



STATE OF WASHINGTON
DEPARTMENT OF REVENUE
OFFICE OF THE DIRECTOR

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December 5, 2008

The Honorable Margarita Prentice
Chair, Senate Ways and Means Committee
303 John A. Cherberg Building
Olympia, Washington 98504-0411

The Honorable Ross Hunter
Chair, House Finance Committee
333 John L. O'Brien Building
Olympia, Washington 98504-0600

Dear Senator Prentice and Representative Hunter:

I am pleased to present the Department of Revenue's final report concerning the Study of the Taxation of Electronically Delivered Products, commonly referred to as digital products. Substitute House Bill (SHB) 1128 (chapter 522, Laws of 2007), specifically section 136, subsection (3), directed the Department to conduct a study and report findings and recommendations to the Legislature's fiscal committees. Your Committee members and Committee staff will receive copies of the report.

With the assistance of a committee, SHB 1128 directed the Department, to review:

- The provision of explicit statutory definitions for electronically delivered products;
- The current excise tax treatment of electronically delivered products in the state of Washington and other states as well as the tax treatment of these products under the Streamlined Sales and Use Tax Agreement;
- The administration, costs, and potential recipients of the tax exemptions provided in chapter 182, Laws of 2007 (ESHB 1981); and
- Alternatives to the excise taxation of electronically delivered products.

This report provides legislative background and explains the work and processes of the Committee for the Study of the Taxation of Electronically Delivered Products (Committee). This report also identifies the issues and complexities associated with the taxation of electronically delivered products, which the Committee discussed in great detail. The Committee and the Department believe that an understanding of the issues will help the Legislature make an informed decision on the taxation of digital products.



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Additionally, the Committee believes a compromise for future legislation adopting a general imposition approach to the taxation of digital products may be possible, if such legislation:

- Contains meaningful and easily administered broad-based business exemptions for digital products;
- Provides sales and use tax amnesty to taxpayers who failed to pay and/or collect tax on digital products for prior periods. The Committee recognizes that changes to B&O tax and the consequences for past periods must be considered;
- Maintains conformity with the SSUTA definitions; and
- Protects and promotes the location of server farms and data centers in Washington.

The Committee's work generated many documents with respect to background information and presentations. While this report does not include many of the documents, all Committee documents are available for review on the Department's Internet site:

<http://dor.wa.gov/Content/AboutUs/StatisticsAndReports/DigitalGoods/Default.aspx>

I thank the Study Committee members for volunteering their time and expertise for this project. Each member contributed valuable insights to this process.

The Department's Interpretation and Technical Advice and Legislation and Policy Divisions compiled the report. Please contact Drew Shirk, Legislative and External Affairs Liaison, at (360) 570-3225 if you have questions about the contents.

Sincerely,



Cindi Holmstrom
Director

Enclosure

cc: Senate Ways & Means Committee
House Finance Committee
Committee for the Study of the Taxation of Electronically Delivered Products
Marty Brown, Legislative Director, Governor's Office
Rick Peterson, Fiscal Analyst, House Finance Committee
Dean Carlson, Revenue Analyst, Senate Ways & Means Committee