

(b) A notice provided under Subsection (3)(a) shall direct the public on how to participate electronically in the meeting.

(4) A commissioner who is participating electronically pursuant to Subsection (1) shall be included in calculating a quorum if the commissioner is:

(a) connected by audio means; and

(b) verbally recognized as electronically present by a commissioner at the anchor location.

KEY: developmental disabilities, grievance procedures, taxation, disclosure requirements

Date of Last Change: ~~March 28,~~ 2022

Notice of Continuation: November 9, 2021

Authorizing, and Implemented or Interpreted Law: 10-1-405; 41-1a-209; 52-4-207; 59-1-205; 59-1-207; 59-1-210; 59-1-301; 59-1-302.1; 59-1-304; 59-1-401; 59-1-403; 59-1-404; 59-1-405; 59-1-501; 59-1-502.5; 59-1-602; 59-1-611; 59-1-705; 59-1-706; 59-1-1004; 59-1-1404; 59-7-505; 59-10-512; 59-10-532; 59-10-533; 59-10-535; 59-12-107; 59-12-114; 59-12-118; 59-13-206; 59-13-210; 59-13-307; 59-10-544; 59-14-404; 59-2-212; 59-2-701; 59-2-705; 59-2-1003; 59-2-1004; 59-2-1006; 59-2-1007; 59-2-704; 59-2-924; 59-7-517; 63G-3-301; 63G-4-102; 76-8-502; 76-8-503; 59-2-701; 63G-4-201; 63G-4-202; 63G-4-203; 63G-4-204; 63G-4-205 through 63G-4-209; 63G-4-302; 63G-4-401; 63G-4-503; 63G-3-201(2); 68-3-7; 68-3-8.5; 69-2-5; 42 USC 12201; 28 CFR 25.107 1992 Edition

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R865-19S-92	Filing ID: 54935

Agency Information

1. Department:	Tax Commission	
Agency:	Auditing	
Building:	Utah State Tax Commission	
Street address:	210 N 1950 W	
City, state and zip:	Salt Lake City, UT 84134	
Contact persons:		
Name:	Phone:	Email:
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R865-19S-92. Computer Software and Other Related Transactions Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-211
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):

This section is being amended to clarify that the sale, rental, or lease of custom computer software constitutes a sale of personal services that is not subject to the sales and use tax

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This amendment clarifies that the sale, rental, or lease of custom computer software constitutes a sale of personal services that is not subject to the sales and use tax.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:
This amendment is not expected to impact the state budget because it is only a clarification of the Tax Commission's longstanding position that the specific transactions described in this rule are not subject to the sales and use tax.

B) Local governments:
This amendment is not expected to impact local governments because it is only a clarification of the Tax Commission's longstanding position that the specific transactions described in this rule are not subject to the sales and use tax.

C) Small businesses ("small business" means a business employing 1-49 persons):
This amendment is not expected to impact small businesses because it is only a clarification of the Tax Commission's longstanding position that the specific transactions described in this rule are not subject to the sales and use tax.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This amendment is not expected to impact non-small businesses because it is only a clarification of the Tax Commission's longstanding position that the specific transactions described in this rule are not subject to the sales and use tax.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):
This amendment is not expected to impact persons other than small businesses, non-small businesses, state, or local government entities because it is only a clarification of the Tax Commission's longstanding position that the

specific transactions described in this rule are not subject to the sales and use tax.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

This amendment is not expected to impose compliance costs on affected persons because it is only a clarification of the Tax Commission's longstanding position that the specific transactions described in this rule are not subject to the sales and use tax.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2023	FY2024	FY2025
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

One of the Commissioners of the Utah State Tax Commission, Rebecca L. Rockwell, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 59-12-103	Section 59-12-211	
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Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	11/14/2022
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9. This rule change MAY become effective on: 11/21/2022

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

Agency head or designee and title:	Rebecca L. Rockwell, Commissioner	Date:	09/30/2022
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R865. Tax Commission, Auditing.

R865-19S. Sales and Use Tax.

R865-19S-92. Computer Software and Other Related Transactions Pursuant to Utah Code Ann. Sections 59-12-103 and 59-12-211.

