

# 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

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

## Starting a New Business

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

## Buying a Business — Liability

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

If taxes are still due 30 days after you purchase the business, you will be personally liable for the former owner's unpaid sales taxes. See 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*. You can apply for a license online at [tap.utah.gov](http://tap.utah.gov) (Tax Commission only) or [osbr.utah.gov](http://osbr.utah.gov) (multiple Utah agencies), or by submitting form TC-69, *Utah State Business and Tax Registration* (Tax Commission only). Sales tax licenses are not transferable.

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

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

## Nexus Filers

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

You have a physical presence in Utah if you:

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

You have an economic presence in Utah if, during the year or the prior year, you:

1. have more than \$100,000 of sales in Utah; or
2. have more than 200 sales 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 related seller's place of business or one of its in-state employees is used to advertise, promote or assist sales by the seller.

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

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

## Voluntary Sellers

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

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

## How to Add 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.

### Marketplace

A physical or electronic place, platform or forum where products (tangible personal property, products transferred electronically or services) are offered for sale. Examples include booths, websites, catalogs and dedicated sales software applications.

### Marketplace Facilitator

A person or an affiliate who is paid by sellers to facilitate sales of the seller's products (tangible personal property, products transferred electronically or services) through a marketplace the person or affiliate owns. A marketplace facilitator does not include a person who only provides payment processing services.

Marketplace facilitators are considered the seller of goods and services they facilitate and must charge and pay sales tax, file returns and respond to audits.

### Marketplace Seller

A seller that sells products through a marketplace, regardless of whether the seller is licensed in Utah.

### 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
4.85%
The state sales tax rate for grocery food is 1.75 percent. These transactions are also subject to local option and county option and results in a total combined rate on grocery food of 3 percent throughout Utah.
The state sales tax rate for residential fuel is 2 percent which results in a combined rate 2.85 percent less throughout Utah.
Local Option
County, city or town
1.00%
None
County Option
County
0.25%
None
Resort Communities
City or town
Up to 1.60%

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

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

Public Transit

County, city or town

Up to 0.30%

Grocery food sales

Public Transit, Airport Facility or State Highway Projects

County, city or town

0.25%

Grocery food sales

Highways

City or town                      Up to 0.30%

Grocery food sales

Recreational Facilities and Botanical, Cultural and Zoological Organizations

County, city or town

0.10%

Grocery food sales

Town Option

Town

Up to 1.00%

Grocery food sales

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

Grocery food sales

Mass Transit Fixed Guideway

County

Up to 0.30%

Grocery food sales

County Option Transportation

County

Up to 0.25%

Grocery food sales

State Correctional Facility Sales and Use Tax

City or town

Up to 0.50%

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

Supplemental State Sales and Use

State

Up to 0.05%

Grocery food sales

County of the Second Class Airport, Highway and Public Transit

County, city or town

Up to 0.25%



Grocery food sales  
County Option Highways and Public Transit  
County, [city or town](#)  
0.25%  
Grocery food sales

**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
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

\$0.0925 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**

**3.37% 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.
- 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, repair or replacement parts or materials (except office equipment and supplies) used or consumed:
  - by a qualified manufacturing facility or scrap recycler to produce an item sold as tangible personal property.
  - used in a Utah mining production process or research and development, by a business described in NAICS 212, Mining (except Oil and Gas) or NAICS 213113, Support Activities for Coal Mining.
  - by a qualified web search portal facility or medical laboratory for the operation of the establishment.
- Purchases or leases of machinery, equipment and normal operating repair or replacement parts, with an economic life of three or more years, used in Utah to perform qualified research.
- Purchases of construction materials used to construct a new or expanding life science research and development facility in Utah. The facility must be owned, leased or rented by a life science establishment, and research and development must take place in at least 51 percent of the total area of the facility. The construction materials must be clearly identified, segregated and installed or converted to real property. Life science establishments are described in NAICS 33911, 334510 and 334517.
- 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*.

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**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](https://tax.utah.gov/forms)**.

### Online Sales Tax Return

You may file your *Sales and Use Tax Returns* and schedules online at **[tap.utah.gov](https://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 all other sellers, including those with multiple Utah business locations, no Utah location, or no fixed place of business. Sellers file TC-62M if they need to report:

- vending machine sales with multiple inventory locations,

- sales in Utah from a non-fixed place of business,
- sales exempt from the resort tax in a resort community,
- sales exempt from the state correctional facility tax in Salt Lake City,
- sales of tangible personal property or products transferred electronically that are sent into Utah by sellers outside of Utah.

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

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

## Seller Discount

Monthly sales tax filers may take a seller discount equal to 1.31 percent of the combined sales tax. Monthly tourism tax filers may take a seller discount equal to 1 percent of the tourism short-term leasing tax adopted by the county. Sellers of grocery food may take the seller discount of 1.31 percent as if they had collected tax at the full combined rate. Quarterly 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**. 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**.

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**.

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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**.

## Interest

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

## Overpayments and Refunds

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

### Purchaser Refunds

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

### Use Tax and Bad Debts

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

You must explain the legal basis for your refund. If amending 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.

## Marketplace Facilitators and Sellers

[See Definitions, above.](#)

[Marketplace facilitators that have Utah nexus for their facilitated sales must have a Utah sales tax license and collect, report and pay sales tax on facilitated sales.](#)

[A marketplace facilitator can have nexus on its own direct sales, on sales it facilitates, or both. Therefore, facilitators must determine nexus separately for their direct sales and their facilitated sales.](#)

[Marketplace sellers do not need to have a Utah sales tax license for facilitated sales unless they have Utah nexus. A marketplace seller with a Utah sales tax license must file sales tax returns but does not report sales made through a marketplace. Marketplace sellers are not liable for taxes a facilitator is required to collect.](#)

[A buyer who is charged incorrect sales tax by a marketplace facilitator must seek a refund from the marketplace facilitator.](#)

## 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 [inventory](#) is ~~located~~[warehoused](#). For example:

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



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

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

## Videos and DVDs

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

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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 additionalFor more](#) information, call 801-297-7705 or 1-800-662-4335, ext. ~~7705 (outside the Salt Lake area),7705~~, 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 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 explains how the Utah State Tax Commission assesses penalties and interest.

See Utah Code §§59-1-401 and 402 for more information.

### Exceptions

The following taxes and fees are not subject to the penalty and interest calculations explained in this publication:

- **Title 41, Chapter 1a – Motor Vehicle Act** (except for §41-1a-301 dealing with fees related to the apportioned registration and licensing of interstate commercial vehicles);
- **Title 41, Chapter 3 – Motor Vehicle Business Regulation;**
- **Title 59, Chapter 2 – Property Tax Act** (except for §59-2-1309 dealing with fees related to the redemption of certain centrally assessed property seized by the Commission);
- **Title 59, Chapter 3 – Tax Equivalent Property Act;** and
- **Title 59, Chapter 4 – Privilege Tax.**

## Interest

Unless otherwise provided by law, the basis of the interest rate for a calendar year is the federal short-term rate (see Internal Revenue Code 6621) for the fourth quarter of the preceding year.

The calendar year simple interest rate for taxes and fees administered by the Tax Commission is two percentage points above the federal short-term rate. We use this rate to calculate interest for overpayments, refunds, underpayments, deficiencies and delinquencies.

You can use our online Penalty and Interest Calculator to compute penalty and interest due on current-year individual income tax returns. See the calculator at [tax.utah.gov/billing/penalties-interest](http://tax.utah.gov/billing/penalties-interest).

