



Self-Review – Photography

Q: Isn't photography a service? Why should sales tax be collected on a service?

A: The object of photography is to provide a customer with a photographic image, the sale of which is taxable whether delivered as tangible personal property or as a digital image.

Q: What is tangible personal property? Are digital images included?

A: Tangible personal property means personal property that may be seen, weighed, measured, felt or touched, or is in any manner perceptible to the senses. Digital images are not considered tangible personal property, but sales of such images are equally taxable.

Q: How do Utah tax laws, rules, and regulations relate to photography?

A: Utah Code §59-12-103 imposes sales tax on retail sales of tangible personal property made within the state, as well as on any electronically transferred products that would be taxable if transferred non-electronically. Administrative Rule R865-19S-75 states: "Photographers, photofinishers, and photostat producers are engaged in selling tangible personal property and rendering services such as developing, retouching, tinting, or coloring photographs belonging to others." It further states: "Persons described in this rule must collect tax on all of the above services and on all sales of tangible personal property, such as films, frames, cameras, prints, etc."

Q: If I separately state all the charges on my invoices, do I only have to collect sales tax on the prints?

A: No. Sales tax must be collected on the full sales price, which includes the seller's cost of the tangible personal property or services sold, expenses of the seller, and charges by the seller for any service necessary to complete the sale. The sales price on which sales tax should be collected includes any hourly fee, reimbursement for travel, or other such expenses included in the price paid by the customer. Please see the enclosed **Examples** sheet for instances of taxable sales.

Q: Are sitting fees taxable?

A: Sitting fees are typically taxable, because they are a part of the work that goes into the finished product. However, if a customer pays for a sitting, but then decides not to purchase photos, and does not receive any proofs or other tangible personal property, only a nontaxable service has been performed. Tax should not be collected in such cases, or should be refunded if it was initially collected.

Q: I sell licenses or rights to my photographic images, not the images themselves. If there's no print, isn't it nontaxable?

A: No. The sale of "stock photography," the licensing for either permanent or limited use of a photographic image, is subject to sales tax, even if electronically transferred as a digital image.

Q: Which tax rate should I use to collect tax? Do I use the rate for my business location, or the rate for the customer's address?

A: Retail sales are deemed to occur at the place of business of the retailer. The sales tax collected should be based on the rate for the location in which your business resides, even if the item sold is delivered elsewhere in Utah. Sales of items shipped out-of-state are nontaxable. Current sales tax rates are found online at <https://tax.utah.gov/sales/rates>.

Q: Does the location of a photo shoot affect sales and use tax?

A: No. If a sale of photography is made to a customer in Utah, the sale is taxable whether the photo shoot takes place in Utah or in some other location. Even if the sale includes charges for the photographer's out-of-state travel, model fees, equipment rental, or other fees paid in another state or country, Utah sales tax applies to the entire amount of the sale if the sale occurs in Utah.



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Q: At what point do I report sales tax on a sale? Is it when I receive payment from the customer?

A: Not necessarily. Sales tax is considered collected at the time an invoice is prepared for the customer, regardless of whether full payment or any payment has yet been received at that point. If a sale is later written off as uncollectible, an adjustment may be made on the sales tax return to credit any tax that was already reported and paid.

Q: When should I *not* collect sales tax from my customer?

A: Please see the **Examples** sheet for instances of nontaxable sales.

Q: What items can I purchase tax free, and how do I do so?

A: Purchases for resale of items that become a component of the product may be purchased tax free by those holding a Utah sales and use tax license. Please see the **Examples** sheet for some common items purchased for resale. To make tax-exempt purchases for resale, you must provide the seller with a completed Exemption Certificate, form TC-721, which is available online at <https://tax.utah.gov/forms/current/tc-721.pdf>.

Q: What is Use Tax?

A: Use tax is a tax on the purchase of items used or consumed in Utah that were not previously taxed. Any item brought into Utah, the purchase of which would normally be subject to sales tax in Utah, and on which no sales tax was paid, creates a use tax liability, which the purchaser has the responsibility of reporting to the Utah State Tax Commission. Use tax applies to both businesses and individuals.

Q: What sales and use tax exemptions apply to purchases of videos and video equipment for commercial distribution?

A: Commercials, films, and prerecorded video tapes may be sold tax exempt to motion picture exhibitors, distributors, or commercial television broadcasters. The purchaser must provide an Exemption Certificate.

Machinery or equipment may be purchased, leased, or rented tax exempt by a motion picture or video production company if it will be primarily used in the production or postproduction of media for commercial distribution. Such media includes motion pictures, television programs, movies made for television, music videos, commercials, documentaries, and similar media, but does not include live musical performances, live news programs, or live sporting events. The purchaser must provide an Exemption Certificate.