-fire-safety-program/).

## Collecting Utah Cigarette and Tobacco Taxes

### E-Cigarettes

E-cigarette products are not subject to Utah tobacco taxes unless they contain tobacco, in which case they are taxed as tobacco products.

### Cigarettes

Each pack of cigarettes must be stamped before it is legal for sale in Utah (see *figure 1*). Stamps must be affixed within 72 hours of receipt by wholesalers, distributors or retailers in Utah. Stampers buy stamps from the Tax Commission at the current tax rate.

There is no consumer cigarette tax paid at the time of purchase. Consumers can only buy cigarettes from licensed retailers who have paid tax when buying cigarette stamps. All cigarette packs sold to consumers must be stamped.

See Utah Code §59-14-205(3).

### Tobacco Products

Tobacco product distributors report and pay tobacco tax quarterly on form TC-553, *Tobacco Product Tax Return*. The return is due on or before the last day of the month following each quarterly period (e.g., the April - June return is due July 31).

See Utah Code §59-14-303(1).

## Utah Tax Rates

Utah imposes taxes on the sale, use, storage and distribution of all cigarettes and tobacco products in Utah.

See Utah Code §59-14-204 and §59-14-302.

### Cigarettes

<u>Rate per cigarette</u>	<u>Rate per 20 pack</u>	<u>Rate per 25 pack</u>
8.5 cents	\$1.70	\$2.125

### NPM Cigarettes

NPM cigarettes are subject to an additional equity assessment of 35 cents per pack of 20 (\$2.05 total tax per pack), and 43.75 cents per pack of 25 (\$2.5625 total tax per pack).

### Moist Snuff

The tax rate for moist snuff is \$1.83 ~~cents~~ per ounce.

### Little cigars

~~Effective July 1, 2011, the~~The tax rate for little cigars is 8.5 cents per little cigar.

### **Rolling Machine Cigarettes**

Cigarettes produced by a rolling machine are taxed at the same rate as cigarettes.

### **All Other Tobacco Products**

All other tobacco products are taxed at 86 percent of manufacturer's sales price.

## **Mail, Phone and Internet Purchases**

The sale and purchase of cigarettes, tobacco products and e-cigarette products via the Internet, phone or mail-order is prohibited, except to licensed persons.

Any person who makes such sales to an unlicensed person in Utah is subject to a fine of up to \$5,000 for each sale.

See Utah Code §59-14-509 and §76-10-105.1.

## **Licenses, Fees and Bonds**

You must have an active *Sales and Use Tax License* in good standing to qualify for a *Cigarette/Tobacco License* or an *Electronic Cigarette Products License*.

Apply for these licenses on form TC-69, *Utah State Business and Tax Registration*.

### **Retailers**

Retailers sell products directly to consumers, who buy all products tax-paid. All cigarettes a retailer buys must have the Utah stamp affixed.

A license to sell cigarettes, tobacco products and/or e-cigarette products is owner and location specific. A business must get a new license if its location or ownership changes.

If you have multiple locations you must have a separate license for each location where you sell cigarettes, tobacco products and/or e-cigarette products. We will set the same renewal date for all of your locations.

A location may have either a *Cigarette/Tobacco License* or an *Electronic Cigarette Products License*:

#### **1. Cigarette/Tobacco License**

- a. The location may sell cigarettes, tobacco products and e-cigarette products.

#### **2. Electronic Cigarette Products License**

- a. The location may only sell e-cigarette products.
- b. The location may not sell cigarettes and tobacco products without a *Cigarette/Tobacco License*.

~~The license fee is \$30. No bond is needed. The license is valid for three years unless revoked. A three-year renewal license is \$20. In case of revocation, the reinstatement fee is \$30.~~

### **Cigarette Stampers**

Cigarette stampers buy unstamped product and affix the Utah stamp before selling to a licensed distributor, wholesaler or retailer. Stampers order Utah stamps from the Tax Commission on form TC-79, *Cigarette Revenue Stamp Order Form*.

The license fee is \$30. Cigarette stampers must be bonded. The minimum bond is \$500 and must be paid at the time of application. See Utah Code §59-14-201(3).

Cigarette stampers with accounts in good standing may buy stamps on credit, up to 90 percent of their bond value. These accounts must be paid in full within 60 days after the date the stamps were delivered.

Cigarette stampers report Utah sales of cigarettes and RYO on form TC-553 (with Schedules E and F).

