

**TAX EXEMPTIONS ECONOMIC IMPACT AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Robert M. Spendlove**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill requires reporting on sales and use tax exemptions.

**Highlighted Provisions:**

This bill:

- ▶ requires an entity that is obligated to file a return to remit a sales and use tax to include with the sales and use tax return the dollar amount of purchases that are exempt from sales and use tax by exemption category;
- ▶ requires the State Tax Commission to provide notice to the governing board of the Streamlined Sales Tax Agreement of the exemption reporting requirement;
- ▶ requires the State Tax Commission to include space on a sales and use tax return to report information about purchases that are exempt from sales and use tax;
- ▶ requires the State Tax Commission, in consultation with the Office of Legislative Research and General Counsel and the Office of the Legislative Fiscal Analyst, to categorize each sales and use tax exemption;
- ▶ requires the State Tax Commission to include exemption categorization information on a sales and use tax exemption certificate;
- ▶ provides a penalty for failure to provide sales and use tax exemption information or failure to provide complete sales and use tax exemption information;
- ▶ allows for an entity that files a sales and use tax return voluntarily to provide sales and use tax exemption information;



28           ▶ creates an exception to the requirement that the State Tax Commission keep sales  
29 and use tax return information confidential;

30           ▶ requires the State Tax Commission to report annually certain information from a  
31 sales and use tax return to the Revenue and Taxation Interim Committee; and

32           ▶ makes technical changes.

33 **Money Appropriated in this Bill:**

34           None

35 **Other Special Clauses:**

36           This bill provides a special effective date.

37 **Utah Code Sections Affected:**

38 AMENDS:

39           **59-1-403**, as last amended by Laws of Utah 2019, Chapter 61

40           **59-12-104.5**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

41 ENACTS:

42           **59-12-104.8**, Utah Code Annotated 1953



44 *Be it enacted by the Legislature of the state of Utah:*

45           Section 1. Section **59-1-403** is amended to read:

46           **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

47           (1) (a) Any of the following may not divulge or make known in any manner any  
48 information gained by that [person] individual from any return filed with the commission:

49           (i) a tax commissioner;

50           (ii) an agent, clerk, or other officer or employee of the commission; or

51           (iii) a representative, agent, clerk, or other officer or employee of any county, city, or  
52 town.

53           (b) An official charged with the custody of a return filed with the commission is not  
54 required to produce the return or evidence of anything contained in the return in any action or  
55 proceeding in any court, except:

56           (i) in accordance with judicial order;

57           (ii) on behalf of the commission in any action or proceeding under:

58           (A) this title; or

59 (B) other law under which persons are required to file returns with the commission;  
60 (iii) on behalf of the commission in any action or proceeding to which the commission  
61 is a party; or

62 (iv) on behalf of any party to any action or proceeding under this title if the report or  
63 facts shown by the return are directly involved in the action or proceeding.

64 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may  
65 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically  
66 pertinent to the action or proceeding.

67 (2) This section does not prohibit:

68 (a) a person or that person's duly authorized representative from receiving a copy of  
69 any return or report filed in connection with that person's own tax;

70 (b) the publication of statistics as long as the statistics are classified to prevent the  
71 identification of particular reports or returns; and

72 (c) the inspection by the attorney general or other legal representative of the state of the  
73 report or return of any taxpayer:

74 (i) who brings action to set aside or review a tax based on the report or return;

75 (ii) against whom an action or proceeding is contemplated or has been instituted under  
76 this title; or

77 (iii) against whom the state has an unsatisfied money judgment.

78 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the  
79 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative  
80 Rulemaking Act, provide for a reciprocal exchange of information with:

81 (i) the United States Internal Revenue Service; or

82 (ii) the revenue service of any other state.

83 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and  
84 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,  
85 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and  
86 other written statements with the federal government, any other state, any of the political  
87 subdivisions of another state, or any political subdivision of this state, except as limited by  
88 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal  
89 government grant substantially similar privileges to this state.

90 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and  
91 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,  
92 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the  
93 identity and other information of taxpayers who have failed to file tax returns or to pay any tax  
94 due.

95 (d) Notwithstanding Subsection (1), the commission shall provide to the director of the  
96 Division of Environmental Response and Remediation, as defined in Section 19-6-402, as  
97 requested by the director of the Division of Environmental Response and Remediation, any  
98 records, returns, or other information filed with the commission under Chapter 13, Motor and  
99 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program  
100 participation fee.

