

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 10–CV–01546–REB–CBS

The Direct Marketing Association,

Plaintiff,

v.

Roxy Huber, in her capacity as Executive
Director, Colorado Department of Revenue,

Defendant.

DECLARATION OF JEANA M. PETILLO

I, Jeana M. Petillo, in accordance with 28 U.S.C. § 1746, do depose and state as follows:

1. I am a paralegal with the law firm of Brann & Isaacson, LLP, counsel to the Plaintiff in the above-captioned matter. I make this affidavit upon my personal knowledge.

2. I was asked by Plaintiff's counsel to research the legislative history of Colorado House Bill 10-1193. I reviewed each document concerning H.B. 10-1193 that is available on the website of the Colorado General Assembly. True copies of two such documents, a Bill Summary issued in connection with an amended third reading to the Senate on February 10, 2010, available at:

http://www.leg.state.co.us/clics/clics2010a/csl.nsf/fsbillcont3/B30F574193882B4B872576A80026BE0C?open&file=1193_rr2.pdf,

and a Revised Fiscal Impact Statement dated February 8, 2010, available at:

http://www.leg.state.co.us/clics/clics2010a/csl.nsf/fsbillcont3/B30F574193882B4B872576A80026BE0C?Open&file=HB1193_r4.pdf,

are attached hereto as Exhibits A and B, respectively.

3. I also researched press coverage of H.B. 10-1193. Attached hereto as Exhibit C is a true and accurate copy of an article distributed by the Associated Press on or about February 8, 2010, and available at:

<http://cbs4denver.com/local/lawmakers.requiring.online.2.1480525.html>.

4. I reviewed the individual income tax return forms for each state that has an income tax on individuals. Based on my review, for the 2009 tax year, twenty-two (22) states included a line on the state individual income tax return form for self-reporting of the state's consumer use tax. Attached hereto as Exhibit D is a true and accurate copy of a chart I prepared identifying such states.

5. One state that includes a line on its individual resident income tax return for self-reporting of consumer's use tax, and has for several years, is New York. Attached hereto as Exhibits E and F, respectively, are true copies for tax year 2009 of New York tax form IT-150 (short form) (see line 35) and form IT-201 (long form) (see line 59). I contacted the New York Department of Taxation and Finance to ascertain the amount of tax revenue New York has received in recent years through self-reporting of use tax in connection with its resident income tax return. An official in the Department's Office of Tax Policy Analysis provided information for the tax years 2005–2008. Attached hereto as Exhibit G is a true and accurate copy of an email I received from the official on

July 22, 2010, reflecting the relevant amounts of use tax reported in this manner for each year in question.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 11th day of August, 2010.

/s/ Jeana M. Petillo
Jeana M. Petillo