## **Tobacco Products Distributors**



Tobacco products distributors buy tobacco products before the tax has been paid and pay tax on a quarterly basis on form TC-553, *Tobacco Tax Product Return*.

The license fee is \$30. Tobacco product distributors must be bonded. The minimum bond is \$500 (cash or surety), or an amount equal to one quarter of the filing obligation, and must be paid at the time of application. A higher bond amount may be required if the distributor has not faithfully met all obligations to the state or if the account is not in good standing. See Utah Code §59-14-201(3).

Each quarter, distributors must report cigarettes and RYO sold in Utah on form TC-553.

## Manufacturers

Cigarette manufacturers that want to certify cigarettes for sale in Utah must have a valid cigarette license.

Tobacco product manufacturers that will distribute tobacco products directly into Utah must have a valid Utah tobacco distributor license.

E-cigarette product manufacturers do not need a Utah license unless they also sell e-cigarette products in Utah.

## Rolling Machine Operators

Rolling machine operators must:

1. have a Utah tobacco license,
2. certify with the Tax Commission (form TC-550) prior to bringing rolling machines into the state,
3. renew certification each year by December 31, and
4. file form TC-553 quarterly to report and pay taxes on cigarettes produced by rolling machines.

## Keeping a License in Good Standing

~~State and local health departments monitor all retail locations and perform quarterly compliance checks to prevent illegal sales to underage persons. You can learn about the Utah Department of Health Tobacco Prevention and Control Program by calling 1-877-220-3466 or visiting [www.tobaccofreeutah.org](http://www.tobaccofreeutah.org).~~

- ~~• Your license will be suspended for up to 30 days if you are cited for selling to an underage person three times in a 12-month period.~~
- ~~• Your license will be revoked for one year if you are cited for selling to an underage person four times in a 12-month period.~~

The Tax Commission audits for cigarette tax compliance.

- Check packs before stocking to ensure all cigarettes on your shelves have the proper tax stamp visible. Keep invoices for all tobacco products for three years from date of purchase.
- Renew your license prior to expiration. ~~Failure to~~You cannot renew ~~will cause your an expired~~ license to ~~expire. Expired licenses cannot be renewed. You will have to~~ you must apply for a new license.

## Electronic Reporting, Filing, License Renewals and Payments

~~You are encouraged~~We encourage you to file all cigarette and tobacco tax returns, reports and payments online using ~~Tax Express~~, Taxpayer Access Point (TAP), our online account management system. TAP:

- Is fast
- Is accurate
- Calculates for you
- Is available 24/7

You will need the following information to set up online access to your accounts:

- Federal Employer Identification Number (FEIN) or Social Security Number (SSN),

- Utah 14-digit account number
- Your PIN

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## **Table 1: Cigarette, Tobacco and E-Cigarette Products Violation Penalties**

Failure to properly affix and cancel stamps

§59-14-205

§59-14-213

- \$25 for each offense (article, package or container).
- Cigarettes seized without a warrant by the Tax Commission, its employees or any peace officer.
- Confiscated products destroyed.

Each article, package or container is a separate offense.

Counterfeit cigarettes or stamps

§59-14-209

§59-14-211

§59-14-213

- Seizure of counterfeit cigarettes and any personal property used in direct connection with sale or possession for sale of counterfeit cigarettes. Forfeiture of the seized assets.
- Counterfeit goods seized without a warrant by the Tax Commission, its employees or any peace officer.
- Seizure without a warrant of all cigarettes stamped with counterfeit, reused, washed or restored stamps.
- Confiscated products destroyed.
- Various penalties imposed by a court for counterfeit cigarettes.
- 3rd degree felony.
- For each affixed stamp.
- Reuse or cause stamps to be reused; buy, sell, offer washed or restored stamps; use or possess washed or restored stamps; buy, sell, offer for sale or use counterfeit stamp.

Prohibited sales of cigarettes

§59-14-210

§59-14-211

- License suspended or revoked.
- Fine of the greater of 500 ~~percent~~% of retail value of cigarettes or \$5,000.
- Class B misdemeanor.
- Possible imprisonment.
- Each affixed stamp is a separate violation.
- Prohibited sales include products not intended for sale or use in the US, products that do not comply with labeling laws, and products imported unlawfully.
- Does not include duty-free cigarettes.