101 (e) Notwithstanding Subsection (1), at the request of any person the commission shall  
102 provide that person sales and purchase volume data reported to the commission on a report,  
103 return, or other information filed with the commission under:

- 104 (i) Chapter 13, Part 2, Motor Fuel; or
- 105 (ii) Chapter 13, Part 4, Aviation Fuel.

106 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,  
107 as defined in Section 59-22-202, the commission shall report to the manufacturer:

108 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the  
109 manufacturer and reported to the commission for the previous calendar year under Section  
110 59-14-407; and

111 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the  
112 manufacturer for which a tax refund was granted during the previous calendar year under  
113 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

114 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,  
115 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited  
116 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

117 (h) Notwithstanding Subsection (1), the commission may:

118 (i) provide to the Division of Consumer Protection within the Department of  
119 Commerce and the attorney general data:

120 (A) reported to the commission under Section 59-14-212; or

121 (B) related to a violation under Section 59-14-211; and

122 (ii) upon request, provide to any person data reported to the commission under  
123 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

124 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee  
125 of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of  
126 Management and Budget, provide to the committee or office the total amount of [revenues]  
127 revenue collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act,  
128 for the time period specified by the committee or office.

129 (j) Notwithstanding Subsection (1), the commission shall make the directory required  
130 by Section 59-14-603 available for public inspection.

131 (k) Notwithstanding Subsection (1), the commission may share information with  
132 federal, state, or local agencies as provided in Subsection 59-14-606(3).

133 (l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of  
134 Recovery Services within the Department of Human Services any relevant information  
135 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer  
136 who has become obligated to the Office of Recovery Services.

137 (ii) The information described in Subsection (3)(l)(i) may be provided by the Office of  
138 Recovery Services to any other state's child support collection agency involved in enforcing  
139 that support obligation.

140 (m) (i) Notwithstanding Subsection (1), upon request from the state court  
141 administrator, the commission shall provide to the state court administrator, the name, address,  
142 telephone number, county of residence, and social security number on resident returns filed  
143 under Chapter 10, Individual Income Tax Act.

144 (ii) The state court administrator may use the information described in Subsection  
145 (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

146 (n) (i) As used in this Subsection (3)(n):

147 (A) "GOED" means the Governor's Office of Economic Development created in  
148 Section 63N-1-201.

149 (B) "Income tax information" means information gained by the commission that is  
150 required to be attached to or included in a return filed with the commission under Chapter 7,  
151 Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

152 (C) "Other tax information" means information gained by the commission that is  
153 required to be attached to or included in a return filed with the commission except for a return  
154 filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual  
155 Income Tax Act.

156 (D) "Tax information" means income tax information or other tax information.

157 (ii) (A) Notwithstanding Subsection (1) and except as provided in Subsection  
158 (3)(n)(ii)(B) or (C), the commission shall at the request of GOED provide to GOED all income  
159 tax information.

160 (B) For purposes of a request for income tax information made under Subsection  
161 (3)(n)(ii)(A), GOED may not request and the commission may not provide to GOED a person's  
162 address, name, social security number, or taxpayer identification number.

163 (C) In providing income tax information to GOED, the commission shall in all  
164 instances protect the privacy of a person as required by Subsection (3)(n)(ii)(B).

165 (iii) (A) Notwithstanding Subsection (1) and except as provided in Subsection  
166 (3)(n)(iii)(B), the commission shall at the request of GOED provide to GOED other tax  
167 information.

168 (B) Before providing other tax information to GOED, the commission shall redact or  
169 remove any name, address, social security number, or taxpayer identification number.

170 (iv) GOED may provide tax information received from the commission in accordance  
171 with this Subsection (3)(n) only:

172 (A) as a fiscal estimate, fiscal note information, or statistical information; and

173 (B) if the tax information is classified to prevent the identification of a particular  
174 return.

175 (v) (A) A person may not request tax information from GOED under Title 63G,  
176 Chapter 2, Government Records Access and Management Act, or this section, if GOED  
177 received the tax information from the commission in accordance with this Subsection (3)(n).

178 (B) GOED may not provide to a person that requests tax information in accordance  
179 with Subsection (3)(n)(v)(A) any tax information other than the tax information GOED  
180 provides in accordance with Subsection (3)(n)(iv).

181 (o) Notwithstanding Subsection (1), the commission may provide to the governing  
182 board of the agreement or a taxing official of another state, the District of Columbia, the United

183 States, or a territory of the United States:

184 (i) the following relating to an agreement sales and use tax:

185 (A) information contained in a return filed with the commission;

186 (B) information contained in a report filed with the commission;

187 (C) a schedule related to Subsection (3)(o)(i)(A) or (B); or

188 (D) a document filed with the commission; or

189 (ii) a report of an audit or investigation made with respect to an agreement sales and  
190 use tax.

