THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Ralph King Anderson, III, Chief Administrative Law Judge

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Case No. 18-ALJ-17-0393-CC
Appellant Case No. 2019-001831

Jack's Custom Cycles, Inc. d/b/a Jack's Motor Sports..……Respondent,

v.

South Carolina Department of Revenue..……..…….Appellant.

PETITION FOR REHEARING

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Pursuant to Rules 221(a), 219, and 240 of the South Carolina Appellate Court Rules, Appellant, South Carolina Department of Revenue ("Department" or "Appellant"), hereby files this Petition for Rehearing in the above-referenced matter in which the Court issued Opinion number 5970, filed on February 15, 2023 (the "Opinion"). As explained below, the Department respectfully submits that in issuing the Opinion, the Court overlooked and misapprehended the Department's arguments regarding statutory construction of a tax exemption statute, legislative intent, and agency deference when it ruled that Respondent Jack's Custom Cycles, Inc. d/b/a Jack's Motor Sports (Respondent) was entitled to a sales tax exemption on its retail sales of ATVs and UTVs.

INTRODUCTION

The primary issue in this appeal is whether the term "motor vehicle," as used in the partial sales tax exemption in S.C. Code Ann. § 12-36-2110(A)(1) (2014), includes all-terrain vehicles ("ATVs") and side-by-side vehicles ("UTVs"). Chapter 36 of Title 12 does not define "motor vehicle," but the term is defined in other chapters of Title 12 and is also defined in Title 56 (which deals with motor vehicles generally, including registration and licensing). When read in tandem, these various statutory definitions support the longstanding interpretation of the Department (and the South Carolina Department of Motor Vehicles "SCDMV") that ATVs and UTVs are not "motor vehicles" because they are designed exclusively for off-road use and are not authorized to operate upon the highways of South Carolina.

Despite finding that section 12-36-2110(A)(1) is ambiguous because it does not define "motor vehicles," the Opinion did not construe the statute in accordance with the applicable rules of statutory construction; namely, it did not narrowly construe the exemption against the taxpayer, it elevates dictionary definitions over other statutory definitions that are better indicators of legislative intent, and it ignored the consistent longstanding interpretation by the Department (the agency that administers Title 12) and SCDMV (the agency that administers Title 56).

LAW

Here, there is no dispute that the Respondent's sales of ATVs and UTVs are retail sales of tangible personal property subject to sales tax. Further, there is no dispute that the Respondent's sales of ATVs and UTVs are subject to the full 7% sales tax unless the transaction is expressly exempted as a matter of law.[1] *See S. Weaving Co. v. Query*, 206 S.C. 307, 34 S.E.2d 51 (1945).

Section 12-36-2110(A)(1) provides for a maximum sales tax of $300.00 on all sales and leases of motor vehicles, among other items:

> (A) The maximum tax imposed by this chapter is three hundred dollars for each sale made after June 30, 1984, or lease executed after August 31, 1985, of each:
>
> (1) aircraft, including unassembled aircraft which is to be assembled by the purchaser, but not items to be added to the unassembled aircraft;
>
> (2) motor vehicle;
>
> (3) motorcycle;
>
> (4) boat;
>
> (5) trailer or semitrailer, pulled by a truck tractor, as defined in Section 56-3-20, and horse trailers, but not including house trailers or campers as defined in Section 56-3-710 or a fire safety education trailer;
>
> (6) recreational vehicle, including tent campers, travel trailer, park model, park trailer, motor home, and fifth wheel; or
>
> (7) self-propelled light construction equipment with compatible attachments limited to a maximum of one hundred sixty net engine horsepower.

S.C. Code Ann. § 12-36-2110(A)(1) (2014).

[1]The State's sales tax rate is 6%. *See* §§ 12-36-910(A) and 12-36-1110. The Taxpayer's business is located in Lexington County, and Lexington County imposes an additional one percent (1%) school district tax on sales at retail. *See* S.C. Code Ann. § 4-10-420 (Supp. 2018).

It is well settled that "the language of a tax exemption statute must be given its plain, ordinary meaning and must be construed strictly *against* the claimed exemption." *Owen Indus. Prods., Inc. v. Sharpe*, 274 S.C. 193, 195, 262 S.E.2d 33, 34 (1980) (emphasis added). Accordingly, in order to claim an exemption a taxpayer has the burden of "*clearly* bring[ing] himself with the constitutional or statutory language upon which he relies." *York County Fair Ass'n, Inc. v. S.C. Tax Comm'n*, 249 S.C. 337, 341, 154 S.E.2d 361, 363 (1967) (emphasis added) (*quoting Textile Hall Corp. v. Hill*, 215 S.C. 262, 54 S.E.2d 809 (1949)).