Failure to report imported cigarettes or provides false or misleading information

§59-14-212

- License suspended or revoked.
- Fine of the greater of 500% of retail value of cigarettes or \$5,000.
- Class B misdemeanor.

MAY be subject to civil penalty.

**Selling contraband goods: no license, no stamp, counterfeit, prohibited, non-reported imported cigarettes, non-reported NPM cigarettes, cigarettes not listed in the *Utah Cigarette Directory*.**

**§59-14-213**

- Contraband seized without a warrant by the Tax Commission, its employees or any peace officer.
- Confiscated products destroyed.

**Internet or mail order sales of tobacco or cigarettes to an unlicensed person**

**§59-14-509**

- Fine of up to \$5,000 per violation.
- Injunction to restrain.
- Recovery of additional costs and fees.
- Profits, gain, gross receipts, or other benefit may be disgorged and paid to the state treasurer.

**Failure to affix NPM Equity Assessment stamp**

**§59-14-205**

**§59-14-214**

- Cigarettes seized without a warrant by the Tax Commission, its employees or any peace officer.
- Confiscated products destroyed.

**Each article, package or container is a separate offense.**

**Selling smokeless tobacco without a warning label**

**§59-14-501**

**§59-14-505**

**§59-14-506**

- Products seized without a warrant by the Tax Commission, its employees or any peace officer.
- Confiscated products destroyed.

**Bringing goods not listed in the *Utah Cigarette Directory* into Utah for use, possession for sale, stamping or selling**

**§59-14-213**

**§59-14-604**

**§59-14-608**

- Stamping agent's license suspended or revoked.
- Fine of the greater of 500 ~~percent~~% of retail value or \$5,000.
- Each affixed stamp is a separate violation.
- Class B misdemeanor.
- Civil penalties and Tax Commission action (see §59-14-608).
- These are contraband cigarettes.

**Failure to place funds in escrow**

**§59-22-203**

If a court finds violation of annual deposit, it may impose a penalty of 5 percent of amount not put into escrow per day of violation, up to 100 percent of amount improperly withheld. If it is a knowing violation, the court may impose 15 to 300 percent. A two-year injunction is added for a second knowing violation.

Each failure to make an annual deposit is a separate violation.

Selling or offering for sale cigarettes that are not marked Fire Safe (FSC)

§53-7-406

- Penalty of \$10,000-\$100,000 ~~penalty~~ against manufacturer.
- Penalty of \$500-\$25,000 against retailer.
- Penalty of \$75,000-\$250,000 for false certification.
- Forfeiture and destruction of cigarettes.

Each violation is a separate offense.

Failure to supply a report of Internet sales as required by Jenkins Act

§375 of US Code Title 15

Chapter 10A

\$1,000 or imprisonment of up to six months.

Selling cigarettes without a license

§59-14-203

§59-14-213

- Seizure, forfeiture and destruction of products.
- Class B misdemeanor.

~~Selling to underage person (under 19 years)~~

~~§26-42-103~~

~~§59-14-203.5~~

- ~~• 1st — penalty of up to \$300.~~

~~Within 12 months of 1st violation:~~

- ~~• 2nd — penalty of up to \$750.~~
- ~~• 3rd — penalty of up to \$1,000 and suspend license up to 30 days.~~
- ~~• 4th — penalty of up to \$1,000 and revoke license for one year.~~
- ~~• Dept. of Health enforces and assesses penalties.~~
- ~~• Tax Commission suspends/revokes accounts.~~

Failure to file quarterly return and supporting schedules

§59-14-407

§59-14-606

§59-14-214

- Class B misdemeanor.
- Subject to revocation or suspension of license.
- Penalty, not to exceed the greater of 500% of retail value of cigarettes or \$5,000.

**Selling e-cigarette products without a license**

**§59-14-803**

- **Class B misdemeanor.**

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## Return Filing Requirements

TC-69

Utah State Business and Tax Registration

X  
X  
X  
X  
X

TC-79

Cigarette Revenue Stamp Order Form

X

TC-553

Tobacco Product Tax Return (quarterly)

X  
X  
X

TC-752

Utah Certificate of Compliance by Tobacco Products Manufacturers (annual)

X

TC-38B

License Renewal for Cigarettes/Tobacco Products and Electronic Cigarette Products (every three years)