### Interest Rates

The interest rates on taxes and fees are:

<u>Period</u>	<u>Percentage Rate</u>
Jan. 1, 2019 – Dec. 31, 2019.....	4%
Jan. 1, 2017 – Dec. 31, 2018.....	3%
Jan. 1, 2012 – Dec. 31, 2016.....	2%
Jan. 1, 2010 – Dec. 31, 2011.....	3%
Jan. 1, 2009 – Dec. 31, 2009.....	5%
Jan. 1, 2007 – Dec. 31, 2008.....	7%
Jan. 1, 2006 – Dec. 31, 2006.....	6%
Jan. 1, 2005 – Dec. 31, 2005.....	4%
Jan. 1, 2004 – Dec. 31, 2004.....	3%
Jan. 1, 2003 – Dec. 31, 2003.....	5%
Jan. 1, 2002 – Dec. 31, 2002.....	6%
Jan. 1, 2001 – Dec. 31, 2001.....	8%
Jan. 1, 1999 – Dec. 31, 2000.....	7%
Jan. 1, 1995 – Dec. 31, 1998.....	8%
Oct. 12, 1993 – Dec. 31, 1994.....	6%
Prior to Oct. 12, 1993 .....	12%

~~**IFTA:** The interest rate for late payments on IFTA accounts is set by rules and regulations of the International Fuel Tax Agreement. The current interest rate for late payments is 12 percent annually, or one percent per month.~~

## Overpayments

Generally, we will not pay interest on an overpayment of a tax, fee or charge if we refund it within 90 days after the later of:

- the date the return is due,
- the date the return is filed, or
- the date of the overpayment.

We will calculate interest starting on the 91st day from the later of the dates listed above.

If the overpayment is for an electronically filed individual, corporation or partnership return, we will not pay interest if we refund it within 45 days after the later of the above dates. We will calculate interest starting on the 46th day.

## Amended Returns

If an amended return results in an overpayment, interest will accrue until the date we receive the amended return or request, beginning on the later of:

- the date the original return was filed, or
- the due date (not including any extensions) for filing the original return.

If we do not refund the overpayment within 90 days after the date we receive the amended return, interest will resume starting on the 91st day after we receive the amended return until the date we issue the refund.

If the overpayment is for an electronically filed amended individual, corporation or partnership return, interest will not be allowed if we refund the overpayment within 45 days after we receive the amended return. Interest will resume starting on the 46th day after we receive the amended return.

Interest will stop accruing on a Utah amended return overpayment that results from an IRS change or correction if you do not file it within 90 days after the conclusion of the audit (see Utah Code §59-10-529(12)(b)).

Interest will not be paid on refunds arising from a judicial decision that declares a statute to be invalid or unconstitutional under federal or Utah state law.

## Underpayments

Interest is assessed on any underpayment, deficiency, or delinquency of taxes and fees administered by the Tax Commission from the date the original return was due to the date we receive the full payment.

## Application of Payment

We apply delinquent tax payments in the following order:

1. Collection fees (if applicable, unless otherwise required by law)
2. Outstanding penalties
3. Accrued interest
4. Outstanding tax due for the period in question

If you have outstanding liabilities for more than one tax period, we will apply a payment to the oldest period first, unless you request otherwise.

See Tax Commission Rule R861-1A-18.

## Calculation Guidelines

If an underpayment or overpayment spans more than one interest-rate period, interest is calculated based on the rate in effect for each interest-rate period. Interest for each interest-rate period is calculated for the number of days in the period, divided by 365. The calculation is rounded to two decimal places.

### Interest Calculation Formula

$(\text{underpayment}) \times (\text{interest rate}) \times (\text{number of days}) / 365$

**Example:** Interest on a tax return due Sept. 30, 2011 and paid on Feb. 15, 2014 with a tax-due balance of \$1,500 would be:

<u>Period</u>	<u>Days</u>	<u>Rate</u>	<u>Interest</u>
09/30/2011 – 12/31/2011 <i>(\$1,500 x .03 x 92/365)</i>	92	3%	\$11.34
01/01/2012 – 02/15/2014 <i>(\$1,500 x .02 x 776/365)</i>	776	2%	\$63.78
<b>Total interest due</b>			<b>\$75.12</b>

## Penalties

Utah Code §59-1-401 provides penalties for failure to:

1. file tax returns (late filing penalty),
2. pay tax due on returns and audit assessments (late payment penalty), and
3. file information returns or supporting schedules.

Some tax types are subject to additional penalties. See [tax.utah.gov/utah-taxes](http://tax.utah.gov/utah-taxes) for more information.

**Note:** IFTA is subject to all the late filing and late payment penalties listed below, but the penalty is the greater of \$50 or 10 percent and does not increase with the number of days late.

### Late Filing Penalty

We may assess a late filing penalty for returns either not filed or filed after the due date (with extension, if applicable).

The penalty does not apply to amended returns.

The penalty amount increases based on the number of days late:

<u>Days Late</u>	<u>Penalty</u>
1-5	Greater of \$20 or 2% of unpaid tax, fee or charge
6-15	Greater of \$20 or 5% of unpaid tax, fee or charge
16 or more	Greater of \$20 or 10% of unpaid tax, fee or charge

Any return required to be filed electronically is subject to the late filing penalty if filed on paper.

**Also see *Employer Withholding Reconciliation Penalty*, below.**

### Late Payment Penalty

We may assess a late payment penalty for payments you make after the due date.

The penalty does not apply for a return with no tax due.

To avoid a late payment penalty you must pay all tax due before the return due date, or pay all tax, interest and penalties:

1. within 90 days of the due date with a late filed return,
2. on the same day an amended return is filed, or
3. within 30 days of an audit assessment. See number 5 under *Penalty Detail*, below.

## Penalty Detail

The late payment penalties are as follows:

**1. Return filed by due date but underpaid; or extension return filed but tax underpaid on original due date:**

<u>Days Late</u>	<u>Penalty</u>
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1-5	Greater of \$20 or 2% of unpaid tax, fee or charge
6-15	Greater of \$20 or 5% of unpaid tax, fee or charge
16 or more	Greater of \$20 or 10% of unpaid tax, fee or charge

**2. Return filed after due date and not paid in full within 90 days of due date:**

<u>Days Late</u>	<u>Penalty</u>
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91-95	Greater of \$20 or 2% of unpaid tax, fee or charge
96-105	Greater of \$20 or 5% of unpaid tax, fee or charge
106 or more	Greater of \$20 or 10% of unpaid tax, fee or charge

**3. Failure to pay when return not filed:**

<u>Penalty</u>
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Greater of \$20 or 10% of unpaid tax, fee or charge

**4. Amended return filed after original return due date (with extension) and not paid in full with amended return:**

<u>Days Late</u>	<u>Penalty</u>
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1-5*	Greater of \$20 or 2% of unpaid tax, fee or charge
6-15*	Greater of \$20 or 5% of unpaid tax, fee or charge
16 or more*	Greater of \$20 or 10% of unpaid tax, fee or charge

\* days late after original due date

**5. Audit deficiency not paid in full within 30 days of deficiency notice, final commission order of final judicial order:**

<u>Days Late</u>	<u>Penalty</u>
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31-35	Greater of \$20 or 2% of unpaid tax, fee or charge
36-45	Greater of \$20 or 5% of unpaid tax, fee or charge
46 or more	Greater of \$20 or 10% of unpaid tax, fee or charge

## Insufficient Prepayment (Extension Penalty)

Individuals, fiduciaries and corporations have an automatic six-month extension to file a tax return. Partnerships have an automatic five-month extension to file a return. These extensions do NOT apply to the payment of tax due on a return. Payments are due in full on the original due date of the return.

