

## CHAPTER 6

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**TAXATION**

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**HOUSE BILL 10-1190**

BY REPRESENTATIVE(S) Pommer, Benefield, Frangas, Judd, Labuda, Hullinghorst, Kagan;  
also SENATOR(S) Heath.

**AN ACT**

**CONCERNING THE SUSPENSION OF THE EXEMPTION FROM THE STATE SALES AND USE TAXES FOR  
FUELS USED FOR INDUSTRIAL PURPOSES, AND MAKING AN APPROPRIATION THEREFOR.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 39-26-102 (21), Colorado Revised Statutes, is amended to read:

**39-26-102. Definitions - repeal.** As used in this article, unless the context otherwise requires:

(21) (a) Sales and purchases of electricity, coal, gas, fuel oil, steam, coke, or nuclear fuel, for use in processing, manufacturing, mining, refining, irrigation, construction, telegraph, telephone, and radio communication, street and railroad transportation services, and all industrial uses, and newsprint and printer's ink for use by publishers of newspapers and commercial printers shall be deemed to be wholesale sales and shall be exempt from taxation under this part 1.

(b) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (21), SALES AND PURCHASES OF ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE IN PROCESSING, MANUFACTURING, MINING, REFINING, IRRIGATION, CONSTRUCTION, TELEGRAPH, TELEPHONE, AND RADIO COMMUNICATION, STREET TRANSPORTATION SERVICES, AND ALL INDUSTRIAL USES SHALL NOT BE DEEMED TO BE WHOLESALE SALES AND SHALL NOT BE EXEMPT FROM STATE SALES TAXATION FOR THE PERIOD COMMENCING MARCH 1, 2010, AND ENDING JUNE 30, 2012; EXCEPT THAT THIS PARAGRAPH (b) SHALL NOT APPLY TO SALES AND PURCHASES OF:

(A) DIESEL FUEL PURCHASED FOR OFF-ROAD USE;

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(B) ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL PURCHASED FOR AGRICULTURAL PURPOSES; OR

(C) COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE IN GENERATING ELECTRICITY.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2012.

**SECTION 2.** 39-26-715 (2) (b), Colorado Revised Statutes, is amended to read:

**39-26-715. Fuel and oil - repeal.** (2) The following shall be exempt from taxation under the provisions of part 2 of this article:

(b) (I) The storage, use, or consumption of electricity, coal, coke, fuel oil, steam, nuclear fuel, or gas for use in processing, manufacturing, mining, refining, irrigation, building construction, telegraph, telephone, and radio communication, street and railroad transportation services, and all industrial uses.

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE STORAGE, USE, OR CONSUMPTION DESCRIBED IN SAID SUBPARAGRAPH (I), SHALL NOT BE EXEMPT FROM STATE USE TAXATION FOR THE PERIOD COMMENCING MARCH 1, 2010, AND ENDING JUNE 30, 2012; EXCEPT THAT THIS SUBPARAGRAPH (II) SHALL NOT APPLY TO THE STORAGE, USE, AND CONSUMPTION:

(A) FOR RAILROAD TRANSPORTATION SERVICES;

(B) OF DIESEL FUEL PURCHASED FOR OFF-ROAD USE;

(C) OF ELECTRICITY, COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL PURCHASED FOR AGRICULTURAL PURPOSES; OR

(D) OF COAL, GAS, FUEL OIL, STEAM, COKE, OR NUCLEAR FUEL FOR USE IN GENERATING ELECTRICITY.

(III) SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) AND THIS SUBPARAGRAPH (III) ARE REPEALED, EFFECTIVE JULY 1, 2012.

**SECTION 3.** Part 1 of article 21 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-21-122. Revenue impact of 2010 tax legislation - tracking by department.** THE DEPARTMENT OF REVENUE SHALL ACCOUNT FOR ALL REVENUE ATTRIBUTABLE TO THE ENACTMENT OF HOUSE BILL 10-1190, ENACTED IN 2010, AND SHALL, TO THE EXTENT SUCH INFORMATION IS AVAILABLE, MAKE QUARTERLY REPORTS TO THE GENERAL ASSEMBLY REGARDING THE QUARTERLY AND CUMULATIVE NET REVENUE GAIN TO THE STATE RESULTING FROM THE ENACTMENT OF SAID BILL.