ARGUMENT

The Department respectfully requests the Court to amend its Opinion to correct certain erroneous statements or findings of facts. Further, the Department requests the Court to reconsider the Department's arguments regarding statutory construction of a tax exemption statute, legislative intent, and agency deference, which the Opinion overlooked or misapprehended.

I. SCDOT is not a party to these proceedings.

In its Opinion, the Court references the SCDOT[2] on two (2) separate occasions. *See* p. 3, n. 5; p. 6, ¶2, line 1. Presumably, these statements are intended to refer to the Department. However, given the involvement of two state agencies and to avoid any confusion in the published Opinion, the Department respectfully requests the Court to amend its Opinion to correct any references to the SCDOT.

II. Title 12 defines "motor vehicle" on three separate occasions, and the Court should consider those definitions in construing § 12-36-2110(A)(1).

The Opinion twice states that Title 12 does not define "motor vehicle." (Opinion, p. 5) ("The term "motor vehicle" is undefined in Title 12."); (Opinion, p. 8) ("Because Title 12 does not define 'motor vehicle.'"). But the Opinion later correctly notes that in fact Title 12 *does* define motor

[2] In general practice, "SCDOT" refers to the South Carolina Department of Transportation.

vehicle—not once, but on three different occasions. (Opinion, p. 10 and n.8) ("Title 12 defines motor vehicle three times as a vehicle that is registered for highway use.") (citing Section 12-28-110(41), Section 12-54-122(A)(3), and Section 12-37-2810). Each of these definitions are consistent with the Department's position throughout this case—that "motor vehicle" as used in section 12-36-2110(A)(1) is limited to vehicles that are licensed for use on public highways.

In ignoring these definitions of "motor vehicle" in Title 12, the Opinion incorrectly held the Court could not consider these definitions because they were not presented to the ALC and therefore were not preserved for review.[3] (Opinion, p. 12.) The Court then cites to *Staubes v. City of Folly Beach*, 339 S.C. 406, 412, 529 S.E.2d 542, 546 (2000) ("It is well-settled that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial court to be preserved for appellate review.") (Opinion, p. 13.) But, as stated by the Court, *Staubes* stands for the proposition that an *issue* cannot be raised for the first time on appeal. Here, the parties stipulated that the "sole issue" before the ALC "is whether the ATVs and UTVs sold by [Taxpayer] during the Periods at Issue are considered a 'motor vehicle' for purposes of S.C. Code Ann. § 12-36-2110(A)(1) and thus subject to the maximum tax or partial tax exemption." (R. p. 4; Amended Order, p. 4.) It is undisputed the issue of whether an ATV or UTV can be a "motor vehicle" because they are not licensed to operate on public highways was clearly raised and ruled upon by the ALC, and the Department appealed the ALC's determination on that very issue. (R. p. 9; Amended Order, p. 9) (discussing the Department's argument that a motor vehicle is something that is licensed for use on public highways).

Similarly, the Department also appealed the ALC's failure to give deference to the Department's interpretation of § 12-36-2110(A)(1). The Department did not raise a new *issue* by citing to the statutes in Title 12 that define motor vehicle. These three specific Title 12 statutes are part of

[3] The Department's appellate brief cited to S.C. Code Ann. §§ 12-37-2810(B), (C) and (D) (2014). These statutes do not define "motor vehicle" for purposes of § 12-36-2110(A)(1).

the Department's argument regarding agency deference (the Department's interpretation of § 12-36-2110(A)(1)). *See* Department's Final Brief, p. 25 (beginning argument of Section III – deference).

These other provisions of Title 12 do not specifically define "motor vehicle" for purposes of § 12-36-2110(A)(1); rather, the statutes provide additional *support* for the Department's position that ATVs and UTVs should not be included within the meaning of "motor vehicles" for purposes of the partial sales tax exemption in § 12-36-2110(A)(1). Simply put, the legislature's definitions of "motor vehicle" elsewhere in Title 12 (as well as Title 56) are entirely consistent with the Department's interpretation of § 12-36-2110(A)(1). This is no different from the Department citing a case or other additional authority regarding an issue that was squarely presented to the trial court and relevant to the issue on appeal. Other courts have consistently approved the consideration of new *authorities* raised for the first time on appeal, so long as those arguments are in support of a preserved *issue*. *See* 4 C.J.S. Appeal and Error § 297 (noting that appellate courts may consider new authorities or arguments not presented below, so long as they are in support of issues properly before the court).[4]

