

TAX ADMINISTRATION AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE**General Description:**

This bill modifies provisions related to the administration and enforcement of taxes.

Highlighted Provisions:

This bill:

- clarifies that the parties to an administrative garnishment order issued by the State Tax Commission must file certain requests and motions in the district court; and
- changes the term "remote seller" to "voluntary seller."

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-1420, as enacted by Laws of Utah 2021, Chapter 393

59-12-107, as last amended by Laws of Utah 2020, Chapter 294

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

Section 1. Section **59-1-1420** is amended to read:

59-1-1420. Administrative garnishment order for liability.

(1) As used in this section:



(a) "Administrative garnishment order" includes a continuing administrative garnishment order issued under this section.

(b) "Disposable earnings" means the same as that term is defined in Section 70C-7-103.

(c) "Garnishee" means a person to whom the commission issues an administrative garnishment order under this section.

(d) "Nonexempt periodic payment" means any recurring payment that, under Title 78B, Chapter 5, Part 5, Utah Exemptions Act, is not exempt from the judicial process to collect an unsecured debt.

(2) (a) Subject to Subsection (3), if a taxpayer owes a liability, the commission may issue an administrative garnishment order against the taxpayer's personal property, including wages, in the possession or control of a person other than the taxpayer in the same manner and with the same effect as if the order were a writ of garnishment issued by a court with jurisdiction.

(b) In addition to the underlying liability, the commission may satisfy through an administrative garnishment any costs or fees incurred by the commission as a result of issuing the administrative garnishment order.

(3) The commission may issue an administrative garnishment order to a person described in Subsection (2) if:

(a) the commission has filed a warrant against the taxpayer for the underlying liability in accordance with Section 59-1-1414; and

(b) the commission's executive director or the executive director's designee signs the administrative garnishment order.

(4) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure.

(5) The maximum portion of a taxpayer's disposable earnings subject to garnishment under this section is the lesser of:

(a) 25% of the taxpayer's disposable earnings; or

(b) the amount by which the taxpayer's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as

provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(6) Upon agreement by the garnishee, the parties to an administrative garnishment order may accept and transmit documents relating to the administrative garnishment order by electronic means, including service of process, proof of service, interrogatories, answers, and any other information shared between the garnishee and the commission.

(7) In an administrative garnishment order issued under this section, the commission shall:

(a) identify the taxpayer, including:

(i) the taxpayer's name and address; and

(ii) if known:

(A) the last four digits of the taxpayer's social security number, or the taxpayer's full social security number, if the taxpayer's full social security number is required by federal law; and

(B) the taxpayer's date of birth;

(b) contain a statement that includes:

(i) if known, the nature, location, account number, and estimated value of the property subject to administrative garnishment;

(ii) if known, the name, address, and phone number of the person holding the property subject to administrative garnishment; and

(iii) the name, address, and phone number of any person claiming an interest in the property described in Subsection (7)(b)(i) or (ii);

(c) state whether any of the property subject to administrative garnishment consists of earnings;

(d) state the outstanding amount owed under the warrant described in Subsection (3)(a);

(e) state the amount of any applicable costs or fees included in the administrative garnishment;

(f) state the manner in which the garnishee shall deliver the property to the commission; and

(g) state that the commission shall pay the garnishee the fee described in Section 78A-2-216.

90 (8) As part of the administrative garnishment order, the commission shall serve on the
91 garnishee the following interrogatories:

92 (a) whether the garnishee is indebted to the taxpayer and, if so, the nature of the
93 indebtedness;

94 (b) whether the garnishee possesses or controls any property of the taxpayer, and, if so,
95 the nature, location, and estimated value of the property;

96 (c) whether the garnishee knows of any property of the taxpayer in the possession or
97 control of another person, and if so, the following information about the property:

98 (i) the nature;

99 (ii) the location; and

100 (iii) the estimated value;

101 (d) (i) whether the garnishee intends to deduct from the property a liquidated claim
102 against the taxpayer;

103 (ii) a description of any claim described in Subsection (8)(d)(i); and

104 (iii) the amount deducted, if any;

105 (e) the date and manner of the garnishee's service of the documents described in
106 Subsection (9)(c) on the taxpayer and any third party;

107 (f) the date on which the taxpayer was previously served with any continuing
108 administrative garnishment order;

109 (g) any other relevant information the commission requests, including:

110 (i) the taxpayer's position;

111 (ii) the taxpayer's rate of pay;

112 (iii) the taxpayer's compensation method;

113 (iv) the taxpayer's pay period; and

114 (v) a computation of the taxpayer's disposable earnings.

115 (9) Within seven days after the day on which an administrative garnishment order is
116 served, the garnishee shall:

117 (a) answer each interrogatory described in Subsection (8);

118 (b) serve the answers to the interrogatories on the commission;

119 (c) serve the taxpayer and any other person known to the garnishee to have an interest
120 in the property a copy of:

(i) the administrative garnishment order; and
(ii) the answers to the interrogatories described in Subsection (9)(b); and
(d) inform the taxpayer of the taxpayer's right to reply to the answers described in Subsection (9)(b) and request a hearing in district court as provided by Rule 64D, Utah Rules of Civil Procedure.

(10) (a) A garnishee who acts in accordance with this section and the administrative garnishment order is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (10)(c), if a garnishee fails to comply with the administrative garnishment order without a court or final administrative order directing otherwise, the garnishee is liable for an amount including:

(i) the lesser of the value of the property or the balance owed under the warrant described in Subsection (3)(a);

(ii) reasonable costs and fees; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(c) If a garnishee demonstrates that the garnishee took reasonable steps to secure the property, the commission may excuse the garnishee of liability in whole or in part.

(11) If the commission files a motion for an order to show cause to enforce an administrative garnishment order under this section, the commission shall file the motion in district court and attach to the motion a statement that the commission has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(12) A garnishee is not liable for drawing, accepting, making, or endorsing a negotiable instrument that is not in the possession or control of the garnishee at the time the administrative garnishment order is served.

(13) A garnishee may deduct from the property any liquidated claim against the taxpayer.

(14) (a) If a debt owed by the taxpayer to the garnishee is secured by the property subject to the administrative garnishment order, the commission may apply the property to the debt.

(b) An administrative garnishment order described in Subsection (14)(a) remains in

effect regardless of whether the commission applies the property to the debt.

(15) (a) The commission may issue a continuing administrative garnishment order against any nonexempt periodic payment.

(b) A continuing administrative garnishment order applies to payments to the taxpayer:

(i) beginning on the day on which the continuing administrative garnishment order is served; and

(ii) ending on the earlier of:

(A) subject to Subsection (15)(c), one year after the day on which the continuing administrative garnishment order is served;

(B) 120 days after the day on which a second or subsequent continuing administrative garnishment against the taxpayer is served;

(C) the day on which the last nonexempt periodic payment subject to the continuing administrative garnishment order occurs;

(D) the day on which the warrant described in Subsection (3)(a) is stayed, vacated, or satisfied in full; or

(E) the day on which the commission releases the continuing administrative garnishment order.

(c) If the commission issues a continuing administrative garnishment order during the term of another continuing administrative garnishment order against the same taxpayer, the period described in Subsection (15)(b)(i) is tolled if the other continuing administrative garnishment order:

(i) is in effect at the time the commission serves the subsequent continuing administrative garnishment order; and

(ii) requires payments greater than or equal to the maximum portion of disposable earnings described in Subsection (5).

(d) For each periodic payment period, no later than seven days after the day on which the periodic payment period ends, the garnishee shall:

(i) answer each interrogatory described in Subsection (8);

(ii) serve the answers to the interrogatories on the commission, the taxpayer, and any other person known to the garnishee to have an interest in the property; and

(iii) deliver the property to the commission in the manner specified in the continuing

administrative garnishment order.

(16) (a) The commission may not name more than one garnishee in an administrative garnishment order.

(b) Priority among garnishments is according to the order of service on the garnishee.

(c) An administrative garnishment order applies to earnings accruing during the pay period in which the order is effective.

(17) This section is subject to Title 78B, Chapter 5, Part 5, Utah Exemptions Act.

Section 2. Section **59-12-107** is amended to read:

59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.

(1) As used in this section:

(a) "Ownership" means direct ownership or indirect ownership through a parent, subsidiary, or affiliate.

(b) "Related seller" means a seller that:

(i) meets one or more of the criteria described in Subsection (2)(a)(i); and

(ii) delivers tangible personal property, a service, or a product transferred electronically that is sold:

(A) by a seller that does not meet one or more of the criteria described in Subsection (2)(a)(i); and

(B) to a purchaser in the state.

(c) "Substantial ownership interest" means an ownership interest in a business entity if that ownership interest is greater than the degree of ownership of equity interest specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

(2) (a) Except as provided in Subsection (2)(f), Section [59-12-107.1](#), or Section [59-12-123](#), and subject to Subsection (2)(g), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

(i) has or utilizes:

(A) an office;

(B) a distribution house;

214 (C) a sales house;
215 (D) a warehouse;
216 (E) a service enterprise; or
217 (F) a place of business similar to Subsections (2)(a)(i)(A) through (E);
218 (ii) maintains a stock of goods;
219 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
220 state, unless the seller's only activity in the state is:
221 (A) advertising; or
222 (B) solicitation by:
223 (I) direct mail;
224 (II) electronic mail;
225 (III) the Internet;
226 (IV) telecommunications service; or
227 (V) a means similar to Subsection (2)(a)(iii)(A) or (B);
228 (iv) regularly engages in the delivery of property in the state other than by:
229 (A) common carrier; or
230 (B) United States mail; or
231 (v) regularly engages in an activity directly related to the leasing or servicing of
232 property located within the state.
233 (b) A seller is considered to be engaged in the business of selling tangible personal
234 property, a product transferred electronically, or a service for use in the state, and shall pay or
235 collect and remit the sales and use taxes imposed by this chapter if:
236 (i) the seller holds a substantial ownership interest in, or is owned in whole or in
237 substantial part by, a related seller; and
238 (ii) (A) the seller sells the same or a substantially similar line of products as the related
239 seller and does so under the same or a substantially similar business name; or
240 (B) the place of business described in Subsection (2)(a)(i) of the related seller or an in
241 state employee of the related seller is used to advertise, promote, or facilitate sales by the seller
242 to a purchaser.
243 (c) Subject to Section 59-12-107.6, each seller that does not meet one or more of the
244 criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit

the sales and use taxes imposed by this chapter under Subsection (2)(b) shall pay or collect and remit the sales and use tax imposed by this chapter if the seller:

(i) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state; and

(ii) in either the previous calendar year or the current calendar year:

(A) receives gross revenue from the sale of tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state of more than \$100,000; or

(B) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state in 200 or more separate transactions.

(d) A seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection (2)(b), Subsection (2)(c), or Section 59-12-107.6 may voluntarily:

(i) collect a tax on a transaction described in Subsection 59-12-103(1); and

(ii) remit the tax to the commission as provided in this part.

(e) The collection and remittance of a tax under this chapter by a seller that is registered under the agreement may not be used as a factor in determining whether that seller is required by this Subsection (2) to:

(i) pay a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;

or

(F) this title; or

(ii) collect and remit a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

- 276 (E) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges;
277 or
278 (F) this title.
- 279 (f) A person shall pay a use tax imposed by this chapter on a transaction described in
280 Subsection [59-12-103](#)(1) if:
- 281 (i) the seller did not collect a tax imposed by this chapter on the transaction; and
282 (ii) the person:
- 283 (A) stores the tangible personal property or product transferred electronically in the
284 state;
285 (B) uses the tangible personal property or product transferred electronically in the state;
286 or
287 (C) consumes the tangible personal property or product transferred electronically in the
288 state.
- 289 (g) The ownership of property that is located at the premises of a printer's facility with
290 which the retailer has contracted for printing and that consists of the final printed product,
291 property that becomes a part of the final printed product, or copy from which the printed
292 product is produced, shall not result in the retailer being considered to have or maintain an
293 office, distribution house, sales house, warehouse, service enterprise, or other place of
294 business, or to maintain a stock of goods, within this state.
- 295 (3) (a) Except as provided in Section [59-12-107.1](#), a seller shall collect a tax under this
296 chapter from a purchaser.
- 297 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
298 cent, in excess of the tax computed at the rates prescribed by this chapter.
- 299 (c) (i) Each seller shall:
- 300 (A) give the purchaser a receipt for the tax collected; or
301 (B) bill the tax as a separate item and declare the name of this state and the seller's
302 sales and use tax license number on the invoice for the sale.
- 303 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax
304 and relieves the purchaser of the liability for reporting the tax to the commission as a
305 consumer.
- 306 (d) A seller is not required to maintain a separate account for the tax collected, but is