**SECTION 4.** Part 1 of article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-26-127. Legislation modifying the state sales tax base - no impact on local government sales tax bases - no expansion of local authority to levy sales tax.**

(1) NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR ANY OTHER PROVISION OF LAW, THE LEVYING OF SALES TAX ON, EXEMPTION FROM SALES TAX FOR, OR LOCAL OPTION TO LEVY SALES TAX ON OR PROVIDE AN EXEMPTION FROM SALES TAX FOR ANY TANGIBLE PERSONAL PROPERTY OR SERVICES UNDER THE SALES TAX ORDINANCE OR RESOLUTION OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE SHALL NOT BE AFFECTED IN ANY WAY BY THE ELIMINATION, SUSPENSION, OR MODIFICATION OF ANY SALES TAX EXEMPTION OR ANY OTHER LEGISLATIVE MODIFICATION OF THE STATE SALES TAX BASE RESULTING FROM THE ENACTMENT OF ANY OF THE FOLLOWING BILLS:

(a) HOUSE BILL 10-1190, ENACTED IN 2010.

(2) THIS SECTION DOES NOT CREATE OR EXPAND, AND SHALL NOT BE CONSTRUED TO CREATE OR EXPAND, ANY AUTHORITY OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE TO LEVY SALES TAX.

**SECTION 5.** Part 2 of article 26 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**39-26-212. Legislation modifying the state use tax base - no impact on local government use tax bases - no expansion of local authority to levy use tax.**

(1) NOTWITHSTANDING THE PROVISIONS OF SECTION 29-2-105 (1) (d), C.R.S., ANY PROVISION OF TITLE 32, C.R.S., OR ANY OTHER PROVISION OF LAW, THE LEVYING OF USE TAX ON, EXEMPTION FROM USE TAX FOR, OR LOCAL OPTION TO LEVY USE TAX ON OR PROVIDE AN EXEMPTION FROM USE TAX FOR ANY TANGIBLE PERSONAL PROPERTY OR SERVICES UNDER THE USE TAX ORDINANCE OR RESOLUTION OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE SHALL NOT BE AFFECTED IN ANY WAY BY THE ELIMINATION, SUSPENSION, OR MODIFICATION OF ANY USE TAX EXEMPTION OR ANY OTHER LEGISLATIVE MODIFICATION OF THE STATE USE TAX BASE RESULTING FROM THE ENACTMENT OF ANY OF THE FOLLOWING BILLS:

(a) HOUSE BILL 10-1190, ENACTED IN 2010.

(2) THIS SECTION DOES NOT CREATE OR EXPAND, AND SHALL NOT BE CONSTRUED TO CREATE OR EXPAND, ANY AUTHORITY OF ANY COUNTY, MUNICIPALITY, SPECIAL DISTRICT, AUTHORITY, OR OTHER LOCAL GOVERNMENT OR POLITICAL SUBDIVISION OF THE STATE TO LEVY USE TAX.

**SECTION 6.** Part 1 of article 75 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**24-75-113. 2010 bills to increase state revenue - prohibition on hiring of new state employees.** NO MONEYS DERIVED FROM THE INCREASE IN STATE REVENUES RESULTING FROM THE PASSAGE OF HOUSE BILL 10-1190, ENACTED IN 2010, SHALL BE APPROPRIATED FOR THE PURPOSE OF FUNDING ADDITIONAL FULL-TIME EQUIVALENT STATE EMPLOYEES.

**SECTION 7. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for allocation to the taxation business group, taxation and compliance division, for the fiscal year beginning July 1, 2009, the sum of ninety-four thousand three hundred twenty-two dollars (\$94,322) and 0.9 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 8. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: February 24, 2010