



DEPARTMENT OF AUDITS AND ACCOUNTS

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STATE AUDITOR

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March 9, 2021

Honorable Shaw Blackmon
Chairman, House Ways and Means
133 State Capitol
Atlanta, Georgia 30334

SUBJECT: Fiscal Note
House Bill 594 (LC 43 1901)

Dear Chairman Blackmon:

The bill would apply Georgia state sales tax to digital goods and services, as defined in the bill. The sales tax included in the bill would be effective on July 1, 2021.

Impact on State Revenue

Georgia State University's Fiscal Research Center (FRC) estimated that the bill would increase state revenue by \$125.3 million in FY 2022, with the amount increasing to \$206.3 million by FY 2026 (Table 1). Using a population-weighted local sales tax rate of 3.32%, FRC estimated that local revenue would increase by \$104.0 million and \$171.2 million in those same years. The attached appendix provides details of the analysis.

Table 1. Estimated State Revenue Effects of LC 43 1901

(\$ millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
State	\$125.3	\$141.2	\$159.6	\$181.0	\$206.3
Local	\$104.0	\$117.2	\$132.5	\$150.2	\$171.2

Impact on State Expenditures

The Department of Revenue (DOR) would implement the provisions of the bill with existing resources.

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg S. Griffin".

Greg S. Griffin
State Auditor

A handwritten signature in black ink, appearing to read "Kelly Farr".

Kelly Farr, Director
Office of Planning and Budget

GSG/KF/mt

Analysis by the Fiscal Research Center

LC 43 1901 applies the state sales and use tax to digital goods and services by redefining tangible personal property in O.C.G.A. §48-8-2(37) specified digital products and prewritten computer software when delivered electronically, digital codes for access to such specified digital products, the right to use specified digital products or prewritten computer software where possession is maintained by the seller, and certain related rights and benefits delivered electronically.

Prewritten computer software, however, is exempted from sales tax in the state when delivered electronically, under O.C.G.A. §48-8-2(91), and the bill does not repeal that exemption.

Specified digital products include electronically delivered:

- Audio and audio-visual works
- Books
- Artwork
- Photographs
- Periodicals (incl. newspapers and magazines)
- Audio and video greeting cards, and
- Video games.

With the exception of artwork, photographs, and greeting cards, these items correspond to the more summarized categorization used in analyzing earlier, similar legislation (LC 34 4964 in 2018 and LC 34 4571S in 2015) as shown in Table 1A below. Sales data specifically for digital artwork, photographs, or greeting cards are not readily available, but such items are likely included in other categories (e.g. non-gaming app sales or digital books and periodicals) and thus captured in the estimates.

For the other categories of digital products and for electronically delivered prewritten software, data from IBISWorld, the U.S. Census Bureau, the Bureau of Economic Analysis (BEA), and other sources were relied upon in making revenue estimates. Data on digital goods purchased in Georgia were not available, so national data were scaled to Georgia as described below. Table 1A presents the estimated sales in Georgia of specified digital goods for which data are available and of prewritten software, projected by fiscal year. The category “apps/programs” represents software applications downloaded for smart phones and other devices that is not included in the estimates for computer software but which is assumed to be taxable nonetheless.

The national sales data for all categories were allocated to Georgia based on population share in 2019, approximately 3.23 percent, and further adjusted for the lower level of real after tax income in Georgia relative to the national average, approximately 92 percent of the national average based on 2019 BEA estimates. After adjustment, Georgia’s share of final sales of these digital goods is assumed to be approximately 2.97 percent.

Video game content (software, downloadable content, subscriptions, and other) generated an estimated \$48.9 billion of sales to consumers nationally in 2020, according to market research firm NPD Group, up 26 percent over 2019 reportedly boosted by the pandemic after 8.4 percent growth in 2019. NPD also estimates that the digital share of content sales reached 83 percent in 2018, the latest year available, up from only 20 percent at the beginning of the decade. The digital share is

assumed to continue to grow by 1 percentage point per year, bringing 2020 digital sales to an estimate \$41.6 billion nationally. Independent projections of sales to consumers are not available, so for 2021-26, growth rates from game software publishing industry forecasts from IBISWorld are used. Combined with the growing digital share assumption, these overall growth rates bring the projected growth of digital sales to between 10.2 percent (2021) and 13.7 percent in 2026.

The **digital video** category, including subscription streaming (SVOD), electronic sell-thru (individual video downloads/rentals), and video on demand (VOD) from cable providers, is a \$26.5 billion market in the U.S. for 2020, according to the Digital Entertainment Group's Year-End 2020 Digital Media Entertainment Report. This figure is up nearly 33 percent over 2019, apparently due to the pandemic; average growth for 2018 and 2019 was 19.4 percent. SVOD is the largest segment, accounting for about 80 percent of revenues, and the fastest growing at 19.8 percent in 2019. Electronic sell-thru and VOD account for 11 percent and 9 percent, respectively; the former grew by 5.1 percent in 2019 while VOD has been slowly declining by about 0.1 percent per year. These pre-pandemic growth rates for the subcategories are assumed to continue, an assumption slightly more conservative than the roughly 23 percent annual projected by IBISWorld for SVOD when advertising is included.

In the **mobile apps** category, some sales subcategories (primarily gaming and music apps) are included in other categories in this analysis, so app revenue estimates from industry news site Business of Apps are used to estimate the non-gaming and U.S. shares of global app revenues.

- Worldwide, non-gaming apps accounted for 29 percent of all app revenue, in 2020.
- US revenue is estimated at 25 percent of global revenues.

Using these figures, it is estimated that US non-gaming app revenue was about \$8.0 billion in 2020, excluding a small amount of music streaming app sales included in the digital music category. Most major streaming services left the two dominant app stores in 2019 due to disputes over fees, though some still remain. App revenue growth from the 2020 base is based on industry revenue projections compiled by Statista, reflecting expected growth of about 13.8 percent annually from 2020 to 2024. Growth in 2025 and 2026 is assumed at 11 percent each year, the rate for 2024 in the Statista projections.

Note: Having removed video gaming and music-streaming app revenues from the mobile apps category, what is left may be argued to be prewritten software. Some products in this category, such as security-related and other application software, are mobile versions of personal computer applications. To the extent this is the case, these mobile apps may be covered by the exemption in O.C.G.A. §48-8-2(91) for prewritten software delivered electronically, in which case the revenue estimates herein would be reduced proportionally.

Music downloads and streaming services, according to the Recording Industry Association of America, accounted for approximately \$8.8 billion of U.S. industry revenues in 2019, with streaming growing from less than 10 percent to over 90 percent of the total since the beginning of the decade. Combined revenue growth has grown at an average annual rate of 19.5 percent over the latest five years and 19.7 percent for the last two. Industry projections reported by Statista estimate the market at about \$9.3 billion in 2021, with growth slowing to about 8.3 percent annually through 2025.

The revenue from digital sales and subscriptions of U.S. periodicals, which include magazines and newspapers, is also not readily available.

- Statista estimates that US total sales and subscriptions of periodicals has been slowly declining. In 2010, periodical sales and subscription revenue was \$10.8 billion, falling on average by 1.2 percent per year to \$9.7 billion in 2019. This trend is assumed to continue for the foreseeable future.
- The digital share of circulation revenues has clearly grown, offsetting some of the decline in print sales, but estimates of the overall share could not be found. A sampling of large newspaper and magazine publishers suggests the digital share of circulation revenues vary considerably. Tribune Publishing, for example, reports digital circulation revenues (including subscription and newsstand sales) amounting to about 21 percent of total circulation revenues in 2019. The New York Times Company, on the other hand, reports that digital accounted for about 42 percent of circulation revenues. The largest magazine publisher in the U.S., Meredith Corp., reports a much lower share of digital to total circulation revenues. For purposes of this note, the digital share of periodicals sales is assumed to be 25 percent as of 2019, growing 1 percentage point per year.

Finally, the **books** category, including e-books and digital audio books, is estimated at about \$3.25 billion nationally in 2019, according to the Association of American Publishers, with e-books accounting for about 60 percent of the total. E-book sales have reportedly flattened in recent years and are assumed to grow at a rate of 1 percent annually for the foreseeable future, while digital audio books are assumed to continue their faster growth of 15 percent annually.

Shared down to Georgia as discussed above, estimated sales of these products that would be subject to tax under this bill are presented in Table 1A below. State and local sales tax revenue gains, assuming local tax at the population-weighted average local rate as of January 2021, are presented in Table 1.

Note that the state revenue estimates assume that substantially all sales are by online sellers that either have physical nexus in the state or meet the thresholds to be considered to have economic nexus in the state and required to collect and remit Georgia sales taxes. To the extent of sales by smaller remote sellers, state revenue gains would be smaller.

Table 1A. Georgia Annual Digital Product Sales

(\$ millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Video Games	\$1,438.7	\$1,604.2	\$1,797.1	\$2,021.9	\$2,290.2
Videos	\$995.9	\$1,165.3	\$1,367.6	\$1,609.2	\$1,897.8
Mobile Apps*	\$275.8	\$311.7	\$348.3	\$386.8	\$429.5
Music	\$287.0	\$310.7	\$336.4	\$364.2	\$394.2
Magazines	\$76.9	\$78.8	\$80.6	\$82.3	\$84.0
E-Books	\$59.2	\$59.8	\$60.4	\$61.0	\$61.6
Total	\$3,133.5	\$3,530.5	\$3,990.3	\$4,525.3	\$5,157.4

*See note above regarding mobile apps and the sales tax exemption for prewritten software delivered electronically.