



**LEGISLATIVE FISCAL OFFICE
Fiscal Note**

Fiscal Note On: **HB 642** HLS 23RS 1295
 Bill Text Version: **ENGROSSED**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.: **REVISED**

Date: May 19, 2023	1:15 PM	Author: JENKINS
Dept./Agy.: Revenue		Analyst: Deborah Vivien
Subject: Taxing digital products as TPP and taxing digital services		

TAX/SALES & USE EG INCREASE GF RV See Note Page 1 of 1
 Provides relative to sales and use taxation of certain digital products and services

Current law levies a sales tax on specific digital goods such as prewritten software and digital files that are downloaded.

Proposed law defines and taxes specific digital products (transferred or delivered electronically) as tangible personal products subjecting them to state and local sales tax, including sounds, images, software, use or subscription charges and digital codes (defined in the bill), among others. Proposed law also expands state and local taxable services to include digital automated services as services transferred electronically using software applications either prewritten or custom along with similar stand-alone products. Proposed law provides numerous definitions and qualifications of digital products and services as well as apportionment for multiple points of use, taxation of bundling transactions and sourcing rules, etc. Proposed law allows for an amnesty on taxation of digital goods prior to effective date of the bill with LDR rule-making authority. Effective January 1, 2024.

EXPENDITURES	2023-24	2024-25	2025-26	2026-27	2027-28	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	SEE BELOW	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	\$0
Annual Total		\$0	\$0	\$0	\$0	\$0

REVENUES	2023-24	2024-25	2025-26	2026-27	2027-28	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Annual Total						

EXPENDITURE EXPLANATION

Department of Revenue (LDR) estimates programming, testing, and system/website development cost at about \$92,040. Initially, LDR indicated that two temporary revenue tax research analyst positions will be needed (\$161,174 annual salary and related benefits) to help update forms and exemption certificate processing. According to LDR, extending the effective date from July 1, 2023 to January 1, 2024 will allow LDR to utilize existing staff for these purposes. LDR and Remote Sellers Commission (RSC) indicate that these expenses will be absorbed in the current budget, though additional resources may be required should the aggregate impact of enacted legislation during the session exceed existing capacity.

REVENUE EXPLANATION

The bill subjects digital products and services to state and local sales and use taxes that are not currently subject to taxation. To the extent these products are identified and additional sales tax is remitted, state general fund revenue, statutory dedications (Louisiana Economic Development Fund and Tourism Promotion District) and local revenue will increase.

According to LDR, the bill contains numerous definitions and other qualifiers regarding the taxation of digital products and services, some of which are:

TAXABLE

- Sounds, images, data, facts or information
- Computer Software
- Customer charges for certain prewritten software
- Digital Codes (permits purchaser to obtain digital product)
- Bundled digital products
- Digital automated services (DAS) (includes software+)
- First use within this state by taxpayer/consumer
- Access of 3rd party digital products (streaming)
- Newspaper/magazine subscriptions, if physical version is taxed

NOT TAXABLE

- Patents, stocks, bonds, goodwill, trademarks, franchises, copyrights
- Telecommunications services and ancillary services
- Internet access service charges
- Professional services in electronic form
- Digital Codes storing monetary value deducted from a total
- Gift cards or similar cards entitling holder to select digital products
- Digital products that become a component of a new product
- Free digital products
- Audio or video programming by a radio or television broadcaster
- Digital products sold at Jazz Fest
- Newspaper/magazine subscriptions, if physical version is not taxed

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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