Because the legislature did not provide a definition of "motor vehicle" in § 12-36-2110(A)(1), the Department logically and properly looked to other sources for guidance. The first and natural authority was the SCDMV, which administers Title 56—Motor Vehicles. In applying the provisions of Title 56, including the definitions of "motor vehicle," "vehicle," and "street" or "highway," the SCDMV has long held that ATVs and UTVs are not "motor vehicles" because they are designed

[4] *See, e.g.*, *Collins Asset Grp., LLC v. Alialy*, 139 N.E.3d 712, 714 (Ind. 2020) (holding that a party could raise new arguments and authorities on appeal, even though the party did not cite to or reference the UCC or certain sections of the state code at the trial court); *Burien Town Square Condo. Ass'n v. Burien Town Square Parcel 1, LLC*, 416 P.3d 1286, 1290 (Wash. Ct. 2018) (finding it could consider new statutory provisions cited for the first time on appeal because determining legislative intent requires looking at the statutory scheme as a whole); *Bagley v. Bagley*, 387 P.3d 1000, 1009 (Utah 2017) (noting distinction between raising a wholly new issue on appeal versus offering a new argument in support of a particular issue already preserved on appeal, and finding that when the issue on appeal is the interpretation of a statute failure to entertain the new argument may result in misconstruing the statute).

exclusively for off-road use and are not authorized to operate upon the highways of South Carolina. The SCDMV has consistently maintained this interpretation in official published guidance, (R. pp. 49, 806–19) and its website. Moreover, when the Department issued its own guidance regarding section 12-36-2110(A)(1), it did so in coordination with the SCDMV to ensure that it was interpreting the term "motor vehicle" in a manner consistent with the way SCMDV does. (R. p. 825). *See Beaufort Cnty. v. S.C. State Election Comm'n*, 395 S.C. 366, 371, 718 S.E.2d 432, 435 (2011) ("[S]tatutes dealing with the same subject matter are *in pari materia* and must be construed together, if possible, to produce a single, harmonious result.").

By citing to additional code sections in on appeal, the Department has simply identified additional authority in support of the sole issue in this case, and has offered additional support that its interpretation of "motor vehicle" in § 12-36-2110(A)(1) is consistent with legislative intent (as evidence by all other definitions of "motor vehicle" found in Title 12 and Title 56). Those Title 12 provisions defining "motor vehicle" confirm the Department's *reasonable* interpretation of "motor vehicles" under § 12-36-2110(A)(1). *See Trident Med. Center v. S.C. Dep't of Health and Envtl. Control*, 412 S.C. 341, 354, 772 S.E.2d 177, 184 (Ct. App. 2015) (stating our courts "defer to an agency interpretation unless it is 'arbitrary, capricious, or manifestly contrary to the statute."); *Kiawah Dev. Partners, II v. S.C. Dep't of Health & Envtl. Control*, 411 S.C. 16, 34, 766 S.E.2d 707, 718 (2014) (stating courts will defer to the agency's interpretation [of a statute or regulation it is charged with administering] absent compelling reasons.").

Thus, the Department respectfully submits the Court misapprehended the Department's agency deference argument as the Department did not raise a new *issue*. It simply provided additional support for the argument that the Department's position – its interpretation of § 12-36-2110(A)(1) – is entitled to deference in this matter.

III. The construction of a tax exemption statute is strictly construed against the claimed exemption (taxpayer).

The Opinion found that the meaning of "motor vehicle" in section 12-36-2110(A)(1) is ambiguous, thus requiring the Court to resort to statutory construction. The Opinion further recognized that section 12-36-2110(A)(1) is a partial exemption statute, and tax exemption statutes are "strictly construed against the claimed exemption." (Opinion, pp. 4-5, quoting *TNS Mills, Inc. v. S.C. Dep't of Revenue*, 331 S.C. 611, 620, 503 S.E.2d 471, 476 (1998) (citations omitted)). But despite acknowledging that tax exemption statutes must be construed against the claimed exemption, (Opinion, pp. 5, 8), the Opinion ultimately adopted a *broad* definition of motor vehicle. (Opinion, p. 7). This *broad* definition ignored specific statutory definitions and the longstanding interpretation of both the Department and SCDMV.