Your total prepayments (withholding, payments applied from previous year refunds, nonrefundable credit carryovers, other nonrefundable and refundable credits, and prepayments previously made) must equal either:

- 90 percent of the current year's tax liability, or
- 100 percent of the previous year's tax liability.

We will assess a penalty for **insufficient prepayment** if your prepayments do not meet the above criteria. The penalty is 2 percent per month, calculated on a daily basis, until the date the return is filed or the extension expires.

**The formula for calculating the penalty for an individual, fiduciary or corporation is:**

$(\text{underpayment}) \times .24^* \times (\text{number of days outstanding}) / 365$

\* 2 percent rate per month up to a maximum of six months, or 12 percent (annual 24 percent)

**The formula for calculating the penalty for a partnership is:**

$(\text{underpayment}) \times .24^* \times (\text{number of days outstanding}) / 365$

\* 2 percent rate per month up to a maximum of five months, or 10 percent (annual 24 percent)

Also note:

- The extension to file does not cancel the requirement to pay by the due date. We will assess the late payment penalty and interest on any unpaid tax from the original due date of the return, not including the extension period, until the date the tax is paid.
- If you use an extension to file, pay any extension penalty and interest due with the return.
- You do not need to prepay an individual or fiduciary income tax return if you filed a return the previous year and the tax was zero. If you did NOT file a return the previous year, you must prepay 90 percent of the current year's tax liability.
- Corporations subject to the minimum tax must pay the required \$100 minimum tax (per corporation in a combined group) even if there was no previous year return.
- If you do not file a return by the extension due date, failure to pay AND failure to file penalties will apply, as if the extension had not been granted. The insufficient prepayment penalty will then not apply.

## Underpayment Penalties

Certain entities (see below) must make quarterly tax prepayments. **Failure to make sufficient quarterly prepayments may result in an underpayment penalty.**

The penalty rate for insufficient quarterly prepayments is the interest rate provided in Utah Code §59-1-402 plus 4 percent for the length of the underpayment. The penalty is calculated against the amount underpaid for a quarter, multiplied for the number of days underpaid in that quarter and divided by 365.

Because payments are first applied to any previous underpayments, a full current-quarter payment could still result in an underpayment penalty if past underpayments for the year remain unresolved.

### Corporation Tax Quarterly Payments

A corporation must make quarterly estimated tax payments if either its current or previous tax year's tax liability was \$3,000 or more. This rule also applies to parent corporations filing combined reports when the total tax due is \$3,000 or more for all corporations in the combined report (including those paying only the minimum tax).

A corporation does not need to make estimated tax payments the first year it files in Utah if it pays the minimum tax on or before the due date (without extensions).

Quarterly estimated payments are due on the 15th day of the 4th, 6th, 9th and 12th months of the corporation's taxable year. The prepayments must total the lesser of 90 percent of the current year's tax liability or 100 percent of the prior year's tax liability.

Unless a corporation qualifies for federal annualized or seasonal installments, quarterly estimated tax is due in four equal payments.

See the TC-20, corporation tax return booklet for more information.

### Insurance Tax Quarterly Payments

Admitted insurers and self insurers must make quarterly prepayments if their prior year's tax was more than \$10,000.

Prepayments must be at least the lesser of 27 percent of the prior year's tax or the current year's estimated quarterly premiums.

Prepayments are due on the last day of April, July and October. The final payment is due March 31 with the return.

### **Oil, Gas and Mining Severance Tax Quarterly Payments**

Companies subject to the oil and gas severance tax or the mining severance tax must make estimated tax payments if their tax liability for the current year is \$3,000 or more.

Quarterly estimated tax payments are based on the estimated gross value the taxpayer receives during the quarter preceding the date on which the installment is due. Quarterly installments are due:

- on or before June 1 for the quarter beginning January 1 and ending March 31,
- on or before September 1 for the quarter beginning April 1 and ending June 30,
- on or before December 1 for the quarter beginning July 1 and ending September 30, and
- on or before March 1 (of the next year) for the quarter beginning October 1 and ending on December 31.

Quarterly payments must equal at least the lesser of 80 percent of the tax due for the quarter or 25 percent of the preceding year's tax liability.

### **Employer and Mineral Production Withholding Reconciliation Penalties**

Employers and mineral producers must file an electronic annual reconciliation of their withholding tax. See **[tax.utah.gov](http://tax.utah.gov)** for more information.

We will assess penalties for failure to file an annual reconciliation electronically, accurately and completely by January 31 after the year wages were paid (see Utah Code §§59-1-401(8) and 59-1-401(13)).

The penalties are the greater of:

- \$50 for a TC-941R filed more than 14 days late; **or**
- \$30 for each W-2, 1099R and TC-675R filed between 15 and 30 days late (up to \$75,000);
- \$60 for each W-2, 1099R and TC-675R filed between 31 days late and June 1 (up to \$200,000); and
- \$100 for each W-2, 1099R and TC-675R filed after June 1 (up to \$500,000).

### **Other Penalties and Fines**

Utah Code provides additional penalties in the following circumstances:

- If tax is underpaid due to negligence, the penalty is 10 percent of the underpayment.
- If tax is underpaid due to intentional disregard of law or rule, the penalty is 15 percent of the underpayment.
- If tax is underpaid with intent to evade the tax, the penalty is the greater of \$500 per period or 50 percent of the tax due.
- If tax is underpaid due to fraud with intent to evade the tax, the penalty is the greater of \$500 per period or 100 percent of the underpayment.
- If you fail to file an information return or a complete supporting schedule, the penalty is \$50 for each return or schedule up to a maximum of \$1,000.
- If you, in furtherance of a frivolous position, have a prima facie intent to delay or impede administration of the tax law and file a return lacking information that can be used to determine the correctness of the reported tax liability or that clearly indicates the reported tax liability must be substantially incorrect, the penalty is \$500.
- If you are required to collect, truthfully account for and pay any Utah trust tax (state, local and related sales and use tax; municipal energy tax; municipal telecommunications tax; motor fuel, clean fuel, special fuel and aviation fuel tax; and withholding tax) and you willfully fail to do so, or if you try to evade or defeat the tax or



payment of the tax, you will be subject to a penalty equal to the total amount of the unpaid tax. This penalty is in addition to other penalties provided by law.

- If you owe any tax, fee or charge, it is a third degree felony to knowingly and intentionally, and without a reasonable good-faith basis, fail to file, sign or verify a return within the time required by law; or to supply any information within the time required by law; or to file, sign or verify a false or fraudulent return or statement; or to provide any false or fraudulent information. You may be fined between \$1,000 and \$5,000.
- In addition to other penalties provided by law, it is a second degree felony to intentionally or willfully try to evade or defeat any tax or the payment of a tax. You may be fined between \$1,500 and \$25,000.

## **Preparer Penalties**

A person who prepares, presents, procures, advises, aids, assists or counsels another on a return, affidavit, claim or other Tax Commission document, and who knows or has reason to believe it may understate a tax, fee or charge, is subject to both a civil penalty (\$500 per document) and criminal penalties (second degree felony with a fine from \$1,500 to \$25,000). See Utah Code §59-1-401(11).

## **Waivers**

We may waive, reduce or compromise any penalties or interest, based on reasonable cause. See Utah Code §59-1-401(13).

For more information about waiver procedures and reasonable cause, see Tax Commission Pub 17.

## Introduction

This publication provides sales tax information for telecommunications (telecom) service providers. 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.

## What is Taxable

Telecom services that originate and terminate within the boundaries of Utah, including landline, mobile and ancillary (secondary) services.

## Definitions

### Delivery Location

For telecom service, the place of primary use. This is usually the buyer's residential or business address.