X  
X  
X  
X  
X

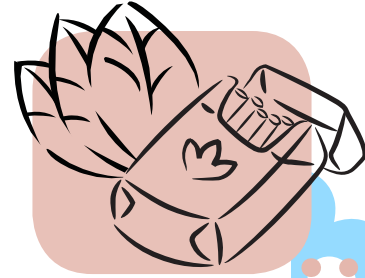
TC-550

Cigarette Rolling Machine Operation Certificate

x

**Draft 5/22/18**

# Tax Information for Cigarettes, Tobacco Products and Electronic Cigarette Products



## Utah State Tax Commission

210 North 1950 West  
Salt Lake City, Utah 84134  
801-297-2200  
1-800-662-4335  
tax.utah.gov

*If you need an accommodation under the Americans with Disabilities Act, email [taxada@utah.gov](mailto:taxada@utah.gov), or call 801-297-3811 or TDD 801-297-2020. Please allow three working days for a response.*

## General Information

The Utah State Tax Commission administers the cigarette and tobacco tax laws in Utah and ensures all cigarettes, tobacco products and electronic cigarette products are sold by licensed sellers.

The Tax Commission also works with the State Fire Marshal to ensure that cigarettes and tobacco products sold in Utah are fire-safe. Fire Safe Cigarettes (FSC) are designed to stop burning when left unattended.

## Definitions

**Cigarette:** Any roll for smoking made wholly or in part of tobacco, no matter the size or shape, whether the tobacco is flavored, adulterated, or mixed with any other ingredient, and wrapped in a cover made of anything except tobacco (such as paper).

**Electronic Cigarette (E-Cigarette):** A device that simulates smoking a cigarette, pipe or cigar, which contains a heating element, battery or electronic circuit that produces a vapor of nicotine or another substance.

**E-Cigarette Substance:** Any substance, including liquid containing nicotine, intended for use in an e-cigarette.

**E-Cigarette Product:** An e-cigarette or an e-cigarette substance.

**Little cigar:** A roll for smoking made wholly or in part of tobacco, that uses an integrated cellulose acetate or similar filter, and that is wrapped in a substance containing tobacco, but is not exclusively natural leaf tobacco.

**Moist snuff:** Tobacco that:

- is finely cut, ground or powdered,
- has at least 45 percent moisture content, and
- is not meant to be smoked or placed in the nasal cavity.

**Nonparticipating manufacturer (NPM):** A tobacco product manufacturer that is not a participant in the Master Settlement Agreement (MSA) between the State of Utah and the leading U.S. tobacco product manufacturers.

To identify NPM products, see the *Utah Cigarette Directory* at [tax.utah.gov/cigarette/cig-directory.pdf](http://tax.utah.gov/cigarette/cig-directory.pdf). NPM products are highlighted and identified by brand name. Examples of NPM brands are Complete, Kingsboro, Premis, Roger, Traditions and Zig Zag (this list is not all-inclusive).

**Other tobacco products:** Products containing tobacco that do not meet the definitions of "cigarette," "moist snuff" or "little cigars." Examples: cigars, roll your own (RYO) tobacco, and pipe tobacco and cigarettes produced from a rolling machine (this list is not all-inclusive).

**Participating manufacturer (PM):** A tobacco product manufacturer that is a participant in the MSA between the State of Utah and the leading U.S. tobacco product manufacturers. Examples of PM brands are: Marlboro, Camel, Lucky Strike, Kent and Liggett Select (this list is not all inclusive).

## Who Can Sell Cigarettes, Tobacco Products and E-Cigarette Products

You must be licensed by the Tax Commission to legally sell cigarettes, tobacco products and e-cigarette products in Utah. We will only issue a license to the person owning or operating a place which sells the products. A person who does not operate a business cannot be licensed. See Utah Code §59-14-202(1).

We will not issue a cigarette/tobacco license until a seller has paid the license fee and posted a bond, if applicable. See Utah Code §59-14-201.

See *Licenses, Fees and Bonds* on page 2.



Figure 1:  
Markings on legal  
packs of cigarettes

## Vending Machines

Each cigarette vending machine is a separate place of business. **Exception:** When more than one machine operates at a single location, only one of those machines must be licensed.

See Rule R865-20T-3(A).

## What is Legal to Sell

Only cigarettes and RYO tobacco listed in the *Utah Cigarette Directory* ([tax.utah.gov/cigarette/cig-directory.pdf](http://tax.utah.gov/cigarette/cig-directory.pdf)) may be legally sold in Utah.