191 (p) Notwithstanding Subsection (1), the commission may provide information  
192 concerning a taxpayer's state income tax return or state income tax withholding information to  
193 the Driver License Division if the Driver License Division:

194 (i) requests the information; and

195 (ii) provides the commission with a signed release form from the taxpayer allowing the  
196 Driver License Division access to the information.

197 (q) Notwithstanding Subsection (1), the commission shall provide to the Utah  
198 Communications Authority, or a division of the Utah Communications Authority, the  
199 information requested by the authority under Sections [63H-7a-302](#), [63H-7a-402](#), and  
200 [63H-7a-502](#).

201 (r) Notwithstanding Subsection (1), the commission shall provide to the Utah  
202 Educational Savings Plan information related to a resident or nonresident individual's  
203 contribution to a Utah Educational Savings Plan account as designated on the resident or  
204 nonresident's individual income tax return as provided under Section [59-10-1313](#).

205 (s) Notwithstanding Subsection (1), for the purpose of verifying eligibility under  
206 Sections [26-18-2.5](#) and [26-40-105](#), the commission shall provide an eligibility worker with the  
207 Department of Health or its designee with the adjusted gross income of an individual if:

208 (i) an eligibility worker with the Department of Health or its designee requests the  
209 information from the commission; and

210 (ii) the eligibility worker has complied with the identity verification and consent  
211 provisions of Sections [26-18-2.5](#) and [26-40-105](#).

212 (t) Notwithstanding Subsection (1), the commission may provide to a county, as  
213 determined by the commission, information declared on an individual income tax return in

214 accordance with Section [59-10-103.1](#) that relates to eligibility to claim a residential exemption  
215 authorized under Section [59-2-103](#).

216 (u) Notwithstanding Subsection (1), the commission shall provide a report regarding  
217 any access line provider that is over 90 days delinquent in payment to the commission of  
218 amounts the access line provider owes under Title 69, Chapter 2, Part 4, 911 Emergency  
219 Service Charges, to the board of the Utah Communications Authority created in Section  
220 [63H-7a-201](#).

221 (v) Notwithstanding Subsection (1), the commission shall provide the Department of  
222 Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the  
223 previous calendar year under Section [59-24-103.5](#).

224 (w) Notwithstanding Subsection (1), the commission may, upon request, provide to the  
225 Department of Workforce Services any information received under Chapter 10, Part 4,  
226 Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

227 (x) (i) Notwithstanding Subsection (1), the commission may disclose, for purposes of  
228 complying with Subsection [59-12-104.5\(2\)](#), information reported on a sales and use tax return  
229 under Section [59-12-104.8](#).

230 (ii) The commission shall redact or remove the name, address, taxpayer identification  
231 number, or sales tax license number of any person that reports information under Section  
232 [59-12-104.8](#).

233 (4) (a) Each report and return shall be preserved for at least three years.

234 (b) After the three-year period provided in Subsection (4)(a) the commission may  
235 destroy a report or return.

236 (5) (a) Any individual who violates this section is guilty of a class A misdemeanor.

237 (b) If the individual described in Subsection (5)(a) is an officer or employee of the  
238 state, the individual shall be dismissed from office and be disqualified from holding public  
239 office in this state for a period of five years thereafter.

240 (c) Notwithstanding Subsection (5)(a) or (b), GOED, when requesting information in  
241 accordance with Subsection (3)(n)(iii), or an individual who requests information in  
242 accordance with Subsection (3)(n)(v):

243 (i) is not guilty of a class A misdemeanor; and

244 (ii) is not subject to:



245 (A) dismissal from office in accordance with Subsection (5)(b); or  
 246 (B) disqualification from holding public office in accordance with Subsection (5)(b).  
 247 (6) Except as provided in Section [59-1-404](#), this part does not apply to the property tax.  
 248 Section 2. Section [59-12-104.5](#) is amended to read:

249 **59-12-104.5. Commission report to Revenue and Taxation Interim Committee on**  
 250 **exempt sales -- Revenue and Taxation Interim Committee review of sales and use tax**  
 251 **exemptions.**

252 (1) As used in this section:

253 (a) "Committee" means the Revenue and Taxation Interim Committee.

254 (b) "Reporting entity" means the same as that term is defined in Section [59-12-104.8](#).

