

ORDINANCE NO. 83-2

AN ORDINANCE IMPOSING A SEVEN-EIGHTHS PERCENT LOCAL 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, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

Be it ordained by the DAGGETT County Commission:

Section 1. TITLE. This ordinance shall be known as the "Uniform Local Sales and Use Tax Ordinance" of DAGGETT COUNTY.

Section 2. PURPOSE. The 45th session of the Utah Legislature authorized municipalities of the State of Utah to enact Sales and Use Tax Ordinances imposing a seven-eighths of one percent tax.

It is the purpose of this ordinance to levy and impose a seven-eighths percent local option sales and use tax, to authorize and designate the Utah State Tax Commission as agent for the county to collect the tax and to conform with the requirements of the Uniform Local Sales and Use Tax law of Utah, Chapter 9, Title 11, Utah Code Annotated, 1953.

Section 3. EFFECTIVE DATE. This ordinance shall become effective as of 12:01 o'clock a.m., July 1, 1983. The provisions of the previously enacted Uniform Local Sales and Use Tax ordinance of the county which is repealed hereby and which are in conflict herewith shall continue effective until 12:00 o'clock midnight, June 30, 1983. 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 on every retail sale of tangible personal property, services and meals made within the county at the rate of seven-eighths percent.

(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. If 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 county 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 county shall be substituted therefor. Nothing in this subparagraph (b) shall be deemed to require substitution of the name of the county for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of the county 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 county 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, 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 on a retailer or consumer;

(b) Receipts from the sale of tangible personal property on 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 county of tangible personal property from any retailer on or after the operative date of this ordinance for storage, use or other consumption in the county at the rate of seven-eighths percent of the sales price of the property.

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 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 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 DAGGETT COUNTY shall be substituted therefor. Nothing in this subparagraph B shall be deemed to require the substitution of the name of this county for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of the county 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 county 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. The county commission is authorized to execute whatever documents are necessary to distribute sales and use tax revenues on the combination of point of sale and population factors set forth in section 11-9-5, Utah Code Annotated 1953.

Section 7. CONTRACT WITH STATE TAX COMMISSION. Heretofore, this county 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 county. That contract is hereby confirmed and the county commission 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 county as reenacted by this ordinance.

Section 8. 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 \$299.00 or imprisonment for a period of not more than six months, or by both such fine and imprisonment.

Section 9. 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 DAGGETT county commission that each separate provision of this ordinance shall be deemed independent of all other provisions herein.

Passed and ordered adopted by the DAGGETT County Commission this 18th day of May, 1983.

/s/ Jerry N. Taylor  
CHAIRMAN, COUNTY COMMISSION

ATTEST:

/s/ Gene Briggs  
COUNTY CLERK

DATE OF FIRST PUBLICATION OR POSTING: May 19, 1983