

Chapter 6

RESORT TAX

2-6-1: DEFINITIONS:

2-6-2: APPLICATION OF TAX:

2-6-3: TAX IMPOSED:

2-6-4: PLACE OF SALE:

2-6-5: COLLECTION AND PAYMENT OF TAX:

2-6-6: STATE STATUTES APPLICABLE:

2-6-7: EXEMPTIONS:

2-6-8: SEVERABILITY:

2-6-9: PENALTY:

2-6-1: DEFINITIONS:

For purposes of this chapter, all terms used herein shall have the same meaning and definition as applied to those terms by the provisions of Utah Code Annotated title 59, chapter 12, and the state tax commission regulations adopted under those sections, unless superseded by the definitions provided below:

PURCHASE PRICE: The purchase price for a retail sale of tangible personal property subject to the tax shall be the gross selling price, exclusive of the state general sales tax imposed by the state of Utah by Utah Code Annotated title 59, chapter 12, and exclusive of the local option sales tax imposed by the town under the uniform local sales and use tax law, Utah Code Annotated [title 59, chapter 12](#), and the local ordinance adopting the tax, so that each of these sales taxes is imposed independently of the retail sales price, and does not result in the application of this tax on the amount of other sales taxes on the same sale.

WHOLESALE SALES: A sale of tangible personal property by any person to a retailer, merchant, jobber, dealer or commission agent, or another wholesaler, for the purpose of resale within a retail business. (1984 Code § 18-3-1; amd. 2010 Code)

2-6-2: APPLICATION OF TAX:

There is hereby imposed an optional general sales tax in the town since transient room capacity equals or exceeds the permanent census population in the town. (1984 Code § 18-3-2)

2-6-3: TAX IMPOSED:

There is hereby imposed a tax upon every retail sale within the town of tangible personal property, services, meals, lodging, admissions to places of recreation, entertainment or amusements, utility service, and ad sections [59-12-102](#) and [59-12-103](#), within the town at the rate of one and one-half percent (1.6%) of the retail selling price.

This section shall become effective on January 1, 1998, and the increased resort tax shall be levied beginning one minute after twelve o'clock (12:00) A.M., January 1, 1998. (Ord. 97-005, 11-18-1997; amd. 2010 Code) An increase of 0.1% became effective October 01, 2013 (amd Ord. 13-004, 6-11-2013 eff. 10-01-2013)

2-6-4: PLACE OF SALE:

For the purpose of this chapter, all retail sales shall be presumed to have been consummated at the place of business of the retailer unless the tangible personal property is sold and delivered by the retailer or his agent to an out of state destination or sold or delivered to a common carrier, including the United States postal service, for delivery to an out of state destination. In the event the retailer has no permanent place of business in the town, or has more than one scribed and adopted by the state tax commission for the administration of the local sales tax under Utah Code Annotated [title 59, chapter 12](#). "Public utilities", as defined by Utah Code Annotated title 54, shall not be obligated to determine the place or places within any municipality where public utility services are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the town shall be as determined by the state tax commission pursuant to an appropriate formula and other rules and regulations or prescribed and adopted by the commission for the application of the general sales tax. (1984 Code § 18-3-4; amd. 2010 Code)

2-6-5: COLLECTION AND PAYMENT OF TAX:

The tax imposed by this chapter is in addition to, and not in lieu of, the general sales tax imposed under the provisions of the uniform local sales and use tax chapter adopted by the town under Utah Code Annotated [title 59, chapter 12](#), and the state sales tax under Utah Code Annotated title 59, chapter 12. The procedure for collection and payment of this tax shall be identical to the procedure prescribed by Utah Code Annotated title 59, chapter 12, and the state tax commission regulations adopted under these actions. The town shall contract with the state tax commission for collection and all other functions incident to the administration and operation of this tax for as long as the tax is imposed. (1984 Code § 18-3-5; amd. 2010 Code)

2-6-6: STATE STATUTES APPLICABLE:

- A. Except as hereinafter provided, and except as they are inconsistent with the provisions of the uniform local sales tax law, Utah Code Annotated [title 59, chapter 12](#), pertaining to sales tax as in force on the effective date hereof, are hereby adopted in full and made a part of this chapter as though fully set forth herein, except for provisions stating the rate of the tax applied.

- B. Wherever, and to the extent that in Utah Code Annotated title [59, chapter 12](#), the state of Utah is named or referred to as the taxing agency, the name of Brian Head Town shall be substituted therefore, nothing in this subsection shall be deemed to require substitution of the name of the "town" for the word "state" when the word is used as part of the title of the state tax commission, or of the constitution of the state, nor shall the name of the town be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the town, or any agency thereof, rather than by or against the state tax commission in performing the functions incident to the administration or operation of this chapter.
- C. If an annual license has been issued to a retailer under Utah Code Annotated [title 59, chapter 12](#), an additional license shall not be required by reason of this section. (1984 Code § 18-3-6; amd. 2010 Code)

2-6-7: EXEMPTIONS:

This optional resort tax shall not apply to the following sales or kinds of sales:

- A. Sales of a single item with a price of two thousand five hundred dollars (\$2,500.00) or more.
- B. "Wholesale sales", as defined in section [2-6-1](#) of this chapter
- C. Items exempted from the general sales tax under the provisions of Utah Code Annotated title [59, chapter 12](#).
- D. Tax collected on contracts for sales which are executed prior to the adoption of this chapter, but which have not been fully performed. Said taxes shall be refunded upon application to the state tax commission pursuant to its regulations. (1984 Code § 18-3-7; amd. 2010 Code)

2-6-8: SEVERABILITY:

In the event that any provision, section or clause of this chapter is found to be unlawful or unconstitutional, only the particular section, provision or clause shall be stricken and the remainder of the chapter shall stand and not be affected thereby. Should any exclusion or exemption granted in this chapter be found to be unlawful or unconstitutional, that exemption or exclusion shall be stricken, and the tax shall apply to the item formerly exempted or excluded. (1984 Code § 18-3-8)

2-6-9: PENALTY:

Any person violating any of the provisions of this chapter shall be deemed guilty of a class B misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section [1-](#)

[4-1](#) of this code. This penalty shall be in addition to any penalties that may apply for violation of state statutes pertaining to the collection, payment and accounting for sales and use taxes. (1984 Code § 18-3-9; amd. Ord. 87-008, 8-11-1987; 2010 Code)