# Tax Legislation for Consideration

**HB1189:** POMMER/HEATH
**RE: Sales tax exemption for direct mail.**
**Status:** 1/1/10 House third reading passed
**Bill Summary:** Commencing March 1, 2010, the bill eliminates the state sales and use tax exemption for direct mail advertising materials that are distributed in Colorado by any person engaged in the business of providing cooperative direct mail advertising. The bill allows a local government or political subdivision of the state to continue to exempt such direct mail advertising materials from local sales or use tax.

**HB 1190:** POMMER/HEATH
**RE: Two year suspension of the exclusion of energy for industrial and manufacturing use.**
**Status:** 01/29/2010 House Second Reading Special Order - Laid Over with Amendments to 02/01/2010
**Bill Summary:** For the period commencing March 1, 2010, and ending June 30, 2012, the bill suspends the exemption from the state sales and use taxes for 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 and makes conforming amendments to prevent the suspension of the exemption from affecting county, municipal, and other local government or political subdivision sales and use taxes.

**HB 1191:** POMMER/HEATH
**RE: Candy and soft drinks.**
**Status:** 1/1/10 House third reading passed
**Bill Summary:** Effective March 1, 2010, sections 1 and 2 of the bill: Narrow the existing state sales and use tax exemptions for food so that candy and soft drinks are no longer exempt from the state sales tax and use taxes; Authorize the department of revenue to promulgate rules that allow sellers of candy and soft drinks to, if necessary, reasonably estimate the amount of sales taxes due on their sales; and Make conforming amendments to prevent the narrowing of the exemption from affecting county, municipal, and other local government or political subdivision sales and use taxes

**HB 1192:** POMMER/HEATH
**RE: Elimination of software sales-tax exclusion.**
**Status:** 1/1/10 House third reading passed

**Bill Summary:** The bill repeals a special regulation promulgated by the department of revenue related to the type of software subject to sales or use tax. The bill specifies that standardized software is included in the definition of tangible personal property and defines standardized software.

## HB 1193: POMMER/HEATH

**RE: Sales tax for online sales**

**Status:** 1/1/10 House third reading passed

**Bill Summary: Section 1** of the bill relates to current law requiring a retailer to collect sales tax from a person residing in this state only if the retailer has sufficient connections with this state. Commencing March 1, 2010, section 1 articulates a presumption that any out-of-state retailer that has a referral relationship with an affiliate has an obligation to collect sales tax. The bill specifies that the presumption may be rebutted by the out-of-state retailer if the retailer can show that the affiliate with whom the retailer has such a relationship did not engage in active solicitation. The bill defines an affiliate as a person residing in this state that solicits business by means of a public forum in this state. **Section 2** specifies that, for purposes of any efforts to collect use tax, the executive director of the department of revenue may issue a subpoena to any out-of-state retailer if the out-of-state retailer refuses to voluntarily furnish specific information when requested and may take the out-of-state retailer's testimony under oath. If the out-of-state retailer fails or refuses to respond to the subpoena and give testimony, the executive director may apply to any judge of the district court of the state of Colorado for an attachment against the out-of-state retailer for contempt.

## HB 1194: FERRANDINO/HEATH

**RE: Non-essential containers for food services**

**Status:** 1/1/10 House third reading passed

**Bill Summary:** Effective March 1, 2010, the bill narrows the existing state sales and use tax exemptions for sales to retailers or vendors of food, meals, or beverages of articles, containers, and bags that are to be furnished without separate charge to consumers or users for use with articles of tangible personal property purchased at retail upon which state sales tax is paid so that articles, containers, and bags that are nonessential to the consumer or user are no longer exempt from the state sales and use taxes and makes conforming amendments to prevent the narrowing of the exemption from affecting county, municipal, and other local government or political subdivision sales and use taxes.