Cigarettes sold in Utah must also be fire-safe (see figure 1). The Fire Marshal maintains a list of fire-safe brands online at [firemarshal.utah.gov/cigarette-fire-safety-program/](http://firemarshal.utah.gov/cigarette-fire-safety-program/).

## Collecting Utah Cigarette and Tobacco Taxes

### E-Cigarettes

E-cigarette products are not subject to Utah tobacco taxes unless they contain tobacco, in which case they are taxed as tobacco products.

### Cigarettes

Each pack of cigarettes must be stamped before it is legal for sale in Utah (see figure 1). Stamps must be affixed within 72 hours of receipt by wholesalers, distributors or retailers in Utah. Stampers buy stamps from the Tax Commission at the current tax rate.

There is no consumer cigarette tax paid at the time of purchase. Consumers can only buy cigarettes from licensed retailers who have paid tax when buying cigarette stamps. All cigarette packs sold to consumers must be stamped.

See Utah Code §59-14-205(3).

### Tobacco Products

Tobacco product distributors report and pay tobacco tax quarterly on form TC-553, *Tobacco Product Tax Return*. The return is due on or before the last day of the month following each quarterly period (e.g., the April - June return is due July 31).

See Utah Code §59-14-303(1).

## Utah Tax Rates

Utah imposes taxes on the sale, use, storage and distribution of all cigarettes and tobacco products in Utah.

See Utah Code §59-14-204 and §59-14-302.

### Cigarettes

Rate per cigarette	Rate per 20 pack	Rate per 25 pack
8.5 cents	\$1.70	\$2.125

### NPM Cigarettes

NPM cigarettes are subject to an additional equity assessment of 35 cents per pack of 20 (\$2.05 total tax per pack), and 43.75 cents per pack of 25 (\$2.5625 total tax per pack).

### Moist Snuff

The tax rate for moist snuff is \$1.83 per ounce.

### Little cigars

The tax rate for little cigars is 8.5 cents per little cigar.

### Rolling Machine Cigarettes

Cigarettes produced by a rolling machine are taxed at the same rate as cigarettes.

### All Other Tobacco Products

All other tobacco products are taxed at 86 percent of manufacturer's sales price.

## Mail, Phone and Internet Purchases

The sale and purchase of cigarettes, tobacco products and e-cigarette products via the Internet, phone or mail-order is prohibited, except to licensed persons.

Any person who makes such sales to an unlicensed person in Utah is subject to a fine of up to \$5,000 for each sale.

See Utah Code §59-14-509 and §76-10-105.1.

## Licenses, Fees and Bonds

You must have an active *Sales and Use Tax License* in good standing to qualify for a *Cigarette/Tobacco License* or an *Electronic Cigarette Products License*.

Apply for these licenses on form TC-69, *Utah State Business and Tax Registration*.

### Retailers

Retailers sell products directly to consumers, who buy all products tax-paid. All cigarettes a retailer buys must have the Utah stamp affixed.

A license to sell cigarettes, tobacco products and/or e-cigarette products is owner and location specific. A business must get a new license if its location or ownership changes.

If you have multiple locations you must have a separate license for each location where you sell cigarettes, tobacco products and/or e-cigarette products. We will set the same renewal date for all of your locations.

A location may have either a *Cigarette/Tobacco License* or an *Electronic Cigarette Products License*:

#### 1. Cigarette/Tobacco License

- The location may sell cigarettes, tobacco products and e-cigarette products.

#### 2. Electronic Cigarette Products License

- The location may only sell e-cigarette products.
- The location may not sell cigarettes and tobacco products without a *Cigarette/Tobacco License*.

No bond is needed. The license is valid for three years unless revoked.

## Cigarette Stampers

Cigarette stampers buy unstamped product and affix the Utah stamp before selling to a licensed distributor, wholesaler or retailer. Stampers order Utah stamps from the Tax Commission on form TC-79, *Cigarette Revenue Stamp Order Form*.

The license fee is \$30. Cigarette stampers must be bonded. The minimum bond is \$500 and must be paid at the time of application. See Utah Code §59-14-201(3).

Cigarette stampers with accounts in good standing may buy stamps on credit, up to 90 percent of their bond value. These accounts must be paid in full within 60 days after the date the stamps were delivered.

Cigarette stampers report Utah sales of cigarettes and RYO on form TC-553 (with Schedules E and F).