(1) "Computer-generated output" means the microfiche, microfilm, paper, discs, tapes, molds, or other tangible personal property generated by a computer.

(2) The sale, rental or lease of custom computer software constitutes a sale of personal services and is ~~exempt from~~ not subject to the sales or use tax, regardless of the form in which the software is purchased or transferred. Charges for services such as software maintenance, consultation in connection with a sale or lease, enhancements, or upgrading of custom software are not taxable.

(3) The sale of computer-generated output is subject to the sales or use tax if the primary object of the sale is the output and not the services rendered in producing the output.

(4)(a) The provisions for determining the location of a transaction under Subsection (4)(b) apply if:

- (i) a purchaser uses computer software;
- (ii) there is not a transfer of a copy of the computer software to the purchaser; and
- (iii) the purchaser uses the computer software at more than one location.

(b) The location of a transaction described in Subsection (4)(a) is:

- (i) if the seller is required to collect and remit tax to the commission for the purchase, and the purchaser provides the seller at the time of purchase a reasonable and consistent method for allocating the purchase to multiple locations, the location determined by applying that reasonable and consistent method of allocation; or

(ii) if the seller is required to collect and remit tax to the commission for the purchase, and the seller does not receive information described in Subsection (4)(b)(i) from the purchaser at the time of the purchase, the location determined in accordance with Subsections 59-12-211(4) and (5); or

(iii) if the purchaser accrues and remits sales tax to the commission for the purchase, the location determined:

(A) by applying a reasonable and consistent method of allocation; or

(B) in accordance with Subsections 59-12-211(4) and (5).

KEY: charities, tax exemptions, religious activities, sales tax

Date of Last Change: 2022 [November 30, 2020]

Notice of Continuation: November 9, 2021

Authorizing, and Implemented or Interpreted Law: 9-2-1702; 9-2-1703; 10-1-303; 10-1-306; 10-1-307; 10-1-405; 19-6-808; 26-32a-101 through 26-32a-113; 59-1-210; 59-12; 59-12-102; 59-12-103; 59-12-104; 59-12-105; 59-12-106; 59-12-107; 59-12-108; 59-12-118; 59-12-301; 59-12-352; 59-12-353

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Rule or Section Number:	R877-23V-24	Filing ID: 54941

Agency Information

1. Department:	Tax Commission	
Agency:	Motor Vehicle Enforcement	
Building:	Utah State Tax Commission	
Street address:	210 N 1950 W	
City, state and zip:	Salt Lake City, UT 84134	
Contact persons:		
Name:	Phone:	Email:
Chantay Asper	801-297-3901	casper@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R877-23V-24. Advisory Board Procedures Pursuant to Utah Code Ann. Section 41-3-106
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
This section is being amended to establish the conditions under which a board member who is participating electronically in a public meeting of the motor vehicle advisory board will be counted for purposes of calculating whether a quorum of board members are present. This change is being made to comply with the requirements of H.B. 22, Open and Public Meeting Act Modifications, which

passed during the 2022 General Session of the Legislature.

4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):

This amendment establishes the conditions under which a board member who is participating electronically in a public meeting of the motor vehicle advisory board will be counted for purposes of calculating whether a quorum of board members are present.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:

A) State budget:

This amendment is not expected to impact the state budget because there are no costs or savings associated with the procedure for establishing a quorum for purposes of public meeting of the motor vehicle advisory board.

B) Local governments:

This amendment is not expected to impact local governments because there are no costs or savings associated with the procedure for establishing a quorum for purposes of public meeting of the motor vehicle advisory board.

C) Small businesses ("small business" means a business employing 1-49 persons):

This amendment is not expected to impact small businesses because there are no costs or savings associated with the procedure for establishing a quorum for purposes of public meeting of the motor vehicle advisory board.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This amendment is not expected to impact non-small businesses because there are no costs or savings associated with the procedure for establishing a quorum for purposes of public meeting of the motor vehicle advisory board.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

This amendment is not expected to impact persons other than small businesses, non-small businesses, state, or local government entities because there are no costs or savings associated with the procedure for establishing a