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An Act

SENATE BILL 24-023

BY SENATOR(S) Van Winkle and Bridges, Baisley, Gardner, Kirkmeyer, Lundeen, Priola, Smallwood, Will;
also REPRESENTATIVE(S) Kipp and Taggart, Boesenecker, Jodeh, Marshall, Snyder.

CONCERNING THE REQUIREMENT THAT LOCAL TAXING JURISDICTIONS HOLD HARMLESS VENDORS THAT RELY ON ERRONEOUS DATA IN CERTAIN ELECTRONIC SYSTEMS RELATED TO SALES AND USE TAX THAT ARE MANAGED BY THE DEPARTMENT OF REVENUE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 39-26-105.2, **amend** (4); and **add** (3.5) as follows:

39-26-105.2. Remittance of tax - GIS - vendor held harmless - requirements of GIS database - rules - definition. (3.5) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(I) THE TASK FORCE HAS OVERSEEN THE IMPLEMENTATION OF AN ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM, WHICH IS COMMONLY KNOWN AS "SUTS" AND INCLUDES THE GIS DATABASE, IN

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

FURTHERANCE OF THE GENERAL ASSEMBLY'S GOAL TO ADDRESS THE COMPLEX AND CUMBERSOME NATURE OF COLORADO'S UNIQUE STATE AND LOCAL SALES TAX SYSTEM, WHICH IS A MATTER OF STATEWIDE CONCERN;

(II) SUTS AND THE GIS DATABASE ARE DESIGNED, AMONG OTHER THINGS, TO ASSIST BUSINESSES OPERATING IN MULTIPLE TAXING JURISDICTIONS IN COLORADO BY PROVIDING THEM WITH A SINGLE, RELIABLE SOURCE OF SALES AND USE TAX INFORMATION FOR THE STATE AND LOCAL TAXING JURISDICTIONS, INCLUDING ANY COUNTY, CITY AND COUNTY, OR MUNICIPALITY GOVERNED BY A HOME RULE CHARTER;

(III) WHILE THE SALES AND USE TAX BASES AND RATES OF THE STATE AND LOCAL TAXING JURISDICTIONS AND THE JURISDICTIONAL BOUNDARIES OF SUCH LOCAL TAXING JURISDICTIONS ARE SUBJECT TO CHANGE OVER TIME, SUTS WAS SPECIFICALLY DESIGNED IN ANTICIPATION OF SUCH CHANGES PURSUANT TO SECTION 39-26-802.5 (1)(c)(IV) AND (1)(c)(V);

(IV) IT IS A MATTER OF STATEWIDE CONCERN TO ENSURE THAT SUTS, INCLUDING THE GIS DATABASE, CONTINUES TO SERVE AND EVOLVE AS AN EFFECTIVE SIMPLIFICATION TOOL UPON WHICH BUSINESSES CAN RELY IN NAVIGATING COLORADO'S UNIQUE AND COMPLEX STATE AND LOCAL SALES TAX SYSTEM;

(V) IMPROVING SUTS IN THIS MANNER WILL DECREASE FILING COMPLEXITY, MAKE AUDITS OF RETAILERS MORE UNIFORM FOR ALL STATE AND LOCAL TAXING JURISDICTIONS, HELP STREAMLINE AND REDUCE ADMINISTRATIVE BURDENS, AND, CONSEQUENTLY, ENCOURAGE MORE BUSINESSES TO BEGIN OR CONTINUE TO OPERATE ACROSS MULTIPLE TAXING JURISDICTIONS ACROSS THIS STATE; AND

(VI) ANY BUSINESS THAT USES THE DATA COLLECTED IN SUTS, INCLUSIVE OF DATA COLLECTED IN THE GIS DATABASE, TO DETERMINE THE LOCAL TAXING JURISDICTIONS TO WHICH TAX IS OWED SHOULD BE HELD HARMLESS IN AN AUDIT BY THE STATE OR ANY LOCAL TAXING JURISDICTION, INCLUDING ANY COUNTY, CITY AND COUNTY, OR MUNICIPALITY GOVERNED BY A HOME RULE CHARTER FOR ANY TAX, CHARGE, OR FEE LIABILITY TO ANY LOCAL TAXING JURISDICTION THAT WOULD BE DUE SOLELY AS A RESULT OF AN ERROR OR OMISSION IN THE SUTS OR GIS DATABASE DATA.

