HB10-1192

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number:	LLS 10-0738	**Date:**	January 26, 2010
Prime Sponsor(s):	Rep. Pommer Sen. Heath	**Bill Status:**	House Appropriations
		Fiscal Analyst:	Natalie Mullis (303 866-4778)

TITLE: CONCERNING THE STATE SALES AND USE TAX OF STANDARDIZED SOFTWARE.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011	FY 2011-2012
State Revenue General Fund	$4.0 million	$20.4 million	$20.7 million
State Expenditures General Fund	$95,892*		
FTE Position Change	0.9 FTE		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature. Effective for sales occurring on or after March 1, 2010.			
Appropriation Summary for FY 2010-2011: See the State Appropriations Section.			
Local Government Impact: See the Local Government Impact Section.			

* *No separate appropriation for $1,570 of these funds is required because of ongoing appropriations to the Department of Revenue for computer programming provided in the Long Bill for new legislation.*

Summary of Legislation

HB10-1192 repeals the Department of Revenue regulation on taxable computer software. The regulation defines as tangible personal property, and therefore subjects to the sales and use tax, only pre-packaged software purchased in tangible form by a customer who also receives a license agreement. Under this bill, software defined as tangible personal property and therefore subject to sales and use tax includes:

- standardized software downloaded from the internet to the customer's computer or other electronic device;
- standardized software provided through an application service provider, where the provider retains custody over the software for use by third parties. Users of this type of software typically, but do not always, access the software over the internet; and
- standardized software that is manually installed on a consumer's computer or electronic device by a vendor's representative.

The bill allows the Department of Revenue to promulgate rules for apportioning tax liability when computer software is purchased for use in more than one state.

State Revenue

State General Fund revenue will increase $4.0 million in FY 2009-10, $20.4 million in FY 2010-11, and $20.7 million in FY 2011-12. The revenue estimate for FY 2009-10 represents a partial-year impact. The revenue impact grows at a slower rate than expectations for growth in computer software sales in FY 2011-12 because, under current law, vendors will begin retaining 3.33 percent of the taxes they collect starting July 1, 2011.

Private expenditures on computer software in Colorado are estimated to be $1.38 billion in 2010, about half of which are assumed to be affected by this bill. Colorado expenditures were estimated using data from the Bureau of Economic Analysis on U.S. private prepackaged-software sales. Colorado's share of U.S. expenditures is assumed to be the same as Colorado's share of personal income.

State Expenditures

Department of Revenue: $95,892 and 0.9 FTE in FY 2009-10. The Department of Revenue will incur one-time expenses in FY 2009-10 to notify vendors of the change and anticipates personnel costs to answer questions from vendors. The department will also incur additional General Fund information technology costs to adjust the state's computer systems. No appropriation for these information technology costs is necessary because of ongoing appropriations to the department for computer programming provided in the Long Bill for new legislation. Table 1 summarizes costs incurred by the Department of Revenue.

Table 1. Expenditures Under HB10-1192

Cost Components	**FY 2009-2010**
Information Technology Services	$1,570
Personal Services	36,239
FTE	*0.9*
Operating Expenses	
Printing	5,999
Postage	52,084
TOTAL	**$95,892**

Economies of scale. It should be noted that there are several pieces of legislation currently proposed that, if enacted, would affect sales and use tax account holders. If multiple bills are enacted, no separate appropriation may be required by this bill. The department will send one letter, two pages in length, to each sales and use tax account holder advising them of all enacted changes, rather than sending one notification for each legislative change.

Local Government Impact

This bill will result in an undetermined increase in revenue for local government entities. The inclusion of new forms of software in the definition of tangible personal property subject to taxation will affect the tax base of many local governments.

State Appropriations

For FY 2009-10, the bill requires a General Fund appropriation of $94,322 and 0.9 FTE for the Department of Revenue. If multiple sales and use tax bills are enacted, no separate appropriation may be necessary for this bill.

Departments Contacted

Revenue Law Colorado Counties