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March 31, 2025

Representative William Lindstedt, Chair
Representative Brianna Titone, Vice Chair
House Committee on Finance
Colorado General Assembly

Re: House Bill 25-1296 (Sections 16 and 17)

Dear Chair Lindstedt, Vice Chair Titone, and Members of the Committee:

On behalf of the Council On State Taxation (COST), we are writing to oppose Sections 16 and 17 of HB 25-1296, which expand the sales tax base to include all non-custom software and telephone and telegraph services originating in Colorado that are charged to a Colorado address. The expansion of the sales tax base to include both non-custom software and telephone/telegraph services without an exclusion for business-to-business transactions violates several principles of sound tax policy. A fair, efficient, and well-designed sales tax should be levied only on final consumption by the ultimate consumer. Sections 16 and 17 of HB 25-1296 contravene good tax policy because they fail to provide an exemption for business-to-business transactions and include a clear statement that any expansion of the sales tax base applies prospectively. Without a business-to-business exemption the proposed changes result in the pyramiding of the sales tax and a lack of transparency to consumers and would directly or indirectly increase costs for Coloradans.

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 approximately 500 major corporations engaged in interstate and international business, many of which have significant business activities in Colorado. COST's objective is to preserve and promote the equitable and non-discriminatory state and local taxation of multijurisdictional business entities.

Business to Business Transactions Should Be Exempt

The COST Board of Directors has adopted a formal policy position opposing the imposition of sales taxation on business inputs. That policy position provides:

Imposing sales taxes on business inputs violates several tax policy principles and causes significant economic distortions. Taxing business

inputs raises production costs and places businesses within a State at a competitive disadvantage to businesses not burdened by such taxes. Taxes on business inputs, including taxes on services purchased by businesses, must be avoided.¹

Imposing sales tax on business inputs specifically violates the tax policy principles of neutrality, equity, simplicity, and transparency. The taxation of business inputs causes economic distortion. This distortion results primarily from pyramiding. Pyramiding occurs when a tax is imposed at multiple levels of the distribution chain and thereby imposes a hidden effective tax rate that exceeds the retail sales tax rate. The hidden rate creates a lack of transparency for both the public and the policymakers and forces companies to either pass these increased costs to consumers or reduce their economic activity in the state to remain competitive with other producers that do not bear the burden of such increased taxes. The economic burden of taxes on the business inputs inevitably shifts to consumers through higher prices or to labor in the state through lower wages and fewer jobs.

Legislative Changes Should Be Prospective

Further, any expansion of the sales tax base that negatively impacts taxpayers should only apply prospectively. The COST Board of Directors has adopted the following policy position on retroactive tax legislation. That policy position provides:

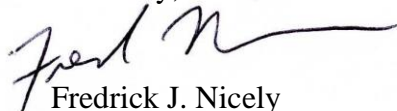
Legislation imposing new or increased tax liabilities attributable to prior periods is fundamentally unfair and, in some cases, unconstitutional and thus must be avoided. Under no circumstance should legislation imposing new or increased tax liabilities be applied to any periods beginning prior to the date the legislation was enacted.²

Taxpayers make significant financial decisions based on the current tax laws; those decisions must not be undermined by legislation imposing new or increased tax liabilities after the fact.

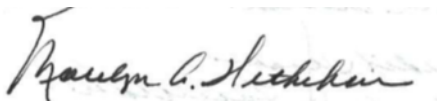
Conclusion

COST respectfully encourages this Committee to amend HB 25-1296 (Sections 16 and 17) to exempt business inputs from the expansion of the sales tax base. Additionally, COST urges this Committee to specifically state that any expansion of the sales tax base to include non-custom software and telephone/telegraph services would apply prospectively. Please let us know if we can provide any assistance.

Sincerely,



Fredrick J. Nicely



Marilyn A. Wethekam

cc: COST Board of Directors
Patrick J. Reynolds, COST President & Executive Director

¹ COST's policy on the taxation of business inputs may be found at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/sales-taxation-of-business-inputs.pdf>

² COST policy on retroactivity may be found at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/retroactivetaxlegislation.pdf>