COST
COUNCIL ON STATE TAXATION

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VIA EMAIL

Alaska House Finance Committee
Co-chairs: Representative Neal Foster, Andy Josephson, and Calvin Schrage

Alaska Senate Resources Committee
Chair: Senator Cathy Giessel; Co-Chair: Senator Bill Wielechowski

RE: Request for Modifications to H.B. 284 & S.B. 227 for Sales Tax Proposal to be SSUTA Compliant and Eliminate the Throwout Provision

Dear Chairs and Members of the House and Senate Finance Committees,

On behalf of the Council On State Taxation (COST), I respectfully submit this testimony to request modifications to H.B. 284 and companion bill S.B. 227, which would impose a statewide sales tax and authorize the Department of Revenue (DOR) to enter the Streamlined Sales and Use Tax Agreement (SSUTA). If Alaska chooses to adopt a statewide sales tax, we strongly encourage the State to do so through full conformity to SSUTA; however, without an amendment to the bills to incorporate the SSUTA's definitions and processes, the legislation will fail to comply with SSUTA and would impose additional complexities on both Alaska retailers and remote sellers. In addition, given the opportunity to design an optimal sales tax, Alaska should take steps to avoid subjecting business inputs to taxation to ensure the tax falls on final (end user) consumption, which prevents pyramiding of the tax. Lastly, a throwout provision should be removed from the bills.

About COST

COST is a nonprofit trade association based in Washington, D.C. 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 directly do business in Alaska. COST's objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities.

Central Administration & SSUTA Membership Promotes Sound Tax Policy

COST has long advocated for sound tax policy through simplification and uniformity of state and local sales and use tax systems.[1] As part of its efforts, COST has advocated for states to

[1] COST policy position on Simplification is found here: https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/simplification-of-the-sales-and-use-and-similar-transaction-tax-system---final-revised-june-2021.pdf

join the SSUTA and adopt the SSUTA's definitions and procedures,[2] including a uniform sales tax base and central administration of a state's local sales taxes. The central administration of local taxes has worked very well in the SSUTA Member States that have local taxes and improves the efficiency of the administration of the local taxes for both businesses and the states. Alaska adopting SSUTA's definitions and processes would significantly reduce administrative and compliance burdens for all sellers through the following:[3]

- Single, state-level administration for all sales and use tax collections, which the bills partially address but it also needs to clearly cover audits[4] (Section 301 of the SSUTA).
- Uniformity in the state and local tax bases, which the bills appear to require (Section 302 of the SSUTA).
- Uniformity of major tax base definitions, which would require some revisions to the bills to adopt some of the SSUTA's definitions such as prewritten software, telecommunications, prepared food, etc. (See definitions used throughout the SSUTA, and importantly the Library of Definitions that is part of the Agreement).
- Allow the use of SSUTA's central electronic registration system (Section 211 of the SSUTA).
- Simplification of state and local tax rates by providing a database of local rate jurisdictions associated with each five- and nine-digit zip code, with limitations on when local taxes can be changed to the beginning of a calendar quarter at least 60 days after proper notice is provided (see Section 305 of SSUTA).
- Uniform destination-based sourcing rules for all taxable transactions, with a preference for the sourcing provisions to be in the law and not just a regulation (Sections 309 to 311 of the SSUTA).
- Completion of the SSUTA Taxability Matrix and Tax Administration Practices which would require revisions to the bills to assist sellers in understanding the requirements of Alaska's sales tax laws (Section 328 of the SSUTA).
- Clearly allow Certified Service Providers to assist sellers in collecting and remitting the tax and provide CSP compensation as required by SSUTA (Section 601 of the SSUTA).
- Simplified exemption administration (Sections 316-317 of the SSUTA).
- Simplified tax returns (Section 318 of the SSUTA).
- Simplification of tax remittances (Section 319 of the SSUTA).
- Protection of consumer privacy (Section 321 of the SSUTA).

The proposed legislation achieves some of these standards. We recommend amending both bills to more closely adopt the SSUTA provisions.

For all the reasons outlined above, we strongly support Alaska becoming a full SSUTA member state in total compliance if it seeks to enact a statewide sales and use tax.

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[2] The Agreement itself is available at: ssuta-as-amended-through-12-19-25-with-hyperlinks-and-compiler-notes-at-end.pdf; and the SSUTA rules are available at: STREAMLINED SALES TAX GOVERNING BOARD, INC.

[3] We strongly encourage you to reach out to the SSUTA staff, specifically Craig Johnson (craig.johnson@sstgb.org), Executive Director, and/or Alison Jares (alison.jares@sstgb.org), Director of Research and State Compliance for more guidance on what Alaska must do to be compliant with the SSUTA.

[4] Centralized auditing does not mean local auditors cannot be used, but when auditing a taxpayer, an auditor should follow the DOR's centralized audit processes and conduct the audit for all the State's localities and the State's sales taxes.

COST's Position on Sales Taxation of Business Inputs

The COST Board of Directors has adopted a formal policy statement on sales taxation of business inputs.[5] COST's policy position is:

> *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.*

As noted in COST's policy position above, the imposition of sales tax on business inputs violates several tax policy principles—economic growth, equality, simplicity, and efficiency. In addition, imposing sales tax on business inputs causes economic distortion that results from pyramiding. Pyramiding occurs where a tax is imposed at multiple levels, such that the effective tax rate exceeds the retail sales tax rate. This forces companies to either pass cost increases to consumers or reduce their economic activity in the State to remain competitive with other producers who do not bear the burden of such taxes. The result of these choices is that the economic burden of taxes on business inputs inevitably shifts to labor in the State (through lower wages and employment) or consumers (through higher prices). With both bills proposing to broadly subject services to sales taxation, it is critical that business inputs are exempt from the tax to avoid running afoul of these sound tax policy principles.

COST Opposes the use of Throwback/Throwout Provisions

The COST Board of Directors has adopted a formal policy statement on throwback and throwout laws.[6]

> *Throwback and throwout laws seek to require companies to pay tax in one state on income that another state has chosen not to tax or is legally unable to tax. A company's tax liability in one state should not be measured by its tax in another state. Throwback and throwout rules also discourage investment in a state. Such rules must not be adopted and must be repealed where they presently exist.*

Throwback and throwout laws require a company, when calculating its tax in a state, to add income earned in another state if that other state chooses not to tax that income or is prohibited from taxing that income by the U.S. Constitution or by federal law. Therefore, COST opposes the enactment of any throwout provision and asks that it be removed from both bills.

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[5] COST policy position on Taxation of Business Inputs is available here: https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/sales-taxation-of-business-inputs.pdf.

[6] COST policy position on Throwback/Throwout Positions is available here: https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/throwback-throwout.pdf.

Conclusion

If Alaska wishes to impose a statewide sales tax, we support the State's efforts to invoke central administration of the state and local jurisdictions' sales and use tax by joining the SSUTA. We also strongly recommend that H.B. 284 and/or S.B. 227 be amended to comply with the SSUTA's definitions and process along with including a clear and broad exemption for business-to-business transactions, including services purchased by businesses. We also strongly recommend removing the throwout provision from the bill.

Respectfully,

Dylan Waits

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