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**Jan 17 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Chief Administrative Law Judge

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Appellate Case No. 2024-001558

Administrative Law Court Case No. 21-ALJ-17-0182-CC

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CarMax Auto Superstores, Inc., ..... Appellant,

v.

South Carolina Department of Revenue, ..... Respondent.

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**APPELLANT’S DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON  
APPEAL**

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Pursuant to Rule 209 of the South Carolina Appellate Court Rules, Appellant CarMax Auto Superstores, Inc. (“East”) respectfully requests that the following items be included in the record on appeal:

**ORDERS**

1. Order on Joint Motion to Take Expert Depositions Beyond Discovery Deadline dated March 1, 2023
2. Remand Order dated July 12, 2024
3. Order Rescinding Remand Order dated July 29, 2024
4. Order Granting Motion for Reconsideration dated August 15, 2024
5. Amended Final Order dated August 15, 2024
6. Order Denying Motion for Reconsideration dated September 20, 2024
7. Order Granting Consent Motion to Recognize Inapplicability of Automatic Stay to ALC’s Second Reconsideration Order dated October 21, 2024.

**PLEADINGS**

8. East’s Request for Contested Case Hearing dated June 8, 2021

9. East's Pre-Hearing Statement dated August 2, 2021
10. South Carolina Department of Revenue's ("Department") Pre-Hearing Statement dated July 29, 2021

### **PRE-TRIAL MOTIONS AND SUBMISSIONS**

11. Department's Expert Disclosure
12. East's Motion in Limine to Exclude Expert Testimony Challenging the 2004 Valuation Study and for Expedited Hearing on Same dated April 21, 2023
13. East's Motion to Exclude Expert Witness dated May 5, 2023
14. Department's Response to East Motion in Limine to Exclude Expert Testimony Challenging the 2004 Valuation Study and for Expedited Hearing on Same dated May 8, 2023
15. East's Deposition Designations dated May 23, 2023
16. Respondent's Counter Designations and Objections to Petitioner's Deposition Designations dated May 26, 2023
17. Joint Exhibit List dated May 26, 2023

### **POST-TRIAL SUBMISSIONS AND MOTIONS**

18. Letter to ALC dated January 30, 2024 sending list of agreed upon designations for 30(b)(6) Deposition of the Department (w/o enclosure of transcript, which is separately listed at #27)
19. East's Proposed Final Order dated January 31, 2024
20. Department's Proposed Final Order dated January 31, 2024
21. East's Motion to Reconsider Remand Order dated July 22, 2024
22. Department's Response to East's Motion to Reconsider Remand Order dated August 2, 2024
23. East's Motion to Reconsider Amended Final Order and Reconsideration Order dated August 26, 2024
24. Department's Response to East's Second Motion to Reconsider dated September 10, 2024
25. Consent Motion to Recognize Inapplicability of Automatic Stay to ALC's Second Reconsideration Order dated October 2, 2024.

### **TRANSCRIPTS**

26. Hearing Transcript dated May 22-26, 2023
27. Designated Portions of 30(b)(6) Deposition of Department dated March 17, 2023

### **JOINT EXHIBITS**

28. #4- Form 10-K FY 2016 (CarMax\_002733-002854)
29. #5- Form 10-K FY 2017 (CarMax\_002855-002986)
30. #6- Form 10-K FY 2018 (CarMax\_002987-003114)
31. #7- E&Y Transfer Planning Report FYE 2/29/12 (CarMax\_001360-001599)