considered to be a person charged with receipt, safekeeping, and transfer of public money.

(e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

(g) If the accounting methods regularly employed by the seller in the transaction of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that, in the commission's opinion, will better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.

(h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:

(A) the purchase price in specie legal tender and in the legal tender the seller is required to remit to the commission;

(B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie legal tender and in the legal tender the seller is required to remit to the commission;

(C) the tax rate under this chapter applicable to the purchase; and

(D) the date of the purchase.

(ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the specie legal tender the purchaser paid.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the amount of tax due under Subsection (3)(h)(i) if the London fixing price is not available for a particular day.

(4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the

sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each quarterly calendar period.

(b) (i) Each seller shall, on or before the last day of the month next succeeding each quarterly calendar period, file with the commission a return for the preceding quarterly period.

(ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Except as provided in Subsection (5)(c), a return shall contain information and be in a form the commission prescribes by rule.

(d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be based on the total nonexempt sales made during the period for which the return is filed, including both cash and charge sales.

(ii) For a sale that includes the delivery or installation of tangible personal property at a location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery or installation is separately stated on an invoice or receipt, a seller may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that sale during each period for which the seller receives payment for the sale.

(e) (i) The use tax as computed in the return shall be based on the total amount of purchases for storage, use, or other consumption in this state made during the period for which the return is filed, including both cash and charge purchases.

(ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser that is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and that converts tangible personal property into real property.

(B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the taxes due under this chapter on tangible personal property for which the qualifying purchaser claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.

(C) A qualifying purchaser remitting taxes due under this chapter in accordance with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the qualifying purchaser's purchase of the tangible personal property that was converted into real

property multiplied by a fraction, the numerator of which is the payment received in the period for the qualifying purchaser's sale of the tangible personal property that was converted into real property and the denominator of which is the entire sales price for the qualifying purchaser's sale of the tangible personal property that was converted into real property.

(D) A qualifying purchaser may remit taxes due under this chapter in accordance with this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

(ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if the commission considers it necessary in order to ensure the payment of the tax imposed by this chapter.

(h) (i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(A) the information required to be included in the additional electronic report described in Subsection (4)(h)(i); and

(B) one or more due dates for filing the additional electronic report described in Subsection (4)(h)(i).

(5) (a) As used in this Subsection (5) and Subsection (6)(b), "[remote] voluntary seller" means a seller that is:

(i) registered under the agreement;

(ii) described in Subsection (2)(d); and

(iii) not a:

(A) model 1 seller;

(B) model 2 seller; or

(C) model 3 seller.

(b) (i) Except as provided in Subsection (5)(b)(ii), a tax a [remote] voluntary seller collects in accordance with Subsection (2)(d) is due and payable:

(A) to the commission;

(B) annually; and

(C) on or before the last day of the month immediately following the last day of each calendar year.

(ii) The commission may require that a tax a [remote] voluntary seller collects in accordance with Subsection (2)(d) be due and payable:

(A) to the commission; and

(B) on the last day of the month immediately following any month in which the seller accumulates a total of at least \$1,000 in agreement sales and use tax.

(c) (i) If a [remote] voluntary seller remits a tax to the commission in accordance with Subsection (5)(b), the [remote] voluntary seller shall file a return:

(A) with the commission;

(B) with respect to the tax;

(C) containing information prescribed by the commission; and

(D) on a form prescribed by the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

(A) the information required to be contained in a return described in Subsection (5)(c)(i); and

(B) the form described in Subsection (5)(c)(i)(D).

(d) A tax a [remote] voluntary seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the [remote] voluntary seller completes, including:

(i) a cash transaction; and

(ii) a charge transaction.

