

ORDINANCE NO. 75-1

AN ORDINANCE IMPOSING A THREE-FOURTHS OF ONE PER CENT MUNICIPAL SALES AND USE TAX, PROVIDING FOR THE PERFORMANCE BY THE STATE TAX COMMISSION OF ALL FUNCTIONS INCIDENT TO THE ADMINISTRATION, OPERATION AND COLLECTION OF A SALES AND USE TAX HEREBY IMPOSED, PROVIDING PENALTIES FOR THE VIOLATION THEREOF AND REPEALING THE PREVIOUSLY ENACTED UNIFORM LOCAL SALES AND USE TAX ORDINANCE OF THE MUNICIPALITY.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF Wendover UTAH:

Section 1. Title. This ordinance shall be known as the "Uniform Local Sales and Use Tax Ordinance of the Town of Wendover."

Section 2. Purpose. The 41st Session of the Utah Legislature of Utah has authorized the counties and municipalities of the State of Utah to enact sales and use tax ordinances imposing a three-fourths of one per cent tax thus enabling this municipality to increase its local option sales and use tax from one-half of one per cent to three-fourths of one per cent.

Additionally, said Session of the Legislature has enacted amendments to Chapters 15 and 16 of Title 59, Utah Code Annotated, 1953, sufficiently to require this municipality to modify its sales and use tax ordinance to bring about conformity to those changes.

It is the purpose of this ordinance to conform the Uniform Local Sales and Use Tax of the municipality to the requirements of the Uniform Local Sales and Use Tax law of Utah, Chapter 9 of Title 11, Utah Code Annotated, 1953, as currently amended by repealing the previously enacted Uniform Local Sales and Use Tax Ordinance of this municipality and re-enacting by this ordinance a new Uniform Local Sales and Use Tax ordinance.

Section 3. Effective Date - Continuance of Former Ordinance. This ordinance shall become effective as of 12:01 o'clock a.m., July 1, 1975. The provisions of the previously enacted Uniform Local Sales and Use Tax ordinance of the municipality which is repealed hereby and which are in conflict herewith shall continue effective until 12:00 o'clock midnight, June 30, 1975. The provisions of this ordinance which are not in conflict with said former ordinance shall be deemed to be a continuation thereof and any rights, duties and obligations arising thereunder shall not in any way be deemed abrogated or terminated.

Section 4. Sales Tax.

(a)(1) From and after the effective date of this ordinance, there is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals made within the municipality at the rate of three-fourths of one per cent ($3/4\%$).

(2) For the purpose of this ordinance all retail sales shall be presumed to have been consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has no permanent place of business in the state, or has more than one place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed and adopted by the State Tax Commission. Public utilities as defined by Title 54, Utah Code Annotated, 1953, shall not be obligated to determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenues arising from such service allocable to the city shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.

(b)(1). Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Uniform Local Sales and Use Tax Law of Utah, all of the provisions of Chapter 15,

Title 59, Utah Code Annotated, 1953, as amended, and in force and effect on the effective date of this ordinance, insofar as they relate to sales taxes, excepting Sections 59-15-1 and 59-15-21 thereof, and excepting for the amount of the sales tax levied therein, are hereby adopted and made a part of this ordinance as though fully set forth herein.

(2) Wherever, and to the extent that in Chapter 15 of Title 59, Utah Code Annotated, 1953, the State of Utah is named or referred to as the taxing agency, the name of this municipality shall be substituted therefor. Nothing in this subparagraph (b) shall be deemed to require substitution of the name of the municipality for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of the State of Utah, nor shall the name of the municipality 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 municipality 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 ordinance.

(3) If an annual license has been issued to a retailer under Section 59-15-3 of the said Utah Code Annotated, 1953, an additional license shall not be required by reason of this section.

(4) There shall be excluded from the purchase price paid or charged by which the tax is measured:

(A) The amount of any sales or use tax imposed by the State of Utah upon a retailer or consumer;

(B) Receipts from the sale of tangible personal property upon which a sales or use tax has become due by reason of the same transaction to any other municipality and any county in the State of Utah, under a sales or use tax ordinance enacted by that county or municipality in accordance with the Uniform Local Sales and Use Tax Law of Utah.

