

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Deborah Brooks Durden, Administrative Law Judge

Appellate Case Nos.: 2021-001528 & 2021-001547

CDT, Inc., ... Appellant,

v.

South Carolina Department of Revenue Respondent.

AND

Vimlesh V. Patel and Punita Patel Appellants,

v.

South Carolina Department of Revenue Respondent.

**APPELLANTS' CONSOLIDATED RESPONSE IN OPPOSITION
TO RESPONDENT'S MOTION TO DISMISS**

Statement of Pertinent Facts

The matter presented in this appeal arises from Respondent's consistent failure to accurately calculate and communicate the amount of taxable income for which Appellants are responsible, a defect which continues through this very moment.

Appellant CDT, Inc. ("CDT") is a tobacco wholesaler located in Easley, South Carolina. Its primary business activity is to sell tobacco products to convenience stores for resale. CDT is, and at all relevant times has been, owned and operated solely by Appellant Vimlesh V. Patel. Mr. Patel's spouse is Appellant Punita Patel. Because of CDT's

ownership structure and tax-status election, CDT's income is not taxed at the corporate level; instead, for purposes of taxation, CDT's income flows through the corporation and is subject to taxation at the individual taxpayer level, by Mr. Patel, as CDT's sole shareholder.

During or about 2017, Respondent commenced audit proceedings against CDT with respect to CDT's taxable corporate income. The audit period in question pertained to five specific tax years—2012 through 2016. The most charitable way to describe Respondent's calculations of Appellants' taxable income would be "inconsistent." A more realistic description would be "an unprincipled crapshoot."

Respondent's initial analysis of Appellants' taxable income for the audit period in question was prepared in 2018. A true and accurate copy of this initial analysis is attached hereto as **Attachment A**.

Through this analysis, Respondent was ostensibly trying to extrapolate CDT's gross income for each of the years of the audit period by multiplying the costs of CDT's tobacco purchases by a certain ratio, yielded by comparing the operating costs claimed by CDT against the operating costs deemed "allowed" by Respondent. According to Attachment A and the testimony of Respondent's auditor at trial, this ratio was generated through an analysis of CDT's bank records. The conclusions reached by Respondent through this analysis were, as demonstrated below, utterly bizarre.

For example, for tax year 2016, Respondent determined that CDT's tobacco purchase for that year totaled \$14,255,260. Then, Respondent applied its calculation of operating costs derived—allegedly—from a study of CDT's bank records to extrapolate that CDT's gross revenue for 2016 was \$23,978,570.23. A true and accurate copy of a

summary of CDT's bank records, which were presented at trial, are attached hereto as **Attachment B**. However, as Respondent knew or should have known, based on the very same bank records used to calculate the operational-cost ratio, CDT's gross revenue for 2016 was only \$15,988,720.09. Incredibly, Respondent had overestimated CDT's gross revenue by eight million dollars. And, what's worse, it was very much Respondent's intention to assess taxes against CDT according to its utterly indefensible calculation.

Respondent's initial analysis of the other tax years for the audit period was no better. For 2015, Respondent contended that CDT's gross revenue was \$21,057,862.43, even though CDT's bank records showed revenue of only \$12,183,064; for 2014, Respondent contended that CDT's gross revenue was \$13,150,000, when bank records showed only \$9,633,273. For 2013 and 2012, Respondent simply "carried back" its calculation of gross revenue for 2014, showing that CDT's gross revenue for 2012 and 2013 was the same as 2014—\$13,150,000. Respondent took this position, in spite of CDT's bank records which showed gross revenue for 2012 in the amount of \$3,107,986 and for 2013 in the amount of \$7,284,384.

All told, as a result of Respondent's "analysis," CDT's gross revenue for the audit period was overestimated by approximately \$36 million. This, however, was only Respondent's initial analysis. There were more to follow, and each was plagued by their own brand of fiction.

