

  
 Colorado *Legislative Council Staff Fiscal Note*  
**FINAL**  
**FISCAL NOTE**

**Drafting Number:** LLS 11-0181  
**Prime Sponsor(s):** Rep. Liston  
 Sen. Morse

**Date:** June 7, 2011  
**Bill Status:** Signed into Law  
**Fiscal Analyst:** Fiona Sigalla (303-866-3556)

**TITLE:** CONCERNING THE SALES TAX EXEMPTION FOR PURCHASES OF MEDICAL EQUIPMENT.

Fiscal Impact Summary	FY 2011- 2012	FY 2012-2013
<b>State Revenue</b> General Fund	Minimal reduction	
<b>State Expenditures</b> General Fund	\$14,997	
<b>FTE Position Change</b>		
<b>Effective Date:</b> The bill was signed into law by the Governor on May 27, 2011, and takes effect August 10, 2011, assuming no referendum petition is filed.		
<b>Appropriation Summary for FY 2011-2012:</b> See State Appropriation section.		
<b>Local Government Impact:</b> See Local Government Impact section.		

**Summary of Legislation**

The bill clarifies and modifies the sales and use tax exemption for medical equipment and therapeutic devices. The bill provides for a sales and use tax exemption for *all* medical equipment that is dispensed with a prescription. The definition of durable medical equipment is extended to include mobility enhancing equipment and repair and replacement parts for that equipment. The bill removes the sales and use tax exemption for medical equipment purchased without a prescription.

**Background**

Under current law, it is not clear which types of medical equipment are exempt from sales and use tax. The Department of Revenue has given some guidance to vendors and taxpayers about the taxability of some items. This bill will clarify in statute which items are and which items are not subject to sales and use tax.

Some medical equipment purchased *without a prescription* are currently exempt from sales and use tax, such as items recommended by a chiropractor. This bill would make those items taxable when purchased without a prescription.

Some items that are purchased *with a prescription* are currently subject to tax, such as bandages, incontinence products, and mobility enhancing equipment, such as scooters and car kit conversions. This bill would exempt these items from sales and use tax when purchased with a prescription.

### **State Revenue**

The bill will affect state revenue but the actual impact is unknown and likely to be minimal. This bill will increase revenue by making some items taxable. The bill will reduce revenue by providing an exemption for other items. Both of these effects are impossible to measure, but will offset each other, resulting in a minimal revenue impact.

The Department of Revenue estimates that \$484,644 in sales and use tax was collected by vendors identified as selling scooters, wheelchairs, wheelchair lifts, and ramps. The bill will make these items exempt from sales and use tax if sold with a prescription. It is assumed that most vendors have not been collecting sales tax on these prescription items because they are unclear about the taxability of these items and Department of Revenue enforcement of the provision has been minimal.

### **State Expenditures**

**Department of Revenue: \$14,997 in FY 2011-12.** The Department of Revenue will incur one-time expenses of \$5,035 in FY 2011-12 to notify retailers of the change in sales tax treatment for medical equipment. It will also incur personnel costs to answer questions from vendors and taxpayers regarding the change. Table 1 summarizes costs incurred by the Department of Revenue.

<b>Table 1. Expenditures Under HB 11-1091</b>	
<b>Cost Components</b>	<b>FY 2011-12</b>
Mailing Costs to Notify Medical Equipment Retailers	\$5,035
Increased Call Center Expenses	9,962
<b>TOTAL</b>	<b>\$14,997</b>

### **Local Government**

The bill will have an unknown but minimal impact on local government revenue. Special districts and statutory cities and counties that have a sales and use tax base tied to the state tax base may experience a revenue loss or gain by the change in taxable items in this bill.

**Departmental Differences**

It is the position of the Department of Revenue that the costs of answering questions and processing claims for refund will exceed what is shown in this fiscal note. The department holds that additional funds will be necessary in FY 2011-12 and beyond because a large number of retailers and taxpayers will have ongoing questions about what is taxable and will request refunds. The department states that it requires an additional \$30,819 in FY 2011-12 and \$40,267 in FY 2012-13 for 0.3 FTE, operating and postage expenses ongoing. The fiscal note assumes that questions will not be ongoing and requests for refund will not be substantial, and the department can seek additional funding through the budget process if the workload is greater than expected.

**State Appropriations**

For FY 2011-12, the bill requires a General Fund appropriation of \$14,997 for the Department of Revenue. The General Assembly determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys was made to carry out the act.

**Departments Contacted**

Colorado Counties, Inc.  
Law

Regulatory Agencies  
Regional Transportation District

Revenue  
Special Districts