HOUSE RESEARCH

Bill Summary

File Number: H.F. 579 **Date:** February 1, 2017
Version: As introduced

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Subject: Clarifying the definition of end user for digital products.

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Under current law, taxable sales include the sale of specified digital goods and other digital products to "an end user with or without rights of permanent use…" The bill explicitly defines "end user" to exclude a person, including a jukebox owner, that charges customers for access to specified digital goods or other digital products if the person has received the product under a contract that allows for further broadcast, transmission, distribution, or exhibition to other people.

This definition of "end user" comes from the Streamlined Sales and Use Tax Agreement (SSUTA) Governing Board rule 332(D) which excludes from the definition of "end user" those with a contract to redistribute digital goods. "Redistribute" in this case includes the right of "exhibition of the product in whole or in part to another person or persons." Minnesota is currently a member of SSUTA and has agreed to follow the interpretations of the Board. The SSUTA rules do allow the state to tax groups other than "end users" provided it is explicitly stated in statute.

Effective for sales and purchases made after June 30, 2017.

Note: The Department of Revenue currently requires jukebox owners/operators to pay sales tax on their purchases of digital music[1] because under federal copyright law a juke box owner/operator does not have a license to "resell" music; therefore, their purchase of digital audio works doesn't meet the definition of a "sale for resale" under state law. The department's current interpretation is that they are making an amusement device (juke box) available to the customer rather than reselling the digital audio works (music).

[1] Music purchased already loaded on a hard drive as part of the jukebox purchase is currently not taxable; only subsequent purchases of digital audio works are currently taxable.