

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

SEP 21 2017

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Administrative Law Judge

S.C. SUPREME COURT

Case No. 09-ALJ-17-0160-CC
Appellate Case No. 2017-000265

Rent-A-Center West, Inc,Respondent

v.

South Carolina Department of Revenue,Petitioner

MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF OF COUNCIL ON STATE TAXATION IN SUPPORT OF RESPONDENT, RENT-A-CENTER WEST, INC.

Pursuant to South Carolina Appellate Court Rule 213, The Council on State Taxation (“COST”) moves for leave of the Court to file an amicus brief as *amicus curiae*. As permitted by Rule 213, COST files its amicus brief conditionally herewith, pending the Court’s decision to grant this Motion.

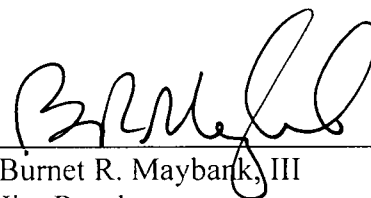
COST is a nonprofit trade association based in Washington, D.C. COST formed in 1969 as an advisory committee to the Council on State Chambers of Commerce. Today, COST has grown to an independent membership of approximately 600 major corporations engaged in interstate and international business. COST’s objective is to preserve and promote the equitable and nondiscriminatory state and local taxation of multi-jurisdictional business entities. COST members employ a substantial number of South Carolinians, own and lease property in South Carolina, and conduct substantial business in South Carolina.

Similar to most other states, South Carolina apportions the income of multistate businesses by using apportionment rules closely modeled on the Uniform Division of Income for Tax

Purposes Act (“UDITPA”). UDITPA has been adopted in whole or in part by most states and those states often look to court decisions in other states when interpreting this uniform law. How South Carolina applies UDITPA is, therefore, of vital interest and importance to COST’s membership.

As *amicus curiae*, COST will urge this Court to reject the South Carolina Department of Revenue’s (“Department”) petition for *certiorari* in this case because the Department was not justified in deviating from the State’s statutory apportionment formula when it apportioned Rent-A-Center West, Inc.’s income to the State. There is no need for this Court to review the Court of Appeals’ decision overturning the holding of the Administrative Law Court (“ALC”) in this case because the Department is again attempting to circumvent the State’s statutory apportionment formula, and this issue has already been properly resolved by this Court in its decision in *CarMax Auto Superstores West Coast, Inc. v. South Carolina Dep’t of Revenue*, 411 S.C. 79, 767 S.E.2d 195 (2014)

Accordingly, COST requests leave to file this amicus brief to assist the Court with understanding and considering the interests of COST members in this matter.



Burnet R. Maybank, III
Jim Rourke
NEXSEN PRUET, LLC
1230 Main Street, Suite 700 (29201)
Post Office Drawer 2426
Columbia, South Carolina 29202
Phone: 803-771-8900
Fax: 803-727-1472
Cell: 803-960-3024
Email: bmaybank@nexsenpruet.com

Attorneys for Council On State Taxation

Columbia, South Carolina
September 21, 2017

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Ralph King Anderson, III, Administrative Law Judge

Case No. 09-ALJ-17-0160-CC
Appellate Case No. 2017-000265

Rent-A-Center West, Inc., Respondent

v.

South Carolina Department of Revenue, Petitioner

PROOF OF SERVICE

I certify that I served the **Motion for Leave to File Amicus Curiae Brief on Behalf of Council on State Taxation**, on the Appellant and Respondent by depositing copies of it in the United States Mail, postage prepaid, on September 21, 2017 addressed to their attorneys of record as follows:

**Attorneys for the South Carolina
Department of Revenue:**

Sean G. Ryan, Esq.
William J. Condon, Jr., Esq.
Department of Revenue
State of South Carolina
P.O. Box 12265
Columbia, SC 29211

**Attorneys for Rent-A-Center West,
Inc.:**

John C. Von Lehe, Jr., Esq.
Bryson M. Greer, Esq.
Nelson Mullins Riley & Scarborough
LLP
151 Meeting Street, 6th Floor
Charleston, SC 29401-2239



Burnet R. Maybank III
James Rourke
Nexsen Pruet, LLC
Post Office Box 2426
Columbia, South Carolina 29202
803-771-8900

*Attorneys for Amicus Curiae
Council on State Taxation*

Columbia, South Carolina
September 21, 2017