## Tobacco Products Distributors

Tobacco products distributors buy tobacco products before the tax has been paid and pay tax on a quarterly basis on form TC-553, *Tobacco Tax Product Return*.

The license fee is \$30. Tobacco product distributors must be bonded. The minimum bond is \$500 (cash or surety), or an amount equal to one quarter of the filing obligation, and must be paid at the time of application. A higher bond amount may be required if the distributor has not faithfully met all obligations to the state or if the account is not in good standing. See Utah Code §59-14-201(3).

Each quarter, distributors must report cigarettes and RYO sold in Utah on form TC-553.

## Manufacturers

Cigarette manufacturers that want to certify cigarettes for sale in Utah must have a valid cigarette license.

Tobacco product manufacturers that will distribute tobacco products directly into Utah must have a valid Utah tobacco distributor license.

E-cigarette product manufacturers do not need a Utah license unless they also sell e-cigarette products in Utah.

## Rolling Machine Operators

Rolling machine operators must:

1. have a Utah tobacco license,
2. certify with the Tax Commission (form TC-550) prior to bringing rolling machines into the state,
3. renew certification each year by December 31, and
4. file form TC-553 quarterly to report and pay taxes on cigarettes produced by rolling machines.

## Keeping a License in Good Standing

The Tax Commission audits for cigarette tax compliance.

- Check packs before stocking to ensure all cigarettes on your shelves have the proper tax stamp visible. Keep invoices for all tobacco products for three years from date of purchase.
- Renew your license prior to expiration. You cannot renew an expired license - you must apply for a new license.

## Electronic Reporting, Filing, License Renewals and Payments

We encourage you to file all cigarette and tobacco tax returns, reports and payments online using Taxpayer Access Point (TAP), our online account management system. TAP:

- Is fast
- Is accurate
- Calculates for you
- Is available 24/7

You will need the following information to set up online access to your accounts:

- Federal Employer Identification Number (FEIN) or Social Security Number (SSN),
- Utah 14-digit account number
- Your PIN

**Table 1: Cigarette, Tobacco and E-Cigarette Products Violation Penalties**

Violation	Statute	Penalty	Notes
Failure to properly affix and cancel stamps	§59-14-205 §59-14-213	<ul style="list-style-type: none"> <li>• \$25 for each offense (article, package or container).</li> <li>• Cigarettes seized without a warrant by the Tax Commission, its employees or any peace officer.</li> <li>• Confiscated products destroyed.</li> </ul>	Each article, package or container is a separate offense.
Counterfeit cigarettes or stamps	§59-14-209 §59-14-211 §59-14-213	<ul style="list-style-type: none"> <li>• Seizure of counterfeit cigarettes and any personal property used in direct connection with sale or possession for sale of counterfeit cigarettes. Forfeiture of the seized assets.</li> <li>• Counterfeit goods seized without a warrant by the Tax Commission, its employees or any peace officer.</li> <li>• Seizure without a warrant of all cigarettes stamped with counterfeit, reused, washed or restored stamps.</li> <li>• Confiscated products destroyed.</li> <li>• Various penalties imposed by a court for counterfeit cigarettes.</li> <li>• 3rd degree felony.</li> </ul>	<ul style="list-style-type: none"> <li>• For each affixed stamp.</li> <li>• Reuse or cause stamps to be reused; buy, sell, offer washed or restored stamps; use or possess washed or restored stamps; buy, sell, offer for sale or use counterfeit stamp.</li> </ul>
Prohibited sales of cigarettes	§59-14-210 §59-14-211	<ul style="list-style-type: none"> <li>• License suspended or revoked.</li> <li>• Fine of the greater of 500% of retail value of cigarettes or \$5,000.</li> <li>• Class B misdemeanor.</li> <li>• Possible imprisonment.</li> </ul>	<ul style="list-style-type: none"> <li>• Each affixed stamp is a separate violation.</li> <li>• Prohibited sales include products not intended for sale or use in the US, products that do not comply with labeling laws, and products imported unlawfully.</li> <li>• Does not include duty-free cigarettes.</li> </ul>
Failure to report imported cigarettes or provides false or misleading information	§59-14-212	<ul style="list-style-type: none"> <li>• License suspended or revoked.</li> <li>• Fine of the greater of 500% of retail value of cigarettes or \$5,000.</li> <li>• Class B misdemeanor.</li> </ul>	MAY be subject to civil penalty.
Selling contraband goods: no license, no stamp, counterfeit, prohibited, non-reported imported cigarettes, non-reported NPM cigarettes, cigarettes not listed in the <i>Utah Cigarette Directory</i> .	§59-14-213	<ul style="list-style-type: none"> <li>• Contraband seized without a warrant by the Tax Commission, its employees or any peace officer.</li> <li>• Confiscated products destroyed.</li> </ul>	
Internet or mail order sales of tobacco or cigarettes to an unlicensed person	§59-14-509	<ul style="list-style-type: none"> <li>• Fine of up to \$5,000 per violation.</li> <li>• Injunction to restrain.</li> <li>• Recovery of additional costs and fees.</li> <li>• Profits, gain, gross receipts, or other benefit may be disgorged and paid to the state treasurer.</li> </ul>	