Section 5. Use Tax.

(a) An excise tax is hereby imposed on the storage, use, or other consumption in this municipality of tangible personal property from any retailer on or after the operative date of this ordinance for storage, use or other consumption in the municipality at the rate of three-fourths of one per cent (3/4%) of the sales price of the property.

(b)(1) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of said Uniform Local Sales and Use Tax Law of Utah, all of the provisions of Chapter 16, Title 59, Utah Code Annotated, 1953, as amended and in force and effect on the effective date of this ordinance, applicable to use taxes, excepting the provisions of Sections 59-16-1 and 59-16-25 thereof, and excepting for the amount of the tax levied therein, are hereby adopted and made a part of this section as though fully set forth herein.

(2) Wherever and to the extent that in said Chapter 16 of Title 59, Utah Code Annotated, 1953, the State of Utah is named or referred to as the taxing agency, the name of this municipality shall be substituted therefor. Nothing in this subparagraph (b) shall be deemed to require the substitution of the name of this municipality for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of the State of Utah, nor shall the name of the municipality be substituted for that of the State in any section when the results of that substitution would require action to be taken by or against the municipality 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 ordinance.

(3) There shall be exempt from the tax due under this section:

(A) The amount of any sales or use tax imposed by the State of Utah upon a retailer or consumer;

(B) The storage, use or other consumption of tangible personal property, the gross receipts from the sales of or the cost of which has been subject to sales or use tax under a sales or use tax ordinance enacted in accordance with the Uniform Local Sales and Use Tax Law of Utah by any other municipality and any county of the State.

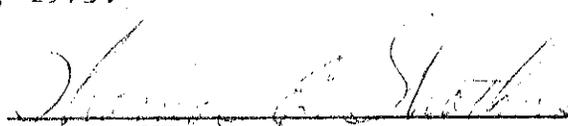
Section 6. Contract with State Tax Commission. Heretofore, this municipality has entered into an agreement with the State Tax Commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the municipality. That contract is hereby confirmed and the town president is hereby authorized to enter into such supplementary agreement with the State Tax Commission as may be necessary to the continued administration and operation of the local sales and use tax ordinance of the municipality as re-enacted by this ordinance.

Section 7. Penalties. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine in an amount less than \$100.00 or imprisonment for a period of not more than three months, or by both such fine and imprisonment.

Section 8. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance, including but not limited to any exemption is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

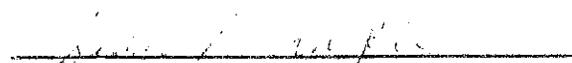
It is the intention of the Board of Trustees that each separate provision of this ordinance shall be deemed independent of all other provisions herein.

Adopted by the Board of Trustees of the Town of Utah, this 18th day of April, 1975.



PRESIDENT
BOARD OF TRUSTEES

ATTEST:



Town Clerk

DATE OF FIRST PUBLICATION OR POSTING: April 28, 1975

AGREEMENT FOR STATE ADMINISTRATION
OF LOCAL SALES AND USE TAXES

To administer the provisions of Title 11, Chapter 9, Utah Code Annotated 1953, as amended, titled and known as "The Uniform Local Sales and Use Tax Law of Utah", the State Tax Commission of Utah, pursuant to said act and Town of Wendover, a political subdivision of the state of Utah, pursuant to a sales and use tax ordinance of said municipality or county, a copy of which ordinance is hereby furnished or has been submitted, do agree as follows:

ARTICLE I

DEFINITIONS

Unless the context otherwise requires, whenever the following terms appear in this Agreement they shall be interpreted to mean the following:

1. "Commission" shall mean the Utah State Tax Commission.
2. "Municipality" shall mean any municipality noted, through it's authorized elective officers or officials who are authorized to execute binding agreements in the name of, for, and in behalf of said municipality.
3. "County" shall mean any county noted, through it's authorized elective officers or officials who are authorized to execute binding agreements in the name of, for, and in behalf of said county.

4. "Local Taxes" shall mean the sales and use taxes and includes penalties and interest imposed by a municipality or county under an ordinance which complies with the "Uniform Local Sales and Use Tax Law of Utah" above noted.