Use the delivery location to determine the correct taxing jurisdiction and tax rate. The Tax Commission provides an online database (*ZIP+4 Boundaries for Telecom Tax Rates*) that ties ZIP+4 addresses to taxing jurisdictions. You can download this database at [tax.utah.gov/utah-taxes/telecom-download](http://tax.utah.gov/utah-taxes/telecom-download) and use it to calculate taxes and fees for each of your delivery locations.

Telecom providers report sales and use tax on form TC-62M with Schedule A. Each jurisdiction where you deliver service appears as a separate outlet on Schedule A.

Use the same delivery locations on your electronically-filed *Emergency Services Telephone Fee Return* and your *Municipal Telecommunications License Tax Return*.

### Telecom Service

The electronic transfer or routing of audio, video, voice or data signals. See Utah Code §59-12-102.

#### Telecom service includes:

1. Electronically enabling, routing or sending communications. This includes VoIP (voice over Internet protocol) and enhanced or value-added service
2. 800 service
3. 900 service
4. Fixed wireless service
5. Mobile wireless service
6. Postpaid calling service
7. Prepaid calling service
8. Prepaid wireless calling service
9. Private, two-way communications service that gives exclusive or priority use of one or more channels (for example, a two-way radio)

#### Telecom service does not include:

1. Advertising, including directory advertising
2. Ancillary (secondary) service, including conference bridging service, communications billing service, directory assistance, vertical service (used to identify callers and manage multiple calls) and voicemail service
3. Billing and collection service provided to a third party
4. Data processing and information service, including value-added data service
5. Installing or servicing equipment or wiring at a customer's premises
6. Internet access service
7. Paging service
8. Products transferred electronically (music, reading material, ring tones, software, video, etc.)
9. Radio and television audio/video programming service
10. Value-added non-voice data service, in which a computer application processes data or information
11. Any tangible personal property

### **Ancillary (Secondary) Service**

Services associated with telecom service. This includes conference bridging service, detailed communications billing service, directory assistance, vertical service (used to identify callers and manage multiple calls) and voicemail service.

### **Fixed Wireless Service**

Service that provides radio communication between fixed points.

### **Mobile Wireless Service**

Service that provides telecommunication between two points if the origination point, the termination point, or both are not fixed.

### **Postpaid Calling Service**

Telecom service paid on a call-by-call basis, using a bank card, travel card, credit card or debit card, or by dialing an access number through which service is charged after it occurs.

An example of postpaid calling service is a telephone calling card used to pay for calls after they are made according to a billing cycle. This includes calls charged to a home phone.

Sales of post-paid calling service are sourced to the place of primary use. In jurisdictions that impose the municipal telecommunication license tax, these transactions qualify as telecom service taxable to the service provider. These transactions are also subject to sales and use tax.

### **Prepaid Calling Service (Not Including a Telephone Line)**

Telecom services that are paid for in advance and used by entering an access number or authorization code.

Prepaid calling service is sold in units of minutes or dollars that decline with use. A 60-minute phone card for sale at a grocery store is an example of prepaid calling service.

Prepaid calling service may include a disposable phone and a temporary phone line, if they are all sold together.

Amounts paid for prepaid calling service are subject to sales and use tax and are sourced to the sale location. No additional sales and use tax is charged when the service is actually used.

Prepaid telecom service sold as a prepaid calling card is taxable for in-state calls. Prepaid telephone services are considered in-state telephone services if the card can be used for in-state calls. If a card can only be used for interstate or international calls, it can be sold tax free.

### **Prepaid Wireless Calling Service**

The right to use mobile wireless service, including non-telecom services (such as downloading products transferred electronically, content services or secondary services).

Prepaid calling services are paid for in advance and sold in units of minutes or dollars that decline with use. They are used by entering an access number or authorization code.

Amounts paid for prepaid wireless calling service are subject to sales and use tax and are sourced to the sale location.

Prepaid telecom service sold as a prepaid calling card is taxable for in-state calls. Prepaid telephone services are considered in-state telephone services if the card can be used for in-state calls. If a card can only be used for interstate or international calls, it can be sold tax free.

Prepaid wireless calling service includes prepaid disposable phones that allow callers access to 911 emergency service.

### **Private Communication Service**

Service that entitles a customer to exclusive or priority use of one or more channels between or among termination points. Private communications service includes an extension line, a station, and switching capacity.

## **Mobile Telecom Sourcing Act**

Local governments may impose taxes or fees on telecom service to buyers whose places of primary use are within their jurisdictions. The service is subject to these taxes and fees regardless of where the mobile telecom services originate, terminate or pass through.

The Mobile Telecommunications Sourcing Act (U.S. Code, Title 4, Chapter 4) defines the location of a wireless telephone call, for taxing purposes, as the customer's place of primary use. See *Delivery Locations* in this publication.

## **Emergency Service Telephone Charges**

The following charges apply to each landline, cellular line and other service line, such as VoIP. Any service provider who must pay one fee must also pay the other.

File and pay *E-911 Telephone Fee Return* electronically at [tap.utah.gov](http://tap.utah.gov). The return and payment are due at the same time as your *Sales and Use Tax Return*.

When you file, you must identify each city, town or unincorporated area of the county where phone service is supplied, based on the ZIP+4 service addresses of your customers. When you supply service to multiple locations within a county, DO NOT report all lines and fees at the county level or at just one city or town within the county.

The Tax Commission provides a downloadable database of rates and boundaries that ties ZIP+4 addresses to taxing jurisdictions. You can download this database at [tax.utah.gov/utah-taxes/telecom-download](http://tax.utah.gov/utah-taxes/telecom-download).

## 911 Emergency Service Charges

The monthly 911 emergency service charge fee is 71 cents per service line.

You may keep 1.5 percent of this charge fees toward the cost of billing, collecting and paying the charge.

## Unified Statewide 911 Emergency Service Charge

The monthly unified statewide 911 emergency service charge is 925 cents per service line. You may keep 1.5 percent of this charge toward the cost of billing, collecting and paying the charge.

## Radio Network Charge

Utah levies an additional statewide fee of 52 cents per month for each service line to fund a statewide public safety communications network.

You may not keep any portion of this fee for any reason.

## 911 Service Charge on Prepaid Disposable Phones

A 911 service charge of 3.37 percent is imposed on the sales price of prepaid disposable cell phones and disposable cell phone minutes. Sellers may keep 3 percent of the money they collect for administration costs.

## Municipal Telecom License Tax (MTLT)

Utah cities and towns may impose a tax of up to 3.5 percent on the value of telecom service provided within their boundaries. You may pass this tax on to your customers. If you do, this amount is part of the service sales price for sales tax purposes.

To file and pay the *Municipal Telecommunications License Tax Return* electronically, go to [tap.utah.gov](http://tap.utah.gov). The return and the payment are due at the same time as your *Sales and Use Tax Return*. Find the jurisdictions that impose this tax and the rates online at [tax.utah.gov/sales/rates](http://tax.utah.gov/sales/rates).

When you file, you must identify each city or town where telecom service is provided, based on ZIP+4 service addresses of your customers. Since the unincorporated portion of the county cannot impose this tax, DO NOT report any service at the county level.

The Tax Commission provides a downloadable database of rates and boundaries that ties ZIP+4 addresses to taxing jurisdictions. You can download this database at [tax.utah.gov/utah-taxes/telecom-download](http://tax.utah.gov/utah-taxes/telecom-download).

## Changes to Your Account

You must report account changes, and any changes to telecom delivery locations, immediately to the Tax Commission. Report company name changes, ownership changes and address changes on form TC-69C, *Notice of Change for a Tax Account*. Use form TC-62Q, *Utah Sales Tax Sourcing Schedule*, to add or delete a location.