## HB 1195: FERRANDINO/HEATH

**RE: Sales tax on agricultural compounds.**

**Status:** 1/1/10 House third reading passed

**Bill Summary:** The bill suspends the exemption from the state sales and use taxes for the sale or storage, use, or consumption of agricultural compounds used in caring for livestock, semen for agricultural and livestock products for the period beginning March 1, 2010, and ending June 30, 2013. The bill also prevents the suspension of the exemption from affecting sales or use taxes levied by towns, cities, counties, or other political subdivisions of the state that are based on the state sales or use tax unless a town, city, county, or political subdivision expressly subject such sale or storage, use, or consumption to its sales or use tax for the specified period at the time of adoption of its initial sales or use tax ordinance or resolution or subsequent amendment to the ordinance or resolution.

## HB 1196: FERRANDINO/HEATH

**RE: Alternative fuel vehicle credits.**

**Status:** 1/1/10 House third reading passed

**Bill Summary:** Current law specifies that motor vehicles that meet certain federal guidelines and have a minimum fuel economy of 30 miles per gallon but less than 40 miles per gallon (category 7 motor vehicles) qualify for a state income tax credit for the purchase of vehicles using alternative fuels for the tax years commencing January 1, 2010, and January 1, 2011. The bill disqualifies category 7 motor vehicles from the state income tax credit for purchases of category 7 motor vehicles made on or after January 1, 2011.

## HB 1197: FERRANDINO/HEATH

**RE: Temporary limit on conservation easement credits**

**Status:** 01/29/2010 House Second Reading Re-referred w/Amend. to Appropriations

**Bill Summary:** Taxpayers are currently allowed to claim a state income tax creditfor donating a conservation easement. The amount of the credit is equal to 50% of the fair market value of the easement, with a cap of $375,000. The bill reduces the amount of the cap to $135,000 for donations made on or after January 1, 2011.

## HB 1198: FERRANDINO/HEATH

**RE: Elimination of alternative minimum tax.**

**Status:** 01/29/2010 House Committee on Finance Postpone Indefinitely

**Bill Summary:** The bill suspends for taxable years beginning on or after January 1, 2010, the credit against the state income tax for an amount equal to 12% of the credit allowed for payment of minimum tax liability under the federal internal revenue code.

## HB 1199: FERRANDINO/HEATH

**RE: Three-year limit on net-operating-loss (NOL) carry forward to $250,000.**

**Status:** 1/1/10 House third reading passed

**Bill Summary:** Under current law, a corporation may reduce its Colorado taxable income by carrying forward a net operating loss (NOL). There is no annual limit on the amount of NOL that may be carried forward. For each of the next 3 income tax years, the bill limits the amount of NOL that may be carried forward to $250,000. A NOL may be carried forward one additional year for each year that a corporation is prohibited from carrying forward a portion of its NOL because of this limit.

## HB 1200: HULLINGHORST/HEATH

**RE: Three year limit on corporate enterprise-zone investment tax credit**

**Status:** 01/22/2010 Introduced In House - Assigned to Appropriations

**Bill Summary:** Currently, the enterprise zone investment tax credit (credit) allows a taxpayer to claim an income tax credit that is equal to a percentage of the taxpayer's total qualified investment in qualified property during an income tax year, as long as the investment is in property that is used solely and exclusively in an enterprise zone for at least one year. A taxpayer is allowed to claim the credit for the first $5,000 of income tax liability, plus an amount equal to 50% of the taxpayer's tax liability in excess of $5,000, to the extent permitted by the amount of the qualified investment. A taxpayer is allowed to carry forward the credit for 12 income tax years after the year in which the full amount of the credit was unused. For the 2011, 2012, and 2013 income tax years, the bill limits the amount of the credit that a taxpayer may claim to $250,000 and requires that a taxpayer defer claiming any amount of the credit allowed that exceeds $250,000 to the 2014 income tax year. The bill allows a taxpayer that deferred claiming any credit in excess of $250,000 to carry forward the credit for 12 income tax years after the year the credit was originally allowed, plus one additional year for each year that the taxpayer had to defer claiming the credit in excess of $250,000.