5. "Ordinance" shall mean the sales and use tax ordinance, a copy of which is either attached hereto or has been previously furnished, as it may be amended from time to time.

6. "Local Tax Law" shall mean Title 11, Chapter 9, entitled "The Uniform Local Sales and Use Tax Law of Utah" as amended, including amendments made by the 1975 Utah Legislature.

7. "Retailer" shall mean any person, partnership, corporation, public utility, joint venture or other entity from whom the tax specified in the Uniform Local Sales and Use Tax Law is collected.

ARTICLE II

ADMINISTRATION AND COLLECTION

1. Administration. The commission and municipality or county agree that the commission shall perform exclusively all the functions incidental to the administration and operation of the ordinance.

2. Applicable Laws. The commission and the municipality or county agree that the provisions of the local tax law together with applicable sections of Title 59, Chapter 15, and Title 59, Chapter 16, Utah Code Annotated 1953,

as amended, referred to in the local tax law, shall be applicable to the administration and operation of the ordinance.

3. Disposition of Funds. Money collected pursuant to the ordinance may be deposited in the state treasury to the credit of a special fund and may be drawn from the fund for the purpose of making refunds, for the purpose of compensating and reimbursing the commission pursuant to Article IV of this Agreement and for the purpose of transmitting to the municipality or county the amount to which it is entitled. Such transmittals shall be quarterly, except that refunds may be made whenever necessary.

4. Rules. The commission shall prescribe and adopt such rules and regulations as, in its judgment, are necessary or desirable for the administration and operation of the ordinance and the distribution of the local taxes collected hereunder.

5. Preference. Unless the payor instructs otherwise and except as otherwise provided in this Agreement, the commission shall give no preference in applying money received for sales and use taxes owed by a taxpayer, but shall apply all monies collected to the satisfaction of the claims of the state and the claims of the municipality or county as their interests appear.

6. Security. The commission agrees that any security which it hereafter requires to be furnished under the local tax law or the general state sales and use tax laws will be upon such terms that it also will be available for the payment of the claims of the municipality or county for local taxes owing

to it as its interests appear. The commission shall not be required to change the terms of any security now held by it.

7. Records of the commission. The commission agrees to permit authorized personnel of the municipality or county to examine the records and procedures of the commission concerning the local tax law, the ordinance and records of taxpayers subject thereto.

8. Annexation. The municipality agrees that the commission shall not be required to give effect to an annexation for the purpose of collecting and distributing local sales and use taxes earlier than the first day of the calendar quarter which commences not less than one month after notice in writing of said change is received by the commission. The notice shall include a verified copy of the metes and bounds of such newly annexed property.

ARTICLE III

ALLOCATION OF TAX

In the event a retailer has no permanent place of business in the state, the place or places at which the retail sales are consummated for the purposes of this act shall be determined under rules and regulations prescribed and adopted by the commission. In the case of public utilities, the commission shall apportion the revenue derived from the tax on such services of said utilities in the municipality or county on an equitable basis pursuant to rules and regulations to be prescribed and adopted by it.

ARTICLE IV

COSTS OF ADMINISTRATION

The municipality or county agrees that for the purpose of administering this Agreement, the commission may retain an amount equal to two and one-half percent (2 1/2%) of the tax imposed by the ordinance and collected by the commission. This figure may be renegotiated in future agreements to reflect more accurately actual costs of collection, but in any event not to exceed two and one-half (2 1/2%) of the tax collected.

ARTICLE V

GENERAL PROVISIONS

This Agreement shall be in effect for a term of one year from the effective date and shall be automatically renewed from year to year unless one of the parties gives written notice of termination at least two months prior to the end of the term. The effective date of this Agreement shall be the first day of July, October, January or April following execution of this Agreement by both parties.

Dated this Eighteenth day of April 19 75.

Signature page for the Agreement for State Administration of
Local Sales and Use Taxes.

Town of Wendover

(Name of City, Town or County)

By Thomas F. Stutheim
(Mayor/Town President/Commissioner)

Claine St. Harleston
(Councilman/Trustee/Commissioner)

Tommy E. ...

Don A. ...

Ray V. ...

Robert ...
Clerk/Recorder

STATE TAX COMMISSION OF UTAH

COMMISSIONERS

DATE _____