## Penalties for Incorrect Filing and Non-Filing

We may impose a penalty of the greater of \$20 or 10 percent of the tax due if you submit incorrect or late return information. This includes:

- An incomplete return
- An electronic return in the wrong format
- Payment without a return

## Utah Telecom Taxes & Fees

Taxes and fees imposed on the customer are not included in the taxable base. However, taxes and fees imposed on the company that are listed on the customer's bill are included in the sales tax base.

The chart below is a summary of taxes and fees on telecom service in Utah. The chart may not be all-inclusive.

### Tax

#### Explanation

#### Imposed On

#### Company

#### Customer

#### Included in Tax Base

#### Federal Excise Tax

Federal tax imposed on a buyer of local and toll telephone service (3%).

X

No

#### State Sales Tax

Sales tax imposed by Utah on a buyer of telephone service (4.7%).

X

No

#### Local Option Sales Taxes

Sales tax imposed on a buyer of telephone service — must have the same base as the state sales tax (rate varies).

X

No

#### Recovery of Municipal Telecommunications Tax

Imposed by a municipality on the value of telecom service provided within its boundaries.

X <sup>1</sup>

Yes

#### Unified Statewide 911 Service Charge

Imposed by Utah on the purchaser of access lines to fund emergency 911 telecom services (\$0.~~0925~~).

X

No

#### 911 Service Charge

Imposed by Utah to fund emergency 911 telecom services (\$0.71).

X

No

#### Federal Universal Service Fund (FUSF)

Imposed by the FCC on interstate telecom services to offset the high cost of telephone service in rural areas, help with the purchase of telecom services by schools and hospitals, and provide telephone assistance to low income individuals.

X <sup>2</sup>

No

#### FUSF – Private Line

This portion of the FUSF is applicable to private lines. This fee appears on DSL customer bills. The rate is the same as the standard FUSF.

X<sup>2</sup>

No

#### Utah Universal Service Fund

Imposed by the Utah Public Utility Commission on intrastate telephone service to help keep the cost of telecom services low in high-cost areas.

X

No

#### Telecommunications Relay Service Fund

Imposed by the Utah Public Service Commission to fund the relay centers that help hearing and speech-impaired customers make and receive calls.

X

No

#### Radio Network Charge

Imposed by Utah to fund the statewide public safety radio network (\$0.52 per access line).

X

No

#### Federal Access Charge

Allowed by the FCC to recover part of the cost of connecting a customer's long distance carrier to the local network.

X

No

<sup>1</sup> Taxes that are imposed on the company and passed through to the customer constitute a reimbursement to the company for an expense. This becomes revenue to the company and part of the cost of the service to the customer. Therefore, it is subject to the various sales taxes. See Utah Code §59-12-102 (99)(b)(ii)(G).

If a tax is imposed directly on the customer, it is not included in the sales tax base. See Utah Code §59-12-102 (99)(c)(ii)(E).

<sup>2</sup> The service that this fee is associated with is not subject to the various sales taxes. Thus this fee is not part of the taxable base.

## Telecom Taxability Chart

The range of services a provider offers and the combination of services a customer buys are usually unique. Some services may be subject to emergency services fees alone, some may be subject to municipal telecom tax alone, and some may be subject to both.

The chart below is a summary of services that may be provided to telecom customers. The chart may not be all-inclusive.

Use the chart to find if a service is taxable. Then find if a locality imposes the fee or tax by checking the rate chart at [tax.utah.gov/sales/rates](http://tax.utah.gov/sales/rates).

#### Telecom Service

**Subject to:**  
**Emergency Services<sup>1</sup>**  
**UC §69-2-5**  
**Municipal Telecom**  
**UC §10-1-404**  
**Sales and Use**  
**UC §59-12-103**

#### Reference<sup>2</sup>

No

Yes <sup>3</sup>

Yes <sup>3</sup>

UC 59-12-102(1)

900 Service – inbound toll telecommunications

No

Yes <sup>3</sup>

Yes <sup>3</sup>

UC 59-12-102(2)

Ancillary (Secondary) Telephone Services (call waiting, caller ID, call forwarding, voice mail, etc.)

No

Yes

Yes

UC 59-12-102(12)

Answering Service – human operator

No

No

No

R865-19S-90(2)

Cable or Satellite TV <sup>4</sup>

No

No

No

UC 59-26-103

Cellular Phone Line

Yes

Yes

Yes

Charges to fund special services (911, TDD, service for low-income customers)

No

No

No

R865-19S-90(2)

Contributions to aid construction projects

No

No

No

Equipment Repair – equipment belongs to customer and remains tangible personal property

No

No

Yes

UC 59-12-104(61)

Exemptions for telecom companies

Equipment Repair – real property

No

No

No

R865-19S-90(d)

Fiber Optic Cable – dark (unlit) – treated as lease of real property

No

No

No

PLR 07-009

Fiber Optic Cable – lit or activated – used for telephone service

Part of a public switched telephone network (PSTN)

Yes

Yes

Yes

PLR 07-009

Fiber Optic Cable – lit or activated – not part of a public switched telephone network (PSTN)

No

Yes

Yes

Internet Access – purchased, used or sold by a provider

No

No

No

PL 110-108

(PLR 08-005)

Internet Service Provider

No

No

No

PL 110-108

(PLR 08-005)

Long Distance – interstate

No

No

No

Long Distance – intrastate

No

Yes

Yes

UC 59-12-103(1)(b)

Municipal Telecom Fee recovered from customer

No

No

Yes

UC 10-1-402(4)

Paging Service

No

No

No

UC 59-12-102(129)(c)(vii)

Post-Paid Calling Service



No

Yes

Yes

UC 59-12-102(129)(b)(vi)

Prepaid Service – including a phone line (disposable phone, temporary phone line, etc.)

Yes

Yes

Yes

UC 59-12-102(129)(b)(viii)

Prepaid Service – not including a phone line (e.g., a calling card)

No

Yes

Yes

UC 59-12-102(129)(b)(vii)

Radio – mobile service

Yes

Yes

Yes

UC 69-2-402,

UC 69-2-403,

UC 69-2-404

Radio Communications Access Line

Yes

Yes

Yes

UC 69-2-402,

UC 69-2-403,

UC 69-2-404

Refundable Deposits, Interest, Penalties, etc.

No

No

No

Sales and Use Tax

No

No

No

Service Fees – connection, disconnect, changes, etc.

No

Yes

Yes

UC 59-12-102(89)

Subscriber Access Fees

No

Yes

Yes

UC 59-12-103(b)

Switched Access Line (landline)

Yes

Yes

Yes

UC 69-2-402,

UC 69-2-403,

UC 69-2-404

VoIP (voice over Internet protocol)

Yes

Yes

Yes

UC 69-2-402,

UC 69-2-403,

UC 69-2-404

VPN (virtual private network)

Yes

Yes

Yes

<sup>1</sup> Emergency Services includes 911 emergency service charge and radio network charge

<sup>2</sup> UC = Utah Code

PL = Public Law (federal)

PLR = Private Letter Ruling (Utah Tax Commission)

R = Administrative Rule

<sup>3</sup> If intrastate included, all is taxable

<sup>4</sup> Subject to multi-channel video or audio service tax

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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 more 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).

## Introduction

This publication gives basic information about the following fuel tax and fee types:

Motor fuel

Special fuel

Aviation fuel

Environmental assurance fee

For information about Special Fuel User (SFU) or International Fuel Tax Agreement (IFTA) taxes, see [motorcarrier.tax.utah.gov/fuel/ifta-sfu](https://motorcarrier.tax.utah.gov/fuel/ifta-sfu).

Contact the Internal Revenue Service (IRS) for federal fuel excise tax information.

