



TaxNewsFlash

United States



No. 2020-012
January 8, 2020

Utah: Corporate tax rate reduction, sales tax changes

The Utah legislature passed Senate Bill 2001, and the governor signed the bill into law on December 18, 2019.

In general, the legislation reduces income taxes, while increasing sales taxes on food and fuel, eliminating certain exemptions, and expanding the state's sales tax base to include certain services.

Possible referendum challenge

The bill failed to receive a 2/3 majority vote in both the House and Senate, and at present, opponents of the tax changes have begun circulating a referendum petition to place a potential repeal of the bill on the November 2020 ballot. Under Utah Code §20A-7-301(2), "when a referendum petition has been declared sufficient, the law that is the subject of the petition does not take effect unless and until it is approved by a vote of the people at a regular general election or a statewide special election." A petition will be declared "sufficient" when the lieutenant governor has counted and verified the required signatures.

Details of the tax changes that affect businesses are summarized below. The effective dates presented below are those contained in the bill. The bill's provisions will not be effective, if at all, until after the November 2020 election if the referendum petition effort is successful in placing a repeal proposal on the ballot.

Income tax rate changes

Under current law, Utah's corporate income/franchise tax rate imposed on Utah taxable income is 4.95%. Senate Bill 2001 reduces the rate to 4.66%.

The current tax rate imposed on resident individuals is reduced to 4.66% (from 4.95%).

The effective date of the income tax rate changes is retrospective to tax years beginning on or after January 1, 2020.

Sales tax rate increased on food and food ingredients

Under current law, food and food ingredients are subject to sales tax at a reduced 1.75% state rate.

Effective April 1, 2020, amounts paid or charged for food and food ingredients will be taxed at the 4.85% state sales tax rate.

The legislature also adopted a new refundable “grocery credit” for low to middle-income residents that is based on number of household members. The credit is intended to reduce the increased burden imposed on lower-income individuals as a result of increasing the tax on groceries.

Sales tax base expansion

Effective April 1, 2020, Utah sales and use tax is imposed on certain new items and services, as noted below:

- Amounts paid or charged for access to digital audio-visual works, digital audio works, digital books, or gaming services, including the streaming of or subscription for access to digital audio-visual works, digital audio works, digital books, or gaming services regardless of the delivery method or whether the amount paid or charged for access provides a right to: (1) single-use access to the digital audio-visual works, digital audio works, digital books, or gaming services; or (2) access the digital audio-visual works, digital audio works, digital books, or gaming services through a subscription, including a right that terminates upon the occurrence of a condition. Note, Utah already taxes products *transferred* electronically.
- Amounts paid or charged for the storage, use, or other consumption of: (1) prewritten computer software delivered electronically or by load and leave; or (2) seller-hosted prewritten computer software. “Seller hosted prewritten computer software” means prewritten computer software that is accessed through the Internet or a seller-hosted server, regardless of whether the access is permanent or any downloading occurs.
- Amounts paid or charged for the following services:
 - Security system monitoring
 - Personal transportation that originates in the state and terminates in the state (including peer-to-peer ride sharing)
 - Parking or garaging a motor vehicle at a location that is designed and used for parking or garaging one or more motor vehicles, regardless of whether the location is sometimes used for other purposes, provided the property is not residential property
 - Tow truck services
 - Pet boarding and care and pet grooming
 - Dating referral services
 - Identify theft protection
 - Separately stated delivery services or installation charges (previously, these services were generally not taxable if separately stated on an invoice provided to a purchaser at the time of sale)

New and repealed sales tax exemptions

Also effective April 1, 2020, new sales and use tax exemptions apply to sales of feminine hygiene products (as defined) and sales of some tangible personal property consumed in the course of providing certain taxable services. Specifically, the bill would exempt amounts paid for tangible personal property (other than electricity, gas, machinery, equipment, vehicles, parts, office equipment or office supplies) that is consumed in providing repair and renovation of tangible personal property, assisted washing and cleaning services, and laundry and dry cleaning services.

Senate Bill 2001 repeals a number of current exemptions from sales and use tax, including those for newspapers and newspaper subscriptions, sales to a ski resort of electricity to operate a passenger ropeway, amounts paid for admission to an athletic event at an institution of higher education, amounts paid for the lease or use of a vehicle issued a temporary sports event registration certificate, sales to a public transit district, sales of tangible personal property to a subcontractor of a public transit district when the property is installed or converted to real property, sales of fuel to a common carrier that is a railroad for use in a locomotive engine, sales of textbooks for higher education courses (unless the bookstore is owned by the institution of higher education), amounts paid or charged to access a database if the primary purpose is to view or retrieve information from the database.

Senate Bill 2001 also modifies current law exemptions for food sold from a vending machine that does not exceed \$1 per item, sales of cleaning or washing tangible personal property if the cleaning or washing is not assisted, and sales or rentals of the right to use or operate an unassisted amusement device for amusement or entertainment. The exemption will be available only if paid for through a machine that accepts only cash and the machine is the only method by which to pay. Operators of food vending machines are also required to pay use tax on an amount equal to 150% of the cost of the food to qualify for the exemption.

Motor fuel and related taxes

Senate Bill 2001 overhauls the current motor fuels tax structure by imposing the state sales tax on sales of motor fuel and non-diesel special fuels effective April 1, 2020. Application of the sales tax to motor fuel sales is expected to generate tax of about \$0.10 per gallon.

In addition, the bill imposes an additional special fuel tax of \$0.06 per gallon on diesel fuel effective April 1, 2020; the special tax will increase to \$0.10 per gallon on January 1, 2022.

Finally, also effective April 1, 2020, the motor vehicle rental tax rate is increased from 2.5% to 4.0%. This tax is imposed on short-term leases and rentals of motor vehicles not exceeding 30 days.

For more information, contact a KPMG State and Local Tax professional:

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