Violation	Statute	Penalty	Notes
Failure to affix NPM Equity Assessment stamp	§59-14-205 §59-14-214	<ul style="list-style-type: none"> <li>Cigarettes seized without a warrant by the Tax Commission, its employees or any peace officer.</li> <li>Confiscated products destroyed.</li> </ul>	Each article, package or container is a separate offense.
Selling smokeless tobacco without a warning label	§59-14-501 §59-14-505 §59-14-506	<ul style="list-style-type: none"> <li>Products seized without a warrant by the Tax Commission, its employees or any peace officer.</li> <li>Confiscated products destroyed.</li> </ul>	
Bringing goods not listed in the <i>Utah Cigarette Directory</i> into Utah for use, possession for sale, stamping or selling	§59-14-213 §59-14-604 §59-14-608	<ul style="list-style-type: none"> <li>Stamping agent's license suspended or revoked.</li> <li>Fine of the greater of 500% of retail value or \$5,000.</li> <li>Each affixed stamp is a separate violation.</li> <li>Class B misdemeanor.</li> </ul>	<ul style="list-style-type: none"> <li>Civil penalties and Tax Commission action (see §59-14-608).</li> <li>These are contraband cigarettes.</li> </ul>
Failure to place funds in escrow	§59-22-203	If a court finds violation of annual deposit, it may impose a penalty of 5 percent of amount not put into escrow per day of violation, up to 100 percent of amount improperly withheld. If it is a knowing violation, the court may impose 15 to 300 percent. A two-year injunction is added for a second knowing violation.	Each failure to make an annual deposit is a separate violation.
Selling or offering for sale cigarettes that are not marked Fire Safe (FSC)	§53-7-406	<ul style="list-style-type: none"> <li>Penalty of \$10,000-\$100,000 against manufacturer.</li> <li>Penalty of \$500-\$25,000 against retailer.</li> <li>Penalty of \$75,000-\$250,000 for false certification.</li> <li>Forfeiture and destruction of cigarettes.</li> </ul>	Each violation is a separate offense.
Failure to supply a report of Internet sales as required by Jenkins Act	§375 of US Code Title 15 Chapter 10A	\$1,000 or imprisonment of up to six months.	
Selling cigarettes without a license	§59-14-203 §59-14-213	<ul style="list-style-type: none"> <li>Seizure, forfeiture and destruction of products.</li> <li>Class B misdemeanor.</li> </ul>	
Failure to file quarterly return and supporting schedules	§59-14-407 §59-14-606 §59-14-214	<ul style="list-style-type: none"> <li>Class B misdemeanor.</li> <li>Subject to revocation or suspension of license.</li> <li>Penalty, not to exceed the greater of 500% of retail value of cigarettes or \$5,000.</li> </ul>	
Selling e-cigarette products without a license	§59-14-803	<ul style="list-style-type: none"> <li>Class B misdemeanor.</li> </ul>	

## Return Filing Requirements

Return	Retailer	Stamper (cigarette only)	Distributor (tobacco only)	Manufacturer (cigarette or RYO)	Rolling Machine Operator
TC-69 Utah State Business and Tax Registration	X	X	X	X	X
TC-79 Cigarette Revenue Stamp Order Form		X			
TC-553 Tobacco Product Tax Return (quarterly)		X	X		X
TC-752 Utah Certificate of Compli- ance by Tobacco Products Manufacturers (annual)				X	
TC-38B License Renewal for Ciga- rettes/Tobacco Products and Electronic Cigarette Products (every three years)	X	X	X	X	X
TC-550 Cigarette Rolling Machine Operation Certificate					X

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