Moreover, despite acknowledging that the cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature, the Opinion makes no mention of the *Bodman* case that was discussed by the Department during oral argument, which specifically noted the legislative intent behind the max tax statute was to compete with automobile/car dealers. *See Bodman v. State*, 403 S.C. 60, 742 S.E.2d 363 (2013) (Toal, C.J., concurring) ("The General Assembly sought to appease *automobile* dealers, particularly in border counties, who complained of lost sales to North Carolina *car* dealers."). Yet the Opinion's broad construction of section 12-36-2110(A)(1) expands the application of the exemption far beyond what the legislature intended.

Similarly, the Opinion failed to address the fact the legislature was aware of the Department's longstanding position that ATVs were not subject to the max tax, yet declined to provide such a *sales tax exemption* when it enacted legislation in 2011 that specifically authorized a *property tax exemption* for ATVs. *See* (R. pp. 820-823; Dep't Ex. 22, S.C. Rev. Adv. Bulletin #00-3). This silence by the legislature should be entitled to great weight in determining legislative intent, and further supports a narrow and strict application of section 12-36-2110(A)(1) that does not include ATVs and UTVs within the

definition of motor vehicle. *See Marchant v. Hamilton*, 279 S.C. 497, 500, 309 S.E.2d 781, 783 ("Administrative interpretations of statutes, consistently followed by the agencies charged with their administration and not expressly changed by Congress, are entitled to great weight."); *Etiwan Fertilizer Co. v. S.C. Tax Comm'n*, 217 S.C. 354, 60 S.E.2d 682 (1950) ("We have held in many cases that where the construction of the statute has been uniform for many years in administrative practice, and has been acquiesced in by the General Assembly for a long period of time, such construction is entitled to weight, and should not be overruled without cogent reasons."); *Tronco's Catering, Inc. v. S.C. Dep't of Rev.*, 09-ALJ-17-0089-CC, (J. Matthews, Apr. 12, 2010), available at 2010 WL 5781622, *3 (S.C. Admin.Law.Judge.Div.) ("When, as in this case, the construction or administrative interpretation of a statute has been applied for a number of years and has not been changed by the Legislature, there is created a strong presumption that such interpretation or construction is correct.") (*citing Ryder Truck Lines Inc. v. S.C. Tax Comm'n*, 248 S.C. 148, 149 S.E.2d 435 (1966)).[5]

Finally, the Opinion provides no analysis as to how UTVs—which the ALC specifically found to be factually different from ATVs—fall within the definition of "all-terrain vehicle" relied upon by the Court. (R. p. 2; Amended Order, p. 2). Because § 12-36-2110(A)(1) is a partial exemption statute and the ALC found UTVS are factually different from ATVs, the Court overlooked these facts and broadly construed a partial exemption tax statute to include an entire class of property—UTVs—that is not defined in any statute in the South Carolina Code of Laws.[6] Accordingly, the Department

[5] The Opinion also overlooks Respondent's own conduct during the audit period, which reveals that Respondent was interpreting section 12-36-2110(A)(1) in a manner consistent with the Department and SCDMV. Although Respondent had a valid license to sell motorcycles, it was limited to selling only five *motor vehicles* per year under that license. (R. pp. 338–40, 408). Respondent acknowledged the DMV requires a retailer to obtain a separate retailer license if it intends to sell more than five motor vehicles a year. Yet despite claiming that ATVs/UTVs are motor vehicles for purposes of section 12-36-2110(A)(1), Respondent sold approximately 245 ATVs during the three year audit period. (R. p. 719–41).

[6] In response to a question during oral arguments, the Department specifically discussed the argument that "UTVs are an entirely different class of property than ATVs and no statute defines UTVs."

requests the Court to amend its decision to conclude that UTVs are not entitled to the partial sales tax exemption of § 12-36-2110(A)(1) defining "motor vehicles": the ALC concluded these items are factually different than ATVs; the Court relies upon definitions of ATVs that do not encompass UTVs; and § 12-36-2110(A)(1) is a partial exemption statute that must be strictly construed against the claimed exemption.

Thus, the Department respectfully submits the Court misapprehended the construction of a partial exemption statute by failing to apply well-stablished statutory construction principles that *tax exemption statutes* must be strictly construed against the claimed exemption. *TNS Mills, Inc.*, 331 S.C. 611, 503 S.E.2d 471.

