

# Fiscal Note

**BILL #** SB 1460

**TITLE:** TPT; digital goods and services

**SPONSOR:** Ugenti-Rita

**STATUS:** As Amended by Senate FIN

**PREPARED BY:** Hans Olofsson

## Description

The bill would create a new state Transaction Privilege Tax (TPT) classification for Digital Goods. The gross proceeds from the sale, lease, or licensing of prewritten computer software or the providing of specified digital goods would be taxed under this new classification. The bill would exclude digital services from taxation.

As defined under the bill, prewritten computer software refers to software that is not designed and developed to the specifications of a specific buyer. Specified digital goods refer to digital audiovisual, audio or visual works as well as digital books, articles and periodicals. Digital services refer to cloud-based or remotely accessed software and other services provided electronically.

The tax treatment of prewritten computer software, digital goods, and digital services under the bill would also apply to the Use Tax and Municipal Taxes.

The bill would become effective on the first day of the month following the general effective date.

## Estimated Impact

We are unable to determine the fiscal impact of the bill. To forecast the impact of this bill, we would need to know how this bill would change current taxation practices. We lack information on the level of currently taxed digital products. We also do not know how the Department of Revenue (DOR) would interpret this bill relative to current law.

At least several different businesses are contesting DOR's current taxation policies on digital products. As a fiscal office, we are not in the position to opine on these legal issues.

DOR has not yet provided an estimate of the bill's impact.

## Analysis

There are significant challenges in estimating the revenue impact associated with the bill. A quantitative analysis of SB 1460 would require us to estimate the amount of taxes currently collected from the sale, lease or licensing of prewritten computer software, digital goods and digital services and compare this to the amount that would be collected under the bill. We do not have the data required to do such an analysis.

Based on anecdotal information provided during meetings held in 2017 by the *Ad Hoc Joint Committee on the Tax Treatment of Digital Goods and Services*, there appears to be uncertainty among businesses as to when they are required to pay TPT on digital goods and services. We are not aware, however, to what extent this lack of clarity has affected TPT collections.

According to DOR, they do not separately track taxes paid on digital goods and services. Businesses report the total amount of gross receipts on the tax form submitted to DOR each month. No detail is provided with respect to the specific items that were sold. The lack of detail included on the form reported to DOR makes it difficult to determine the aggregate statewide amount of taxes collected from the sale of digital goods and services. If a business only engaged in digital services, however, DOR could identify the TPT collections of some well-known firms. Due to confidentiality requirements, our staff would not have access to that information.

(Continued)

**JLBC**

**Local Government Impact**

For the same reasons as outlined above, we cannot determine the local government impact of SB 1460.

2/14/19