

**STATE & LOCAL
FISCAL IMPACT**

Drafting Number: LLS 10-0740
Prime Sponsor(s): Rep. Ferrandino
 Sen. Heath

Date: January 25, 2010
Bill Status: House Appropriations
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TITLE: CONCERNING THE NARROWING OF THE EXISTING EXEMPTIONS FROM THE STATE SALES AND USE TAXES FOR ARTICLES SOLD TO SELLERS OF ITEMS INTENDED FOR HUMAN CONSUMPTION THAT ARE FURNISHED BY THE SELLERS TO THEIR CUSTOMERS WITH SUCH ITEMS WITHOUT THE ADDITION OF A SEPARATE CHARGE.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011	FY 2011-2012
State Revenue General Fund	\$0.4 million	\$2.0 million	\$2.0 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.			

* *This amount includes \$1,570 for which no separate appropriation is required because of ongoing appropriations in the Long Bill to the Department of Revenue for computer programming for new legislation.*

Summary of Legislation

This bill eliminates the sales and use tax exemption for articles, containers, and bags that are provided without a separate charge to a consumer of food, meals, or beverages, if it is nonessential to the purchase and becomes the personal property of the customer. The storage of nonessential articles, containers, and bags given to consumers at no additional charge will also be subject to the sales and use tax. The Department of Revenue will promulgate rules to guide firms' application of this tax.

This legislation does not apply to sales and use tax in any town, city, county, or special district unless the local jurisdiction expressly subjects such nonessential articles, containers, and bags to its sales tax.

State Revenue

General Fund revenue will increase \$0.4 million in FY 2009-10, \$2.0 million in FY 2010-11, and \$2.0 million in FY 2011-12. The revenue estimate for FY 2009-10 represents a partial-year impact. Although expenditures on nonessential food containers are expected to increase in FY 2011-12, the revenue impact does not because, under current law, vendors will begin retaining 3.33 percent of the taxes they collect on July 1, 2011.

It is estimated that food service and drinking places in Colorado will purchase \$65.3 million of packaging materials and containers in 2009. Purchases are expected to increase to \$67.5 million in 2010 and \$70.1 million in 2011. These figures are derived from purchases of packaging materials and containers by this industry reported for the United States by the U.S. Census Bureau for 2007. While U.S. Census figure is the best information available to quantify purchases subject to this bill, it is not an exact match and may under- or over-state actual affected purchases. It is assumed that Colorado's share of these expenditures is equal to Colorado's share of GDP in the food services and drinking places industry. The 2007 figure was grown over time based on an LCS forecast for statewide retail trade sales in the industry. Historical retail trade sales in the industry are reported by the Department of Revenue.

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 elimination of the state sales tax exemption on nonessential food containers. The department anticipates personnel costs to answer questions from vendors regarding the elimination of the exemption. 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 HB10-1194	
Cost Components	FY 2009-2010
Information Technology Services	\$1,570
Personal Services	36,239
<i>FTE</i>	<i>0.9</i>
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

Nonessential food containers will remain exempt from local sales and use tax, unless local governments or political subdivisions of the state choose to eliminate the exemption.

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