Sales and Use Tax Notice and Reporting Act

(a) Administration. This Act shall be administered and enforced by the [State Department of Revenue], which shall adopt, promulgate, and enforce rules and regulations as necessary to carry out the Act’s provisions. No Court shall have jurisdiction to consider the application, administration, or enforcement of this Act with respect to any person unless that person has exhausted administrative remedies with the [State Department of Revenue].

(b) Definitions. For purposes of this Act:

(1) “Department” means the [State Department of Revenue].
(2) “Director” means the Director of the [State Department of Revenue].
(3) “Purchaser” means any person who purchases or leases a product for delivery to a location in this state.

(c) Notice and Reports, Required. A person who sells or leases a product; the storage, use, or consumption of which is subject to [State Use Tax Act]; or the sale or lease of which is subject to [State Sales Tax Act]; but who does not collect or remit either such tax, shall provide the following notice and reports.

(1) Notice to Purchaser at Time of Transaction. A notice shall be provided to each purchaser at the time of each such sale or lease.

(A) The notice shall indicate that neither sales or use tax is being collected or remitted upon the transaction, and that the purchaser may be required to remit such tax directly to the Department.

(B) The notice shall be prominently displayed on all order forms, including, where applicable, electronic and catalogue order forms, and upon each sales or lease receipt provided to the purchaser. No indication shall be made that sales or use tax is not imposed upon the transaction, unless: (i) such indication is followed immediately with the notice required by this section (c)(1); or (ii) the
C. A person who fails to provide notice as required by this section (c)(1) shall be assessed a penalty, in addition to any other penalties, of $X for each such failure, not to exceed in any calendar year:

(i) a total of $Y if such person had no actual knowledge of the requirement and remedied the failure by providing notices within X days of receiving actual knowledge, and

(ii) a total of $Z if such person had actual knowledge or did not remedy the failure within X days of receiving actual knowledge.

The Director, in his or her sole discretion, may waive all or any portion of this penalty for good cause shown.

2. **Annual Report to Purchaser.** A report shall be provided to each purchaser before January 31st of each year,

(A) The report shall include:

(i) a statement indicating that the person does not collect sales or use tax and that the purchaser may be required to remit such tax directly to the Department;

(ii) a list, by date, generally indicating the type of product purchased or leased during the prior calendar year by the purchaser from such person for delivery to a location in this state and the price of each product;

(iii) instruction for obtaining additional information regarding whether and how to remit the use tax to the Department;

(iv) a statement that such person is required to submit a report to the Department pursuant to section (c)(3) of this Act; and

(v) any information as the Director shall reasonably require.

(B) The report shall be sent to the purchaser’s billing address, or if unknown, the purchaser’s shipping address, in an envelope marked prominently with words indicating important tax information is enclosed. If no billing or shipping address is known, the report shall be sent to the purchaser’s last-known e-mail address with a subject heading indicating important tax information is enclosed.

(C) A person who fails to provide a report as required by section (c)(2) shall be assessed a penalty, in addition to any other penalties, of $X for each such failure, not to exceed in any calendar year:

(i) a total of $Y if such person had no actual knowledge of the requirement or remedied the failure by providing notices within X days of receiving actual knowledge, and

(ii) a total of $Z if such person had actual knowledge or did not remedy the failure within X days of receiving actual knowledge.
The Director, in his or her sole discretion, may waive all or any portion of this penalty for good cause shown.

(3) **Annual Report to [State Department of Revenue]**. A report shall be provided before January 31st of each year to the Department.

(A) The report shall include, with respect to each purchaser:
   (i) The name of the purchaser;
   (ii) The billing address and, if different, the last known mailing address;
   (iii) The shipping address for each product sold or leased to such purchaser for delivery to a location in this state;
   (iv) The total dollar amount of all such purchases by such purchaser which were made during the prior calendar year.

(B) A person who fails to provide a report as required by section (c)(3) shall be assessed a penalty, in addition to any other penalties, equal to $X times the number of such purchasers that should have been included on such report, not to exceed in any calendar year:
   (i) a total of $Y if such person had no actual knowledge of the requirement and remedied the failure by providing the report within X days of receiving actual knowledge, and
   (ii) a total of $Z if such person had actual knowledge or did not remedy the failure within X days of receiving actual knowledge.

The Director, in his or her sole discretion, may waive all or any portion of this penalty for good cause shown.

(d) **Exceptions**.

(1) **Small Seller**. A person who made less than $A [original SST threshold for small seller was $100,000] in total gross sales during the prior calendar year shall not be required to file notice or reports pursuant to section (c) of this Act.

(2) **De minimis In-State Sales**. A person who made less than $B [CO: $100,000] in total gross sales for delivery to a location in this state during the prior calendar year shall not be required to file notice or reports pursuant to section (c) of this Act.

(e) **Confidentiality of Purchaser Information**. Information received by the [State Department of Revenue] pursuant to this Act shall be exempt from any disclosure required pursuant to [State Open Records Act]. Such information shall be treated as confidential taxpayer information pursuant to [cite to open records exception for confidential taxpayer information, including exceptions statutes] and all exceptions, penalties, punishments, and remedies applicable to disclosure of confidential taxpayer information pursuant to [cite to statutes regarding confidential taxpayer information disclosure exceptions and penalties] shall apply to disclosure of information received by the Department pursuant to this Act.