

MINNESOTA • REVENUE

SALES AND USE TAX Digital Products

April 2, 2009

	Yes	No
DOR Administrative Costs/Savings		X

Department of Revenue

Analysis of H.F. 1980 (Davnice), As Proposed to be Amended (H1980DE2)

	<u>Fund Impact</u>			
	<u>F.Y. 2010</u>	<u>F.Y. 2011</u>	<u>F.Y. 2012</u>	<u>F.Y. 2013</u>
	(000's)			
General Fund	\$1,380	\$1,790	\$2,150	\$2,490
Natural Resources and Arts Funds	<u>\$80</u>	<u>\$100</u>	<u>\$120</u>	<u>\$140</u>
Total - All Funds	\$1,460	\$1,890	\$2,270	\$2,630

Effective for sales and purchases made after June 30, 2009

EXPLANATION OF THE BILL

Current Law: The electronic transfer or downloading for a charge of prewritten or canned computer software is taxable as a sale of tangible personal property. The electronic transfer for a charge of other products is not taxable.

Proposed Law: The bill would apply the tax to the sale and purchase of specified digital products and other digital products and granting the right to use specified and other digital products on a temporary or permanent basis, regardless of whether the purchaser is required to make continued payments for such right.

Specified digital products mean digital audio-visual works, digital audio works, and digital books which are transferred electronically to a customer. Other digital products mean electronically transferred greeting cards, artwork for reproduction or display purposes, and video or electronic games. Specified digital products and other digital products would not be considered tangible personal property.

REVENUE ANALYSIS DETAIL

- The estimate for downloaded music was based on 2007 national sales of \$1.98 billion according to The Yankee Group, a technology consulting and research firm. The figure was reduced by 15% to account for possible over-estimation. The adjusted sales amount was apportioned to Minnesota at 1.72%, the state's portion of the national population. Estimated annual growth was 25%, even though the two research firms forecast even higher growth rates.
- The estimate for motion pictures was based on worldwide consumer spending of \$110 million on television and movie downloads in 2006 according to Adams Media Research. It was estimated that the American market accounts for 35% of the sales and that the Minnesota portion was 1.72%. Estimated annual growth was 35%, though industry projections are higher.

REVENUE ANALYSIS DETAIL (Cont.)

- The estimate for video electronic games was based on data from the publication *Communications Industry Forecast & Report* and on U.S. Census and Minnesota State Demographer data. In 2009, national spending on video games per purchasing consumer age 12 and over is projected at \$44.64. It was assumed that 10% of Minnesota's population age 12 and over will spend this amount on electronically transferred video games this year. Annual growth was estimated at 5.86%.
- The estimate for digital books was based on information from the *Statistical Abstract* and the ProQuest data base. National sales of Minnesota-taxable printed books were approximately \$44.1 billion in 2007. This figure was apportioned to Minnesota at 1.72%. Sales of electronic books were estimated at 1% of printed books in 2007 and could rise to 5% by 2012. For this analysis of 2.5% annual growth was used.
- Data on electronic greeting card sales are difficult to obtain. Most e-cards can be downloaded free of charge, though monthly or semiannual subscriptions for the use of e-cards are available. For this analysis an estimated 2009 annual total of \$10 billion in traditional greeting cards will be sold. The number was apportioned to Minnesota at 1.72%. The electronic transfer of greeting cards for a consideration was estimated at 2%.
- In all categories the calculated sales to Minnesota customers were reduced by 75% to account for sellers lacking enforceable nexus with Minnesota and the consumer use tax exemption for \$770 in taxable purchases per calendar year.
- Because reliable data on electronic sales of artwork and "digital code" were not available, the total adjusted annual revenue estimates were increase by 2%.

Number of Taxpayers: Not known

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/taxes/legal_policy