This publication includes Utah tax law and Tax Commission rules, but is not all inclusive and subject to change. This publication is current as of the revision date. Subsequent law or rule changes take precedence over this publication.

## Licenses

All fuel sold in Utah for operating motorized vehicles (including aircraft and watercraft) is taxable before retail. You must get a license if you distribute motor or aviation fuel or supply special fuel. Licenses are valid until you change your ownership type, change your FEIN, sell or terminate your business, or if the Tax Commission terminates your license for reasonable cause.

Submit form TC-69, *Utah State Business and Tax Registration*, to apply for these licenses and accounts.

### Environmental Assurance Fee

You don't need a license to report and remit the Environmental Assurance Fee. However, you must set up an account with the Tax Commission to track the fees and payments.

## Tax Accounts

All fuel suppliers must have a sales and use tax account to report use tax for residential and commercial uses of special fuels.

Suppliers of dyed diesel fuel and hydrogen for motor vehicles must have a sales and use tax account.

Suppliers of natural gas for motor vehicles must have a sales and use tax account and a municipal energy sales and use tax account.

Suppliers and consumers of natural gas must have a municipal energy sales and use tax account.

### Account Changes

Use form TC-69C, Notice of Change for a Tax Account, to close your account or change your:

Address

Contact information

Business name

Officer information

Use form TC-106, Selection of Reporting Basis, to change your gross or net gallon reporting. You can only change this election at the beginning of each year.

## Definitions

### Aviation fuel

Any fuel sold at airports and used exclusively for aircraft operation.

### Carrier

Every individual, firm, partnership, group, or corporation importing or transporting fuel into Utah (including common and private carriers).

### Clean Fuels

The following special fuels: propane, compressed natural gas (CNG), liquefied natural gas (LNG), electricity, hydrogen, or any motor or special fuel that meets the clean fuel vehicle standards in the Federal Clean Air Act Amendments of 1990, Title II (see 59-13-102(2)).

**Clear (Undyed) Diesel Fuel**

All diesel fuel that is not dyed (see "Dyed Diesel Fuel").

**Diesel Fuel**

Any liquid sold for or used in diesel engines. This includes any combustible liquid used to operate a motor vehicle licensed to operate on public roadways (except motor fuel or aviation fuel).

**Diesel Gallon Equivalent (DGE)**

The amount of fuel equal to the energy content of one gallon of diesel fuel. Used to determine the taxable gallons of LNG. For Utah tax purposes, DGE is 6.06 pounds of LNG.

**Distributor**

Any person in Utah who:

Imports motor fuel for use, distribution, or sale (retail or wholesale)

Produces, refines, manufactures, or compounds motor fuel in Utah to use, distribute, or sell in Utah

Buys motor fuel for resale in wholesale quantities to motor fuel retail dealers and accounts for their own motor fuel tax liability

Sells aviation fuel to federally certificated air carriers and others

**Dyed Diesel Fuel**

Diesel fuel dyed according to:

26 U.S.C. Sec. 4082

United States Environmental Protection Agency Internal Revenue Service regulations

Dyed diesel fuel is for nontaxable off-highway use. It is not intended for use in cars, trucks or other vehicles driven on the road.

**Environmental Assurance Fee**

This fee is assessed on the first sale or use of a petroleum product in Utah. Entities with underground storage tanks must have funds for environmental cleanup in case of a leak or release per Federal Environmental Protection Agency and Utah State requirements. The Petroleum Storage Tank Trust Fund covers eligible cleanup costs, with a deductible, for participating entities that have had a leak or release.

**Exchange Agreement**

An agreement where one supplier delivers taxable special fuel to another supplier (or his/her customer) before the fuel reaches the first supplier's terminal loading rack.

**Federally Certificated Air Carrier**

Any person in Utah with a Federal Aviation Administration (FAA) certificate authorizing all-cargo or scheduled operations. See 14 C.F.R. Sec. 119.

**Fuels**

Any gas, liquid, solid, mixture, or other energy source used to power an engine or motor. This includes:

Aviation fuel

Motor fuel

Special fuel

**Gasoline Gallon Equivalent (GGE)**

The amount of fuel equal to the energy content of one gallon of gasoline. Used to determine the taxable gallons of gaseous special fuels. For Utah tax purposes, GGE is 2.198 pounds of hydrogen and 5.66 pounds of CNG.

**Gross Gallon**

The United States volumetric gallon with a liquid capacity of 231 cubic inches.

**Motor Fuel**

Gasoline or gasohol. It does not include aviation fuel.

**Motor Fuels Received**

Motor fuels:

Loaded into tank rail cars or placed into tanks at the refinery for export or distribution

Placed into tanks at the refinery for sale, use, or delivery, not for export or distribution

Imported by tank rail car, truck, pipeline, or any other means when and where the motor fuel owner completes the delivery.

### **Net Gallon**

The gross metered gallon with temperature correction in volume to 60 degrees Fahrenheit.

### **Petroleum Products**

Crude oil or any fraction of crude oil that is liquid at 60 degrees Fahrenheit at a pressure of 14.7 pounds per square inch absolute. This includes:

- |                  |             |
|------------------|-------------|
| blended products | • gasoline  |
| diesels          | • fuel oils |
| jet fuel         | • kerosene  |
| solvents         | • oil       |

It doesn't include grease, asphalt, propane or other blending products.

### **Qualified Vehicles**

See [motorcarrier.utah.gov](http://motorcarrier.utah.gov).

### **Rack**

A deck, platform, or open bay with metered pipes and hoses to transfer diesel fuel from a refinery or terminal to a motor vehicle, rail car, or vessel.

### **Removal**

Transferring diesel fuel from a production, manufacturing, terminal, or refinery facility, including use of diesel fuel. Removal does not include:

- loss by evaporation or destruction
- transfers between refineries, racks, or terminals

### **Special Fuel**

Any fuel that is:

- used in a motor vehicle on Utah's public highways
- diesel fuel even though not used in a motor vehicle
- not taxed as aviation or motor fuel
- not measured in gallons (such as hydrogen and natural gas)
- a product not under the motor fuel definition but used to operate a motor vehicle

### **Supplier**

1. Anyone involved in the distribution of untaxed diesel fuel, including:
  - Importers
  - Refiners
  - Producers
  - Manufacturers
  - Wholesalers of fuel for motor vehicles and aircraft
2. Owners and lessors of equipment to compress or dispense non-diesel fuels that power vehicles on public roads and waterways but that are not taxed as aviation or motor fuel.
3. Distributors of aviation and motor fuel (see "Distributor").

### **Terminal**

A facility for storing diesel fuel supplied by a motor vehicle, pipeline, or vessel and from which diesel fuel is removed for distribution at a rack.

### **Two-Party Exchange**

A transaction of special fuel transferred between licensed suppliers under an exchange agreement.

## **Tax Rates**

See Utah's current and recent fuel tax rates online at [tax.utah.gov/fuel](http://tax.utah.gov/fuel).

## **Exemptions**

Utah law provides some exemptions from fuel tax. See Utah Code §§59-13-201 and 301. However, the sale of fuel exempt from fuel tax is subject to Utah sales and use tax (unless a sales and use tax exemption also applies). See Utah Code §59-12-104.

If you or your business is exempt and used taxed fuel, you may claim a credit on your fuel or income tax return. If you do not file a fuel or income tax return, you may claim the refund on form TC-116, Utah Application for Fuel Tax Refund.

There are three types of exemptions, based on:

1. Entity
2. Use
3. Product

## Entity-Based Exemption

Entity-based exemptions are determined by who buys the fuel (such as government agencies and certain Native American tribes).