255 (2) On or before October 1, the commission shall submit electronically to the  
 256 committee the following information required by Section [59-12-104.8](#) for the previous fiscal  
 257 year:

258 (a) the total number of reporting entities;

259 (b) the number of reporting entities that reported the information required;

260 (c) the number of voluntary reports;

261 (d) the name of each exemption category and the exemptions under Section [59-12-104](#)  
 262 that are included in each category;

263 (e) the reported dollar amount of exempt purchases per exemption category; and

264 (f) the reported dollar amount of sales and use tax that the state forwent for each  
 265 exemption category.

266 [~~The Revenue and Taxation Interim Committee~~]

267 (3) The committee shall:

268 [(+)] (a) review Subsection [59-12-104\(28\)](#) before October 1 of the year after the year in  
 269 which Congress permits a state to participate in the special supplemental nutrition program  
 270 under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on  
 271 purchases of food under that program; and

272 [(2)] (b) review Subsection [59-12-104\(21\)](#) before October 1 of the year after the year in  
 273 which Congress permits a state to participate in the SNAP as defined in Section [35A-1-102](#),  
 274 even if state or local sales taxes are collected within the state on purchases of food under that  
 275 program.

276 Section 3. Section **59-12-104.8** is enacted to read:

277 **59-12-104.8. Reporting of exempt sales.**

278 (1) As used in this section, "reporting entity" means a person that:

279 (a) is obligated under Section [59-12-107](#) or [59-12-108](#) to file a return to remit sales and

280 use tax; or

281 (b) obtains a direct pay permit under Section [59-12-107.1](#).

282 (2) (a) Beginning on January 1, 2021, a reporting entity shall report the total dollar

283 amount by exemption category, as allowed by the agreement, for all purchases that are exempt

284 from sales and use tax during the applicable reporting period described in Subsection (2)(c).

285 (b) A reporting entity shall make the report described in Subsection (2)(a):

286 (i) on each sales and use tax return that the reporting entity files during the year; or

287 (ii) on the sales and use tax return that the reporting entity files in December of each

288 year.

289 (c) (i) A reporting entity that reports exemption information on each sales and use tax

290 return shall include the dollar amount, by exemption category, of purchases that were exempt

291 under Section [59-12-104](#) for the previous reporting period.

292 (ii) A reporting entity that reports exemption information on the December sales and

293 use tax return shall include the dollar amount of purchases that were exempt under Section

294 [59-12-104](#) for the previous 12-month period.

295 (3) (a) The commission shall:

296 (i) notify the governing board of the agreement that the state requires a reporting entity

297 to report sales and use tax exemptions; and

298 (ii) include space on any sales and use tax return to allow a reporting entity to report

299 the information required by this section.

300 (b) The commission, in consultation with the Office of Legislative Research and

301 General Counsel, created in Section [36-12-12](#), and the Office of the Legislative Fiscal Analyst,

302 created in Section [36-12-13](#), shall categorize the exemptions in Section [59-12-104](#) by each

303 exemption category included on the sales and use tax return.

304 (c) Under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission

305 may make rules regarding the categorization of the exemptions in Section [59-12-104](#).

306 (d) The commission shall provide notice:

307 (i) on the sales and use tax return of which exemption category a reporting entity shall  
308 report each exemption under Section 59-12-104; and

309 (ii) on the exemption certificate of which exemption category a reporting entity shall  
310 report each exemption listed on the exemption certificate.

311 (4) (a) Notwithstanding Section 59-1-401, if a reporting entity fails to report or fails to  
312 report the full amount of the exemptions as required by Subsection (2), the commission shall  
313 impose a penalty equal to 10% of the amount that the reporting entity is required to remit.

314 (b) The penalty in this Subsection (4) is in addition to any penalty imposed by the  
315 commission under Section 59-1-401.

316 (c) The commission may waive, reduce, or compromise a penalty imposed under this  
317 section if the commission:

318 (i) finds that there are reasonable grounds for the waiver, the reduction, or the  
319 compromise; and

320 (ii) makes a record of the grounds for the waiver, the reduction, or the compromise.

321 (5) (a) Any person that is not a reporting entity but that files a sales and use tax return  
322 may voluntarily comply with this section.

323 (b) The commission may not impose a penalty on a person described in Subsection  
324 (5)(a) if the person fails to report or fails to provide the full amount of purchases that are  
325 exempt under Section 59-12-104.

326 **Section 4. Effective date.**

327 (1) Except as provided in Subsection (2), this bill takes effect on May 12, 2020.

328 (2) The changes to the following sections take effect on January 1, 2021:

329 (a) Section 59-1-403; and

330 (b) Section 59-12-104.5.