IV. The Department's interpretation of Title 12 is entitled to deference.

In its Opinion, the Court concludes that "the ALC correctly found SCDOR is not entitled to deference of its interpretation of Title 56, which is administered by SCDMV, not SCDOR." (Opinion, p. 12.) However, the Court misapprehends the Department's deference argument. *See State v. Sweat*, 379 S.C. 367, 374, 665 S.E.2d 645, 649 (Ct. App. 2008), *aff'd as modified*, 386 S.C. 339, 688 S.E.2d 569 (2010) ("The construction of a statute by the agency charged with its administration will be accorded the most respectful consideration and will not be overruled absent compelling reasons."); *see also Brown v. S.C. Dep't of Health & Envtl. Control*, 348 S.C. 507, 515, 560 S.E.2d 410, 414 (2002) (quoting *Dunton v. S.C. Bd. of Examin'rs in Optometry*, 291 S.C. 221, 223, 353 S.E.2d 132, 133 (1987)); *also Nucor Steel v. S.C. Pub. Serv. Comm'n*, 310 S.C. 539, 543, 426 S.E.2d 319, 321 (1992) (recognizing that where an agency is charged with the execution of a statute, the agency's interpretation should not be overruled without cogent reason). "[T]he deference doctrine properly stated provides that where an agency charged with administering a statute or regulation has interpreted the statute or regulation, courts, including the ALC, will defer to the agency's interpretation absent compelling reasons." *Kiawah Dev. Partners, II v. S.C. Dep't of Health & Envtl. Control*, 411 S.C. 16, 34, 766 S.E.2d 707, 718 (2014).

The Department is entitled to deference of its interpretation of § 12-36-2110(A)(1) as the legislature statutorily authorized the Department to administer and enforce the revenue laws of this State. *See* S.C. Code Ann. § 12-36-2110(A)(1). Further, S.C. Rev. Advisory Bulletin #00-03 specifically analyzes whether retail sales of ATVS are "entitled to the maximum tax under Code Section 12-36-2110 as "motor vehicles" or "recreational vehicles." (R. p. 823; Dep't Ex. 22, p. 4.) The Department did not argue that it is entitled to deference with regard to Title 56 definitions; rather, the Department cited to those provisions and SCDMV publications as support for the Department's *reasonable* interpretation of "motor vehicles" in § 12-36-2110(A)(1).[7] *See Trident Med. Center v. S.C. Dep't of Health and Envtl. Control*, 412 S.C. 341, 354, 772 S.E.2d 177, 184 (Ct. App. 2015) (stating our courts "defer to an agency interpretation unless it is 'arbitrary, capricious, or manifestly contrary to the statute."); *Kiawah Dev. Partners, II v. S.C. Dep't of Health & Envtl. Control*, 411 S.C. 16, 34, 766 S.E.2d 707, 718 (2014) (stating courts will defer to the agency's interpretation [of a statute or regulation it is charged with administering] absent compelling reasons.").

Thus, the Department respectfully requests the Court to amend its decision and reverse the decision of the ALC. The Department, charged with administering Title 12, is entitled to deference in the interpretation of § 12-36-2110(A)(1), and its interpretation is not arbitrary, capricious, or manifestly contrary to the statute.

V. The Court's Opinion misapprehends the audit period in this matter.

Next, the Court's Opinion frequently states that several definitions in Title 56 in which the Department partially relies upon in this matter were removed in 2018. (Opinion, p. 5-6). Because the audit period concerns the sales and use tax periods of August 31, 2013 through July 31, 2016, the

[7] Further, the Court's Opinion does not give any agency deference to the SCDMV, which is tasked with administering Title 56. *See* S.C. Code Ann. § 56-1-5. The *only* evidence in the record demonstrates that SCDMV – through its publications – interprets "motor vehicle" in the same manner as the Department.

Department respectfully submits that the Court's analysis misapprehends the Audit Period in this matter. The Department appropriately referenced S.C. Code Ann. § 56-3-20(2) and S.C. Code Ann. § 56-3-20(1) as those statutes were in effect throughout the duration of the Audit Period. Those statutory definitions were removed from Title 56 in 2018 (approximately 2 years after the close of the audit period in this matter), and the Court's Opinion relies upon this fact even though it has no bearing on the Audit Period. *See Centex Intern., Inc. v. S.C. Dep't of Rev.*, 406 S.C. 132, 136 n. 1, 750 S.E.2d 65, 67 n. 1 (2013) (acknowledging the court is relying upon a code section in effect at the time of the designated tax years).

Accordingly, the Department respectfully submits that the Court's analysis misapprehends the Audit Period in this matter, and this misunderstanding is evidenced by the Court's statements regarding specific statutory provisions the Department relied upon to support its interpretation of "motor vehicle" within § 12-36-2110(A)(1).

