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Jun 01 2021

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph K. Anderson, III, Chief Administrative Law Judge

Appellate Case No. 2019-001706

Trial Court Case No. 17-ALJ-17-0238-CC

Amazon Services, LLC.....Appellant,

v.

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

**THE SOUTH CAROLINA MANUFACTURERS ALLIANCE’S
MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF
IN SUPPORT OF APPELLANT AMAZON SERVICES, LLC**

Pursuant to Rule 213, SCACR, the South Carolina Manufacturers Alliance (“SCMA”) moves for leave to file an *amicus curiae* brief in this action urging this Court to reverse the decision of the Administrative Law Court (“ALC”). That court improperly held that the South Carolina Department of Revenue (“Department”) can retroactively change its interpretation of the tax law to require marketplace facilitators to collect sales tax on behalf of third parties, without a change in the law, without following the required rule-making procedures, and without providing advance notice to impacted taxpayers (“ALC’s Order”).

The SCMA is a tax-exempt organization under section 501(c)(6) of the Internal Revenue Code and is the manufacturing industry’s association in South Carolina, serving as its government

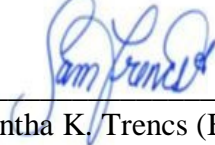
liaison for over one hundred years. The SCMA's goal is to be the voice of manufacturers to the state's legislative and regulatory branches of government, as well as to promote and preserve the economic health of manufacturers in South Carolina by seeking positive action in state government. The SCMA emphasizes that maintaining strong manufacturing industries in the state will foster and promote the strength of South Carolina's economy. Manufacturing companies make significant capital investments in South Carolina and create a substantial number of jobs in the state. For example, in 2020, the manufacturing sector accounted for approximately 17% of South Carolina's gross domestic product and approximately 12% of the State's total employment. Manufacturers also pay 5% of all property taxes in South Carolina. Manufacturing businesses' long-term decisions regarding where to make investments require an understanding of the long-term impact of tax obligations imposed by a state.

The SCMA has a significant interest in the outcome of this case because the Department's unilateral, retroactive change in its interpretation of the tax law raises substantial concerns about its members' ability to understand the tax law when they make decisions to invest and conduct business in South Carolina. Lack of predictability concerning taxpayers' state tax obligations makes it difficult, if not impossible, to make sound investment decisions that are critical to business success. The ALC's Order improperly validates the Department's attempt to retroactively replace its longstanding practice with its audit position; flies in the face of fundamental principles of sound tax policy; and jeopardizes South Carolina's widely respected business climate.

For the foregoing reasons, the SCMA respectfully requests that the Court grant leave to present an *amicus curiae* brief. A copy of the SCMA's proposed *amicus curiae* brief is attached hereto as **Exhibit A** and is being conditionally filed with this motion in accordance with Rule 213, SCACR.

Dated: June 1, 2021

Respectfully submitted,



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**Pro hac vice* motion forthcoming

Counsel for
South Carolina Manufacturers Alliance

CERTIFICATE OF SERVICE

I certify that I have served all parties to this matter with a copy of the foregoing Motion for Leave to File Amicus Brief by emailing a copy of the same to the email addresses for each of the below-listed counsel:

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