### Foreign Diplomats

The U.S. State Department, Office of Foreign Missions (OFM) and the American Institute in Taiwan (AIT) may authorize oil companies to issue tax-exempt gasoline credit cards to certain foreign diplomats. Foreign diplomats may buy gasoline fuel-tax exempt as long as they use the OFM authorized credit card issued in their name. Gasoline the diplomat buys with cash is not tax exempt and the diplomat may not use a sales tax exemption card to buy gasoline tax-free. The oil company that issued the credit card (distributor) should report these tax-exempt credit card purchases as a deduction on line 14 of its Utah fuel tax return.

For information about the OFM authorized gasoline credit card, see the OFM web site, [state.gov/ofm/tax/gas/index.htm](http://state.gov/ofm/tax/gas/index.htm), or contact the OFM San Francisco regional office at 415-744-2910.

### Government

**See Administrative Rule R865-13G-10.**

United States and Utah government agencies may claim a refund of tax paid on motor or special fuel to a licensed distributor or retail dealer.

Government agencies without a Fleet Services Gascard may request a refund annually or quarterly on form TC-116, Utah Application for Fuel Tax Refund. Government agencies with a Fleet Services Gascard should contact Fleet Services about refunds.

### Navajo Nation

**See Administrative Rule R865-13G-15.**

Distributors and suppliers who must pay fuel taxes to the Navajo Nation may file for a refund monthly on form TC-116, Utah Application for Fuel Tax Refund. This amount can't exceed what was paid to the state.

### Ute Tribe

**See Utah Code §§59-13-201.5 and 301.5**

The Ute Indian Tribe of the Uintah and Ouray Reservation may get a refund for motor or special fuel tax paid if the tribe or tribal member pays the tax to a licensed distributor at a retail station owned by the tribe on Ute Trust land.

The Commission and Ute Tribe must have an agreement with an allocation formula or procedure to determine the amount of motor and special fuel sold. The Ute tribe may request a refund monthly on TC-116, Utah Application for Fuel Tax Refund.

## Use-Based Exemption

Use-based exemptions are determined by the buyer's use of the fuel.

### Agricultural

**See Utah Code §59-13-202 and R865-13G-8.**

Agricultural producers filing federal Schedule F and corporations reporting farm activity on their federal returns are exempt from tax on fuel to operate stationary or self-propelled farm machinery. The exemption does not include:

- Operation of motor vehicles on Utah public roadways
- Nontaxed purchases of dyed diesel fuel
- Gardening
- Hobby farming

Golf courses

Other similar activities

Agricultural producers should claim a credit on their income tax return.

## **Business Use of Clean Fuels**

**See Utah Code §59-13-301(3).**

Businesses using clean fuels in machinery or equipment not required to be registered for highway use are exempt from Utah fuel tax.

You must give the supplier an exemption certificate from the Utah Division of Air Quality.

## **Environmental Assurance Fee, Non-participation**

**See Administrative Rule R865-7H.**

Nonparticipating owners or operators of tanks (including above-ground storage tanks) may be exempt from the fee for the tanks not covered if:

1. None of the owner's or operator's tanks are covered by the Utah Petroleum Storage Tank Trust Fund; and
2. The owner or operator buys the petroleum product directly from the refinery (including those delivered by common carrier) or buys a direct import of a petroleum product where the fee was not previously imposed.

Petroleum products exported directly from a refinery or brought to Utah packaged in barrels, drums and cans are also exempt.

Other fuel tax exemptions such as government sales, off-road use of dyed diesel fuels, etc., do not apply to the fee.

You must give refiners and importers a completed form TC-721E, Environmental Assurance Fee Exemption Certificate.

Retailers or consumers who are nonparticipating owners or operators of tanks (including above-ground storage tanks) who do not meet the requirement for exemption may request a refund of or credit to offset the fee paid for the tanks not covered no more often than monthly on their TC-109 form or if not licensed for fuel tax a TC-116 form. All tanks whether above ground or underground must be registered and received a facility number from the Department of Environmental Quality Control.

Fuel purchased in bulk quantity that is repackaged into barrels, drums or cans may request a refund of the environmental assurance fee, if prior to repackaging the fuel was not stored in a participating tank. The refund may not be requested more often than monthly on the TC-116 form.

## **Environmental Assurance Fee Rebate**

For gallons first sold or used in Utah after Dec. 31, 2014, owners of participating tanks may be eligible for a rebate of some of the environmental assurance fee paid on fuel stored in their tanks. Claim the rebate on form TC-116; file electronically at [tap.utah.gov](http://tap.utah.gov). The rebate amount is based on a tank's risk profile, as assigned by the Department of Environmental Quality.

Gallons for which the fee has not been paid or which qualify for a refund of the fee for non-participation, export or repackaging are not eligible for the rebate.

## **Exporting Motor Fuel**

**See Administrative Rule R865-13G-3.**

Utah-licensed distributors are exempt from motor fuel tax on sales and deliveries made:

1. Outside Utah to another Utah-licensed distributor by a common or contract carrier or in a Utah-licensed distributor's vehicle.
2. In or outside Utah to a distributor or importer licensed in another state for use or sale in that state.
3. In Utah in a drum or similar container for use in another state.

You must keep proof of motor fuel exported from Utah in your records. Your records must also show the exportation date, consignee or buyer, and destination.

Unlicensed exporters must claim the credit through a licensed distributor as follows:

1. The exporter gives the licensed distributor a completed form TC-112, Proof of Exportation, showing the date, the purchaser or consignee, and the destination of the motor fuel.
2. The licensed distributor must claim the credit on the motor fuel return for the period in which the form TC-112 was received, within 180 days of the export date.

## **Exporting Special Fuels**

Undyed diesel fuel may be sold exempt if sold directly out-of-state or to a purchaser delivering the fuel directly out-of-state and supply a TC-112 to refiner. Exporters of tax-paid special fuel who are not licensed suppliers may file for a refund of the special fuel tax paid on form TC-116, Utah Application for Fuel Tax Refund, within 180 days from the export date.

### **Special Fuels Used Off-Road**

See [motorcarriertax.utah.gov/fuel/ifta-sfu](https://motorcarriertax.utah.gov/fuel/ifta-sfu).

### **Loss of Product**

**See Utah Code §§59-13-202.5 & 59-13-322**

Retailers, wholesalers, licensed distributors, or licensed suppliers who lose motor, aviation, or diesel fuel in a single incident, may claim a tax refund or credit if:

any part of the product loss is NOT eligible for payment from insurance or from any third party, and  
you keep all required records and request a refund on form TC-116 within 90 days of the incident, and  
the loss or destruction was due to:

- fire,
- flood,
- storm,
- accident,
- crime, or
- discharge in bankruptcy.

The total gallon loss must be at least 8,000 gallons for motor and aviation fuel and 7,000 gallons for diesel, or 4,500 gallons discharged in a bankruptcy proceeding.

### **Product-Based Exemption**

Product-based exemptions are determined by the fuel type.

#### **Dyed Diesel**

**See Utah Code §59-13-301(2).**

Dyed diesel fuel is not taxed since it is sold for off-highway use. However, fuel tax will be assessed and penalties may be imposed if you cannot show the fuel was used for exempt purposes.

**Note:** You must pay sales tax on dyed diesel fuel unless you use a valid Exemption Certificate (TC-721).

#### **Propane and Electricity**

**See Utah Code §59-13-301(3)(b).**

Propane and electricity are exempt.

#### **Utah Solid Hydrocarbons**

**See Administrative Rule R865-13G-9.**

Motor fuel or components sold and used in Utah distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons are exempt.

However, if any exempt product is blended into gasoline or gasohol, only the hydrocarbon fuel part of the final product is exempt.