32. #8- E&Y Transfer Pricing Report FYE 2/28/15 (CarMax\_001124-001359)
33. #9- Form 1120 (amended) FY 2016 – consolidated federal return (CarMax\_000551-000681)
34. #10- Form 1120 FY 2017 – consolidated federal return (CarMax\_000726-000856)
35. #11- Form 1120 FY 2018 – consolidated federal return (CarMax\_000880-001058)
36. #12- Form 1065 (amended) FY 2016 – CBS federal return (CarMax\_003244-003278)
37. #13- Form 1065 FY 2017 – CBS federal return (CarMax\_003279-003308)
38. #14- Form 1065 FY 2018 – CBS federal return (CarMax\_003309-003340)
39. #15- Form SC 1120 FY 2016 — CarMax Auto Superstores, Inc. (CarMax\_000682-000691)
40. #16- Form SC 1120 (amended) FY 2016 - CarMax East (CarMax\_000692-000703)
41. #17- Form SC 1120 FY 2017 - CarMax East (CarMax\_000857-000866)
42. #18- Form SC 1120 FY 2018 - CarMax East (CarMax\_001059-001071)
43. #19- Form SC 1120 (amended) FY 2016 - CarMax West (CarMax\_000714-000725)
44. #20- Form SC 1120 FY 2017 - CarMax West (CarMax\_000867-000879)
45. #21- Form SC 1120 FY 2018 - CarMax West (CarMax\_001072-001083)
46. #22- Explanation of Audit Assessments and Adjustments (SCDOR\_0496)
47. #23- Proposed Assessment dated 09/04/2019 (CarMax\_000514-000516)
48. #24- Corporate Working Papers of the Department (SCDOR\_0474-0495)
49. #25- Apportionment Schedules (SCDOR\_0091-0100)
50. #26- Report of Field Audit dated 09/04/2019 (SCDOR\_0153-0169)
51. #27- Department Determination (CarMax\_000537-000549)
52. #28- SC Revenue Ruling 15-5
53. #32- CarMax Protest (CarMax\_000526-000536)
54. #33- CarMax Organizational Chart (CarMax 000425)
55. #34- Master Management Services Agreement (CarMax\_001097-001123)
56. #35- Amendments to Master Management Services Agreement (CarMax\_003382-003394)
57. #36- License Agreement (CarMax 001086- 001096)
58. #37- Management Fee Breakout FY 2016-18 (CarMax 002698- 002700)
59. #38- 2016 Sample SC invoices, wire requests, and monthly reconciliations (CarMax\_001650-001698)
60. #39- Legal Entity Org Chart with Associate Counts (CarMax\_003641)
61. #40 - CarMax East and West Initial Contributions to CAS dated 12/1/04 (CarMax\_001646-001649)
62. #41- Memo to CarMax re: Certain Federal and State Income Tax Consequences of Proposed Restructure (CarMax\_001805 – 001847)
63. #42- Draft Board of Directors Corporate Reorganization Presentation dated 4-6-04 (CarMax\_001848 – 001863)
64. #43- 11/01/2004 CarMax memo re: purposes of restructuring (CarMax\_001864 – 001867)
65. #44- CarMax BOD meeting minutes dated 4-6-04 (CarMax\_001868 – 001911)
66. #45- Business Purpose Notes (CarMax\_001912)
67. #46- Memo to Corporate Restructuring File dated 2/13/04 (CarMax\_001913-001940)
68. #47- Audit Committee Notes and Board of Directors Corporate Reorganization Presentation dated 4-6-04 (CarMax\_001920-001936)

69. #48- Memo to E&Y File re: Restructuring dated 9-6-04 (CarMax\_001937)
70. #52- 5/31/2005 E&Y memo to CarMax re: Treatment of Advance payments following restructuring (CarMax\_001699-001720)
71. #53- 11/17/2004 E&Y memo re: state tax challenges (CarMax\_001721-001804)
72. #54-11/12/2004 E&Y Memo to CarMax re: potential restructuring (CarMax\_001805-001847)
73. #55- E&Y Valuation of IP dated (CarMax\_001600-001645)
74. #56- 2010 TRAC Commission Report
75. #57- CV of Professor Rick Pomp
76. #58- CV of Dr. Brian Cody
77. #61- CV of David DeRamus
78. #62- Memo (Car dealer set) (SCDOR\_5849-5857)
79. #63- Memo (Back office set) (SCDOR\_5858-5963)
80. #64- Memo (Real estate services set) (SCDOR\_6318-6330)
81. #65- Memo (Retailer set) (SCDOR\_6331-6378)
82. #66- FY 16-18 Legal P&L (CarMax\_002393)
83. #67- CASS Associates (CarMax\_002690)
84. #68- E&Y supporting documentation (EY-CM-00000047)
85. #69- FY16-18 Legal Balance Sheets Summaries (CarMax\_002702)
86. #70- Spreadsheet from Brian Cody's file (CarMax\_002397)
87. #81- FY 16 CAF v. Non-CAF Legal P&L (CarMax\_003645)
88. #82- FY 17 CAF v. Non-CAF Legal P&L (CarMax\_003646)
89. #83- FY 18 CAF v. Non-CAF Legal P&L (CarMax\_003647)
90. #84- Form SC 1120 FY2016 – CarMax Auto Superstores West Coast, Inc. (CarMax\_000704-000713)
91. #85- 30(b)(6) Deposition of CarMax Auto Superstores, Inc. dated September 22, 2022 with exhibits

#### **OTHER MATERIALS OR DOCUMENTS**

92. Letter from Court of Appeals dated October 23, 2024 consolidating two notices of appeal.

The Undersigned counsel hereby certifies, pursuant to Rule 209(c) of the South Carolina Appellate Court Rules that this Designation contains no matter that is irrelevant to the appeal.

Respectfully submitted,

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