VI. The text of a statute is considered the best evidence of legislative intent.

Next, the Court's Opinion concludes the Department's argument that Title 56 definitions support the Department's interpretation of "motor vehicle" in § 12-36-2110(A)(1) must fail because if the legislature had intended such, "presumably the legislature would have referenced the definitions found in Title 56, as it did in section 12-36-2110(A)(1)(1)(e)." (Opinion, p. 7.) However, the Court's Opinion overlooks the fact that the legislature provided for 3 definitions of "motor vehicle" in Title 12 that are entirely consistent with the Department's interpretation of "motor vehicle" in § 12-36-2110(A)(1).

When determining legislative intent, how the legislature defined "motor vehicle" in other statutes is considered the best evidence of legislative intent in comparison to other sources, including

the dictionary.[8] *See e.g., Matter of J.M.M.*, 890 N.W.2d 750, 754 (Minn. App. 2017) ("[w]e may look to related statutes when interpreting an ambiguous statute . . . More specifically, we may borrow from other statutes' definitions of terms that are undefined in the statute at issue"); *State v. Turner*, N.E.2d 783, 784 (Ind. 1991) ("a legislative definition of certain words in one statute, although not conclusive, is entitled to consideration in construing the same works in another statute.")

As discussed above, the legislature has defined "motor vehicle" in the context of Title 12 definitions. *See e.g., Hodges v. Rainey*, 341 S.C. 79, 533 S.E.2d 578 (2000) ("What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will."). The Department logically and properly interpreted "motor vehicle" in § 12-36-2110(A)(1) in a way consistent with all other definitions of "motor vehicle" found in Title 12. The Court's Opinion simply overlooks or misapprehends the legislature's intent of defining "motor vehicle" in § 12-36-2110(A)(1): the legislature provided 3 definitions of "motor vehicle" in Title 12, and those definitions are entirely consistent with the Department's interpretation of "motor vehicle" in § 12-36-2110(A)(1).

CONCLUSION

For the reasons specified herein, the Department respectfully requests that this Court grant its Petition for Rehearing in order for the Court to correct certain erroneous statements or findings of facts in the Opinion. Further, the Department requests the Court to grant the Petition in order for the Court to reconsider the Department's arguments regarding statutory construction of a tax exemption statute, legislative intent, and agency deference, which the Opinion overlooked or misapprehended when it ruled that Respondent was entitled to a sales tax exemption on its retail sales of ATVs and UTVs.

[8] Nevertheless, the Department's interpretation of § 12-36-2110(A)(1)(1) is entirely consistent with the complete dictionary definition of "motor vehicle." *See* Department's Final Brief, pp. 25-27.

Respectfully submitted,

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Honorable Ralph King Anderson, III, Chief Administrative Law Judge

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Appellate Case No. 2019-001831

Jack's Custom Cycles, Inc., d/b/a Jack's Motor Sports,.....Respondent,

v.

South Carolina Department of Revenue,.....Appellant.

PROOF OF SERVICE

I, Jennifer D. Gamble, hereby certify that I have caused to be mailed a copy of Appellant South Carolina Department of Revenue's Petition for Rehearing regarding the above-referenced case, by causing a copy of same to be deposited in the United States Mail, postage prepaid, on March 2, 2023, addressed to the attorney(s) of record, John A. Ecton, Esquire and Margaret W. Dukes, Esquire, Ecton Law Firm, PA, 7911 Broad River Road, Suite 100, Irmo, SC 29063 and by electronic mail to laurin@ectonlawfirm.com and jecton@ectonlawfirm.com and also via electronic mail to the Court of Appeals at ctappfilings@sccourts.org.

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March 2, 2023

VIA ELECTRONIC MAIL TO ctappfilings@sccourts.org
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Jack's Custom Cycles, Inc., d/b/a Jack's Motor Sports, Respondent, v. South Carolina Department of Revenue, Appellant
Appellate Case No. 2019-001831
ALC Docket No. 19-ALJ-17-0393-CC

Dear Ms. Kitchings:

Enclosed please find Appellant South Carolina Department of Revenue's Petition for Rehearing in connection with the above-referenced matter.

Should you have any questions, please do not hesitate to contact me at 803-898-1826 or Nicole.Wooten@dor.sc.gov.

Sincerely,

OFFICE OF GENERAL COUNSEL

Nicole M. Wooten
Senior Counsel

c: John A. Ecton, Esquire
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Enclosures
NMW: jdg