(b) AS USED IN THIS SUBSECTION (3.5), UNLESS THE CONTEXT

OTHERWISE REQUIRES:

(I) "ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM" MEANS THE ELECTRONIC SYSTEM DESCRIBED IN SECTION 39-26-802.7 FOR THE COLLECTION AND REMITTANCE OF SALES AND USE TAXES.

(II) "LOCAL TAXING JURISDICTION" MEANS A CITY, TOWN, MUNICIPALITY, COUNTY, SPECIAL DISTRICT, OR AUTHORITY AUTHORIZED TO LEVY A SALES OR USE TAX PURSUANT TO TITLE 24, 25, 29, 30, 31, 32, 37, 42, OR 43, AND ANY COUNTY, CITY AND COUNTY, OR MUNICIPALITY GOVERNED BY A HOME RULE CHARTER THAT USES THE ELECTRONIC SALES AND USE TAX SIMPLIFICATION SYSTEM.

(III) "TAX RATE" MEANS THE GENERAL SALES OR USE TAX RATE IMPOSED BY A LOCAL TAXING JURISDICTION, WITHOUT REGARD TO ANY LOCAL SALES OR USE TAX EXEMPTION OR SPECIAL TAX RATE.

(c) (I) ANY VENDOR THAT USES THE DATA CONTAINED IN THE GIS DATABASE TO DETERMINE THE TAX RATE AND THE LOCAL TAXING JURISDICTIONS TO WHICH SALES OR USE TAX IS OWED IS HELD HARMLESS IN AN AUDIT BY ANY LOCAL TAXING JURISDICTION FOR ANY TAX, CHARGE, OR FEE LIABILITY TO THE LOCAL TAXING JURISDICTION THAT OTHERWISE WOULD BE DUE SOLELY AS A RESULT OF AN ERROR OR OMISSION IN THE GIS DATABASE DATA.

(II) TO BE HELD HARMLESS PURSUANT TO SUBSECTION (3.5)(c)(I) OF THIS SECTION, A VENDOR MUST COLLECT, RETAIN, AND PRODUCE UPON REQUEST DOCUMENTATION REASONABLY SUFFICIENT TO DEMONSTRATE THE VENDOR'S PROPER USE OF AND RELIANCE ON THE GIS DATABASE DATA TO DETERMINE THE TAX RATE AND LOCAL TAXING JURISDICTION TO WHICH TAX WAS OWED.

(III) A VENDOR THAT QUERIES THE GIS DATABASE USING AN INCOMPLETE OR ERRONEOUS ADDRESS SHALL NOT BE HELD HARMLESS PURSUANT TO SUBSECTION (3.5)(c)(I) OF THIS SECTION FOR THE FAILURE TO PAY ANY TAX, CHARGE, OR FEE LIABILITY TO A LOCAL TAXING JURISDICTION.

(d) THE DEPARTMENT OF REVENUE, OR ITS THIRD-PARTY CONTRACTOR, SHALL UPDATE THE DATA CONTAINED IN THE GIS DATABASE, INCLUDING JURISDICTIONAL BOUNDARIES AND TAX RATES, WITHIN THIRTY

DAYS OF THE RECEIPT BY THE DEPARTMENT OF REVENUE OF UPDATED OR CORRECTED DATA FROM A LOCAL TAXING JURISDICTION, AND SHALL MAINTAIN THE GIS DATABASE DATA IN AN ACCURATE CONDITION IN ACCORDANCE WITH SUBSECTION (4) OF THIS SECTION. THE DEPARTMENT SHALL PROVIDE A REASONABLY CONVENIENT METHOD FOR LOCAL TAXING JURISDICTIONS TO INFORM THE DEPARTMENT OF ANY ERRORS IN THE GIS DATABASE DATA.

(4) The department of revenue shall ensure that the GIS database data, INCLUDING JURISDICTIONAL BOUNDARIES AND TAX RATES, is at least ninety-five percent accurate based on a statistically valid sample of addresses from the database, or based on another acceptable method of proving accuracy.

SECTION 2. Applicability. This act applies to audits commenced by local taxing jurisdictions, directly or by contractors, on or after the effective date of this act.

SECTION 3. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate

preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Steve Fenberg
PRESIDENT OF
THE SENATE

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
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APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO