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MEMORANDUM

TO: Sales and Use Tax Simplification Task Force

FROM: Alison Killen, Jessica Herrera, and Megan McCall, Office of Legislative Legal Services

DATE: July 25, 2023

SUBJECT: Summary of Sales and Use Tax Legislation Enacted during the 2023 Legislative Session

Scope of this Memorandum

This memorandum provides a brief summary of all acts relating to sales and use tax that the General Assembly enacted during the 2023 legislative session. The summary is organized into the following three sections: (1) Acts recommended by the task force last year; (2) Acts that create, extend, expand, or repeal sales and use tax exemptions; and (3) Miscellaneous acts. Each act is identified by its bill number and by its full bill title, as enacted, unless otherwise noted.

Summary of Legislation

1. Acts recommended by the task force last year.

- a. **Senate Joint Resolution 23-004: Concerning uniformity among municipalities that locally collect sales and use tax on construction materials including issuance of building permits.**

Urges municipalities and counties that locally collect their taxes to cooperate on a uniform administration of sales and use tax on construction materials, to standardize information on building permits, and to speed up the issuance of

certain documentation. The act also requests that the Colorado Municipal League update the task force on these efforts by August 2023.

The act was not amended during the legislative process.

b. House Bill 23-1017: Concerning improvements to the electronic sales and use tax simplification system, and, in connection therewith, making an appropriation.

The act adds requirements for the implementation by the department of revenue (department) of the electronic sales and use tax simplification system (SUTS), which is a one-stop portal designed to facilitate and simplify the collection and remittance of sales and use tax. As soon as possible, and not later than January 1, 2025, the act requires the department to modify SUTS in the following ways:

- To populate a local account number on all returns and summary reports if the retailer filing the return has a number and provides the number in SUTS;
- By developing a simplified user interface for filing returns as an alternative to the current spreadsheet method;
- To provide retailers with a bulk testing option for address files; and
- To include additional use taxes, additional information about deductions, filtering options, and certain tabs.

Additionally, with the exception of charges for payments by credit cards, the act prohibits the department from imposing a convenience fee or any other type of charge for a payment through SUTS and from passing those charges on to local taxing jurisdictions. Finally, the act requires the department to create a campaign to promote SUTS to increase awareness, participation, and compliance by retailers and local taxing jurisdictions and solicit and consider feedback from interested stakeholders about enhancements to SUTS that lead to greater participation and compliance.

The act was amended in the House to remove some additional modifications that the department would have been required to make to SUTS that were in the introduced version of the bill. In the Senate, the appropriation clause was amended to specify how the department is to use the appropriation.

2. Acts that create, extend, expand, or repeal sales and use tax exemptions.

a. House Bill 23-1240: Concerning a sales and use tax exemption for construction and building materials used for repairing and rebuilding residential structures damaged or destroyed by a declared wildfire disaster in 2020, 2021, or 2022, and, in connection therewith, making an appropriation.

Exempts all sales, storage, use, and consumption of construction and building materials to be used directly in rebuilding or repairing a qualified residential structure (wildfire rebuild exemption). Defines "qualified residential structure" as a residential structure that was damaged or destroyed by a declared wildfire disaster. Defines "declared wildfire disaster" as a wildfire that was declared a disaster emergency by the governor pursuant to § 24-33.5-704 (4) on or after January 1, 2020, but before January 1, 2023.

The wildfire rebuild exemption gives rise to a refund claim by a qualified homeowner who obtains a building permit and a wildfire rebuild exemption certificate from the local government authorized to issue a building permit in the area where the qualified residential structure is located. Defines "qualified homeowner" as a homeowner that is rebuilding or repairing or has employed a contractor to rebuild or repair a qualified residential structure that the homeowner owned at the time of the declared wildfire disaster. To obtain a wildfire rebuild exemption certification, a qualified homeowner must certify such ownership and that the replacement cost for each qualified residential structure exceeds the homeowner's coverage under any homeowner's insurance policy associated with the structure.

The amount of the refund is equal to 2.9% of the estimated construction and building materials cost for repairing or rebuilding the qualified residential structure. A refund may be claimed at any time before June 30, 2028.

b. House Bill 23-1272: Concerning tax policy that advances decarbonization.¹

The act includes a section that ends the sales and use tax exemption for all sales, storage, and use of heat pump systems and heat pump water heaters that

¹ The trailer of the bill title, as enacted, has been omitted for brevity.

are used in commercial or residential buildings. The exemption was allowed only for the tax year commencing on January 1, 2023.

- c. **House Bill 23-1101: Concerning support for transit, and, in connection therewith, increasing the flexibility of the ozone season transit grant program and increasing opportunities for transit agency participation in regional transportation planning.**

A regional transportation authority (RTA) is a political subdivision that is granted taxing powers. The act increases the maximum rate of sales or use tax, or both, that a regional transportation authority may impose, with voter approval, from one percent to two percent.

3. Miscellaneous acts.

- a. **House Bill 23-1293: Concerning the adoption of the 2023 recommendations of the Colorado commission on criminal and juvenile justice regarding felony sentencing, and, in connection therewith, making an appropriation.**

The act increases the classification of a willfully made false tax return from a felony to a class 5 felony and clarifies that the punishment shall be a minimum fine of one thousand dollars to a maximum fine of one hundred thousand dollars and a minimum sentence of one year imprisonment to a maximum sentence of three years imprisonment and a mandatory period of two years parole.

- b. **House Bill 23-1062: Concerning the authority of a metropolitan district to levy a sales tax with voter approval for the purpose of providing parks or recreational facilities or programs.**

The act grants a metropolitan district the authority to levy a sales tax, with voter approval, to provide parks or recreational facilities or programs within the metropolitan district.