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South Carolina Senate

September 21, 2020

**Re: COST Support of H. 4431—The Business License Tax Reform Act**

Dear Members of the Senate:

On behalf of the Council On State Taxation (“COST”), I am writing to support the passage of H. 4431, a measure that would make a series of common-sense reforms to South Carolina’s Business License Tax. The legislation would both streamline an unnecessarily complex system and enhance sound tax policy in the State. With hundreds of local governments imposing business license taxes in South Carolina, a generally accepted uniform code and administration process is overdue for these taxes. The current system creates uncertainty for taxpayers, which imposes excessive compliance costs and undermines voluntary compliance. H. 4431 would ameliorate these burdens by standardizing the imposition and administration of the local business license taxes, including the establishment of a centralized payment clearinghouse and providing important taxpayer protections. The bill would also enhance sound tax policy and administration in South Carolina by prohibiting third-party contingent fees for audits, thereby eliminating incentives to distort the tax system for private gain.

**About COST**

COST is a nonprofit trade association consisting of approximately 550 multistate corporations engaged in interstate and international business. COST’s objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. COST members are significant contributors to economic development and employment in South Carolina.

**Fair, Efficient, and Customer-Focused Tax Administration**

The COST Board of Directors has adopted a formal policy position on the importance of fair, efficient, and customer-focused tax administration,<sup>1</sup> which is provided below:

*Fair, efficient and customer-focused tax administration is critical to the effectiveness of our voluntary system of tax compliance. A burdensome, unfair, or otherwise biased administrative system negatively impacts tax compliance and hinders economic competitiveness.*

<sup>1</sup> COST Policy Position on Fair, Efficient, and Customer-Focused Tax Administration available at: <https://cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/fair-efficient-and-customer-focused-tax-administration.pdf>

H. 4331 will enhance South Carolina's tax system by reducing compliance burdens derived from hundreds of local jurisdictions having disparate business license tax laws and administrative practices. By centralizing the payment of the tax and mandating various simplification measures, H. 4431 will likely result in both savings to taxpayers through reduced compliance costs and increased revenue for local governments due to increased voluntary compliance. Improvements to the local business tax system will positively impact South Carolina's economic competitiveness.

### **Utilization of Third-Party Contingent Fee Auditors Undermines Tax Policy**

The COST Board of Directors has also adopted a formal policy position on the use of third-party auditors,<sup>2</sup> which is provided below:

*When States and localities contract with third parties for tax audits, audit selection using data analytics, and appeals services, several concerns arise, including: 1) Lack of Governmental transparency in their administration of the law, including disclosure of amounts paid to third parties. 2) Risk of divulging taxpayer confidential information. Third parties should be subject to the same penalties as government employees if handling taxpayer confidential information. 3) Creating incentives to distort the tax system for private gain. Contingent-fee arrangements jeopardize the neutral and objective weighing of the public's interest, and instead create a direct economic interest for the third party in the outcome of the services rendered.*

H. 4431 would enhance sound tax policy and administration in South Carolina by prohibiting the payment of third-party auditing firms based on the amount of tax collected. Tax laws should be administered in an even-handed manner, ensure transparency, and protect confidential taxpayer information. In the case of tax audits, the scope of a liability is often unknown or disputed. This uncertainty is compounded by third-party private contract auditing, which suffers from inconsistency and lack of direct control by the revenue agency. Further, contingent fees incentivize contractors to maximize fees to the detriment of determining a taxpayer's correct tax liability. It is precisely for these policy reasons that the overwhelming majority of states do not allow contingent-fee and private contract auditing for sales taxes.<sup>3</sup>

The responsibility of an auditor is to determine the correct amount of tax under current law, and auditors should not be encouraged to inflate the amount of an assessment by conditioning payment on the amount of revenue the auditor assesses. H. 4431 will address these concerns by prohibiting contingent-fee auditing.

### **Conclusion**

H. 4431 would significantly improve South Carolina's overall tax climate by providing much needed simplification and uniformity to local business license taxes. The legislation eases compliance burdens by harmonizing and centralizing many aspects of those taxes. Further, the bill would protect both taxpayers and the State from the inherent conflicts of contingent-fee-based auditing. For these reasons COST urges you to pass H. 4431.

Respectfully,



Patrick J. Reynolds

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

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<sup>2</sup> COST Policy Position on Government Utilization of Third Parties in Tax Audits and Appeals available at: <https://cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/government-utilization-of-third-parties-in-tax-audits-and-appeals---final.pdf>

<sup>3</sup> *The Best and Worst of State Sales Tax Systems: COST Sales Tax Scorecard on Sales Tax Simplification, Uniformity & the Exemption of Business Inputs*, available at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-studies-articles-reports/the-best-and-worst-of-state-sales-tax-systems-august-17-2018-final.pdf>