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Erica K. Kenney

Senior Tax Counsel, Western States

(202) 484-5221

ekenney@cost.org

June 23, 2022

VIA EMAIL

Josh Pens, Director of Tax Policy
Colorado Department of Revenue
Taxation Division
1881 Pierce St.
Lakewood, CO 80214

Re: Comments on Proposed Rule 39-21-116.5 and Proposed Rule 43-4-218

Dear Mr. Pens:

Thank you for the opportunity to provide comments on proposed Rule 39-21-116.5 (Penalties for Officers or Members) and Rule 43-4-218 (Retail Delivery Fees) on behalf of the Council On State Taxation (COST). As the Department considers administrative issues with this new fee, including the nuances of its application to taxpayers, we strongly encourage and support broad-based penalty and interest relief to taxpayers as it applies to the Retail Delivery Fee, including the proposed Rules considered by the Department, in general.

About COST

COST is a non-profit trade association based in Washington, DC. COST was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of over 500 major corporations engaged in interstate and international business, many of which are incorporated and do business in Colorado. COST's objective is to preserve and promote the equitable and non-discriminatory state and local taxation of multijurisdictional business entities.

New and Novel Retail Delivery Fee Challenging for Businesses

The Retail Delivery Fee poses compliance challenges for many taxpayers and creates unique considerations for certain business models and business activities. Although the Retail Delivery Fee starts July 1, many taxpayers are continuing to grapple with implementation challenges to collect the fee from their customers along with understanding the scope of the fee's imposition (*e.g.*, issues with online purchases picked up at a retail store, *etc.*). To address these challenges and other issues that will arise, we encourage the Department to work with interested parties and continuously update its Frequently Asked Questions (FAQs) and Rule 43-4-218. Importantly, we appreciate the Department's guidance, outlined in its FAQs, indicating that requests

for waivers of late filing and payment penalties and interest will be generously granted.

Conclusion

We support the Department's intent to provide generous penalty and interest relief to taxpayers that are working to comply with this new fee in good faith. COST will continue to gather insight on the implications of the Retail Delivery Fee from our members, representing differing industries, and respectfully request the opportunity to supplement these comments to reflect concerns from our membership. Thank you for your time and consideration. If you have any questions or if you would like to discuss these comments further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Erica Kenney". The signature is written in a cursive, flowing style.

Erica K. Kenney

cc: COST Board of Directors
Douglas L. Lindholm, COST President & Executive Director