(6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:

(i) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

431 (ii) for the month for which the seller collects a tax under this chapter.

432 (b) A tax a [~~remote~~] voluntary seller that files a simplified electronic return collects in
433 accordance with this chapter is due and payable as provided in Subsection (5).

434 (7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
435 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
436 titling or registration under the laws of this state.

437 (b) The commission shall collect the tax described in Subsection (7)(a) when the
438 vehicle is titled or registered.

439 (8) If any sale of tangible personal property or any other taxable transaction under
440 Subsection 59-12-103(1), is made by a wholesaler to a retailer:

441 (a) the wholesaler is not responsible for the collection or payment of the tax imposed
442 on the sale; and

443 (b) the retailer is responsible for the collection or payment of the tax imposed on the
444 sale if:

445 (i) the retailer represents that the tangible personal property, product transferred
446 electronically, or service is purchased by the retailer for resale; and

447 (ii) the tangible personal property, product transferred electronically, or service is not
448 subsequently resold.

449 (9) If any sale of property or service subject to the tax is made to a person prepaying
450 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
451 contractor or subcontractor of that person:

452 (a) the person to whom such payment or consideration is payable is not responsible for
453 the collection or payment of the sales or use tax; and

454 (b) the person prepaying the sales or use tax is responsible for the collection or
455 payment of the sales or use tax if the person prepaying the sales or use tax represents that the
456 amount prepaid as sales or use tax has not been fully credited against sales or use tax due and
457 payable under the rules promulgated by the commission.

458 (10) (a) For purposes of this Subsection (10):

459 (i) Except as provided in Subsection (10)(a)(ii), "bad debt" means the same as that term
460 is defined in Section 166, Internal Revenue Code.

461 (ii) "Bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); or

(II) exempt under Section 59-12-104;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

(E) an uncollectible amount on tangible personal property or a product transferred electronically that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax under this chapter is calculated on a return.

(ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:

(A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal property converted into real property;

(B) the qualifying purchaser's sale of that tangible personal property converted into real property later becomes bad debt; and

(C) the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time

493 period; and

494 (ii) as provided in Section 59-1-1410.

495 (d) A bad debt deduction under this section may not include interest.

496 (e) A bad debt may be deducted under this Subsection (10) on a return for the time

497 period during which the bad debt:

498 (i) is written off as uncollectible in the seller's books and records; and

499 (ii) would be eligible for a bad debt deduction:

500 (A) for federal income tax purposes; and

501 (B) if the seller were required to file a federal income tax return.

502 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or

503 claims a refund under this Subsection (10), the seller shall report and remit a tax under this

504 chapter:

505 (i) on the portion of the bad debt the seller recovers; and

506 (ii) on a return filed for the time period for which the portion of the bad debt is

507 recovered.

508 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection

509 (10)(f), a seller shall apply amounts received on the bad debt in the following order:

510 (i) in a proportional amount:

511 (A) to the purchase price of the tangible personal property, product transferred

512 electronically, or service; and

513 (B) to the tax due under this chapter on the tangible personal property, product

514 transferred electronically, or service; and

515 (ii) to:

516 (A) interest charges;

517 (B) service charges; and

518 (C) other charges.

519 (h) A seller's certified service provider may make a deduction or claim a refund for bad

520 debt on behalf of the seller:

521 (i) in accordance with this Subsection (10); and

522 (ii) if the certified service provider credits or refunds the entire amount of the bad debt

523 deduction or refund to the seller.

524 (i) A seller may allocate bad debt among the states that are members of the agreement
525 if the seller's books and records support that allocation.

526 (11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full
527 amount of tax required by this chapter.

528 (b) A violation of this section is punishable as provided in Section 59-1-401.

529 (c) Each person that fails to pay any tax to the state or any amount of tax required to be
530 paid to the state, except amounts determined to be due by the commission under Chapter 1,
531 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time
532 required by this chapter, or that fails to file any return as required by this chapter, shall pay, in
533 addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

534 (d) For purposes of prosecution under this section, each quarterly tax period in which a
535 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the
536 tax required to be remitted constitutes a separate offense.