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#### **Example:**

If 10 percent of the fuel was created from Utah solid hydrocarbons, only 10 percent of the fuel tax is exempt.

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### **Credits, Refunds and Rebates**

If you have purchased tax-paid fuel but qualify for either an entity-based or use-based exemption you may claim a credit or a refund for the taxes paid using one of the following methods:

Licensed fuel suppliers and distributors normally claim a credit on their monthly fuel tax return. For situations where there is not a credit on the return use form TC-116, Utah Application for Fuel Tax Refund.



Agricultural producers should claim the credit on their income tax returns unless they are exempt from Utah income taxes in which case they may claim a refund with form TC-116, Utah Application for Fuel Tax Refund.

Taxpayers using special fuels for purposes that are exempt from fuel taxes should file form TC-942 for a refund of the fuel tax and to pay the use tax due.

Gallons of environmental assurance fee paid petroleum products stored in a participating tank and eligible for a rebate of the fee should file form TC-116, Utah Application for Fuel Tax Refund, electronically at [tap.utah.gov](http://tap.utah.gov).

All others may request a refund using form TC-116, Utah Application for Fuel Tax Refund.

Product-based exemptions and products purchased without Utah fuel taxes paid do not qualify for a tax credit or refund.

Fuel tax return overpayments (including amended returns) may be eligible for a refund. You may claim a refund or credit of overpayment within:

Three years of the purchase date\*

Three years from the original return due date\*

Two years from the payment date\*

\*Whichever is later.

Credits and overpayments are applied in the following order:

1. Fuel taxes due for the same period.
  2. Fuel taxes owed for any other period(s).
  3. Any other tax liabilities owed by the person or business.
- Any remaining credit is eligible for a refund.

## Collecting Tax

Distributors receiving motor, special, and aviation fuels must report and pay fuel taxes.

### Motor Fuel and Aviation Fuel

Motor fuel and aviation fuel distributors compute the tax on the total taxable amount of Utah fuel:

produced

purchased

received

im-ported

refined

Distributors shipping into Utah compute the tax on the total taxable amount received for sale or use in Utah.

All motor and aviation fuel distributed to Utah branches is taxable at distribution (as if actually sold).

Distributors may sell to other licensed distributors tax exempt if they get an assumption of liability statement from the buying distributor(s) showing they:

are licensed as a Utah motor fuel distributor, and

will assume the fuel tax responsibility

Distributors buying outside of and bringing fuel into Utah in original packaging for consumer use are taxed when the fuel is imported.

### Special Fuel

Tax is imposed on:

clear (undyed) diesel removed from any refinery or terminal

clear (undyed) diesel brought to Utah for consumption, use, sale or warehousing

clear (undyed) diesel sold to any unregistered supplier (unless the tax was already collected)

clear (undyed) diesel blended with any untaxed product

dyed diesel when used in vehicles on public roads or waterways (plus penalties)

hydrogen, natural gas and any other fuel (except propane and fuels taxed as aviation motor fuel) used in vehicles on public roads and waterways

any untaxed special fuel (except propane and electricity)

Special fuels are only taxed once.

The tax is collected by the owner or lessor of the fuel compressor or dispensing equipment.

## Reporting

You must file your fuel returns each month. Returns are due the last day of the month after the period ends. If the due date falls on a Saturday, Sunday or legal holiday, the return is due the next business day. (Returns due on a Friday must be submitted by midnight.)

You are encouraged to file all fuel 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

## Reporting Method

All Utah licensed distributors must calculate their tax liability on a gross or net gallon basis. You make your election when applying for your fuel tax license on form TC-69, Utah State Business and Tax Registration. If you do not choose at that time, you will report and pay on a gross gallon basis.

You may apply to change your reporting method on January 1 of each year using form TC-106, Selection of Reporting Basis for Motor Fuel and Special Fuel Gallons.

You must:

Include both gross and net gallon amounts on all invoices, bills of lading, and motor fuel tax returns

Conform to the ASTM-API-IP Petroleum Measurement Tables.

See R865-13G-11, Consistent Basis for Motor Fuel Reporting Pursuant to Utah Code §59-13-204.

## Evaporation & Handling Allowance

Distributors are allowed a 2 percent deduction from the gross or net amount of motor and aviation fuel to allow for evaporation, loss in handling, and expenses of collection. You must report the gross amount of taxable motor fuel produced, sold, received, or refined in Utah from which you are deducting.

Producers and refiners are required by law to pay half of the deduction (1 percent) to the registered retail dealers on quantities sold during the reporting period. Failure to comply with the requirement will result in the loss of this deduction.

## Amended Returns

To correct an error on a previously filed return, resubmit that period's return with correct figures, not net amounts. The amended return will completely replace the original return. Choose "Yes" in the amended return field and give the amount of the previous payment.

If you owe additional tax due, pay that tax plus interest. Interest is calculated from the original return due date.

You may be subject to penalties if you don't pay in full. See Publication 58 for Utah interest rates and penalty information.

## Paying

You can pay your fuel taxes using:

Taxpayer Access Point (TAP)

ACH Credit  
XML  
Check or money order

## **Taxpayer Access Point (TAP)**

You must register with the Tax Commission before paying with TAP. See [tax.utah.gov](http://tax.utah.gov) for details.

## **ACH Credit**

You initiate this payment through your bank or credit union (they may charge you a transaction fee). See Electronic Funds Transfer - EFT at [tax.utah.gov/billing/payments](http://tax.utah.gov/billing/payments).

## **XML**

Some software programs will allow you to pay when you file your return. Check with your software vendor for this option.

## **Check or Money Order**

You can mail your check or money order or bring them to any Tax Commission office. Be sure to include a completed TC-109PC payment coupon. Write your fuel account number and filing period on your check or money order.

## **Penalties and Interest**

If you don't file and pay by the return due date, you may get a failure to file penalty, a late payment penalty, or both. Penalties are up to 10 percent of the unpaid tax, based on the date you file your return.

Interest is assessed from the original due date until the tax liability is paid in full.

See Publication 58, Utah Interest and Penalties, at [tax.utah.gov/forms](http://tax.utah.gov/forms).

## **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-69 – Utah State Business and Tax Registration  
File on paper to get a Utah fuel tax license
  - TC-69C – Notice of Change for a Tax Account
  - TC-106 – Selection of Reporting Basis for Motor Fuel, Aviation Fuel, and Special Fuel Gallons
  - TC-109 – Utah Fuel Tax Return (electronic only)
  - TC-109 Instructions – Instructions for TC-109 Return
  - TC-109 Matrix – Fuel Return Product and Schedule Matrix
  - TC-109PC – Utah Fuel Tax Payment Coupon
  - TC-111 – Petroleum Products Carrier Report - Schedule of Deliveries 2A
  - TC-112 – Proof of Exportation For Motor Fuel, Undyed Diesel or Other Petroleum Products
  - TC-116 – Utah Application for Fuel Tax Refund
  - TC-116 Instructions – Refund Application Instructions (for paper TC-116)
  - TC-116 Template – Fuel Tax Refund Application - File Upload Template (XLS format)
  - TC-116 Template Instructions – Refund Application Instructions (for TC-116 XLS template)
  - TC-721AV – Aviation Fuel Tax Reduction Certificate
  - TC-721E – Environmental Assurance Fee Exemption Certificate
  - TC-721F – Exemption Certificate for Other Special Fuels
  - TC-763F – Fuel Tax Surety Bond
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Publications give general guidance only. See [tax.utah.gov/fuel](http://tax.utah.gov/fuel) or call the Tax Commission at 801-297-2200 (1-800-622-4335 outside the Salt Lake area) for more information.