

SENATE BILL REPORT

EHB 1376

AS OF JUNE 28, 1991

Brief Description: Classifying computer software for purposes of taxation.

SPONSORS: Representatives Wang, Holland, Fraser, Silver, Phillips, Brumsickle, Wynne, Horn, Pruitt, Orr, Sprenkle, Hine and Brekke; by request of Software Study Committee.

Staff: Terry Wilson (786-7715)

BACKGROUND:

All property, both real and personal, is subject to property taxation unless specifically exempted. Personal property includes both tangible and intangible property.

Tangible property has a physical existence; for example, desks, file cabinets and equipment. Intangible property does not have a physical presence, e.g. copyrights and patents. Some intangible property is exempt, such as money, mortgages, certificates of deposits, and judgments. Computer software is generally considered to be intangible property.

In 1989 the State Board of Tax Appeals ruled that computer software was taxable because it was not on the list of exempt intangible property.

In 1990, SSB 6859 directed the county assessors to list and assess computer software for 1991 taxes in the same manner and extent as they did in 1989. The Department of Revenue was directed to coordinate a study of the property taxation of computer software. Included in the study team were representatives of government and business.

The results of the study were published in a report containing recommendations for the taxation of computer software. The recommendations were that embedded software should be taxed, custom software should be exempt, master copies of software should be exempt, the user of software should be taxed rather than the licensor, and canned software should be taxed but depreciated over a two-year period.

SUMMARY:

Custom software is exempt from property tax. Master or golden copies of software are exempt from property tax. Modifications to canned software are exempt from property tax. Embedded software is taxed as part of the computer system or machinery or equipment containing the embedded software. Taxable computer software, except embedded software, is taxed

in the first year at 100 percent of acquisition cost, in second year at 50 percent, and thereafter at zero.

County assessors are directed to list and assess computer software for 1992 taxes in the same manner and extent as they did in 1989.

The Department of Revenue is directed to form an advisory committee to assist it in studying the computer software exemptions and valuation rules in this bill to determine whether they are necessary and appropriate to achieve fairness, equity, and uniformity in the property tax treatment of computer software. The department is to report its findings to the Legislature by November 30, 1998.

Appropriation: none

Revenue: none

Fiscal Note: available

Effective Date: The bill contains an emergency clause and takes effect immediately.