In March 2019, Respondent issued a "Corporate Working Paper" for each tax year of the audit period with "adjusted" audit calculations. Each of these is attached hereto as **Attachment C**. A summary of Respondent's conclusions is set out below, along with a comparison with their prior conclusions:

	Gross Revenue CDT Bank Records	Gross Revenue Initial Analysis	Gross Revenue Mar. 2019 Analysis
2012	\$3,107,986	\$13,150,000	\$5,717,622
2013	\$7,284,384	\$13,150,000	\$9,068,333
2014	\$9,633,273	\$13,150,500	\$11,420,020
2015	\$12,183,064	\$21,057,862	\$16,386,632
2016	\$15,988.720.09	\$23,978.570.23	\$20,710,194

As the foregoing table demonstrates, as of January 2019, Respondent’s analyses were trending toward a more factual grounding. However, even this new analysis continued to show that CDT’s gross revenues were more—millions more—than what were established through the company’s bank records. And the new analysis still overstated CDT’s gross revenue for the audit period by approximately \$15.5 million. It was Respondent’s position that the amounts represented in the March 2019 analysis constituted “the final proposed assessment.”

But this wasn’t true. By correspondence dated July 31, 2019, Respondent sent a “Department Determination” letter, which purported set out a true and accurate calculation of taxable revenues attributable to Appellants. A true and accurate copy of this letter is attached hereto as **Attachment D**.

The good news about this Department Determination letter is that—for the first time—Respondent seemed to acknowledge that, to some extent, CDT’s gross revenue was around the same amount as was reflected in CDT’s bank records:

	Gross Revenue CDT Bank Records	Gross Revenue Initial Analysis	Gross Revenue Mar. 2019 Analysis	Gross Revenue Jul. 2019 Letter
2012	\$3,107,986	\$13,150,000	\$5,717,622	\$7,203,847
2013	\$7,284,384	\$13,150,000	\$9,068,333	\$7,203,847
2014	\$9,633,273	\$13,150,500	\$11,420,020	\$9,549,526
2015	\$12,183,064	\$21,057,862	\$16,386,632	\$12,031,231
2016	\$15,988,720.09	\$23,978,570.23	\$20,710,194	\$15,170,003

Were it not for the inexplicable overestimation of CDT's gross revenue for 2012, Respondent's July 31, 2019 Department Determination letter would have fairly closely tracked the amount of CDT's revenue evidenced by its banking records.

However, the Department Determination letter introduced a new issue. For some also-inexplicable reason, Respondent unilaterally decided to discount a substantial portion of the operating expenses (including cost-of-goods-sold) reported by CDT and evidenced by its bank records. Following is a table that compares the various positions taken with respect to operating expenses:

	Operating Expenses CDT Bank Records	Operating Expenses Mar. 2019 Analysis	Operating Expenses Jul. 2019 Letter
2012	\$4,452,852	\$4,452,852	\$3,822,607
2013	\$7,005,221	\$7,005,221	\$3,822,606
2014	\$8,859,123	\$8,859,123	\$6,072,554
2015	\$12,646,969	\$12,646,969	\$6,978,222
2016	\$15,913,150	\$15,913,150	\$9,150,810

As evidenced by this table, until Respondent's July 2019 Department Determination letter, the parties were in agreement—to the dollar—on the amount of CDT's operating expenses for each year of the audit period. Then, for reason which is still not presently known, in the July 2019 Department Determination letter, Respondent undervalued CDT's operating expenses by nearly \$20 million. Accordingly, even though the gap between the parties regarding CDT's gross revenue had been reduced to approximately \$3 million, Respondent's sudden and senseless decision to reduce the amount operating expenses creditable to CDT created a net-\$17 million gap, for which Respondent was seeking the payment of taxes.

These circumstances were the backdrop of the trial of this matter, which occurred in the Administrative Law Court on May 25, 2021. As a result of the trial, the court found as follows:

With Respect to CDT's Gross Revenue for the Audit Period¹

	Gross Revenue CDT Bank Records	Gross Revenue Mar. 2019 Analysis	Gross Revenue Jul. 2019 Letter	Gross Revenue ALC Order
2012	\$3,107,986	\$5,717,622	\$7,203,847	\$5,184,625
2013	\$7,284,384	\$9,068,333	\$7,203,847	\$8,222,588
2014	\$9,633,273	\$11,420,020	\$9,549,526	\$10,350,459
2015	\$12,183,064	\$16,386,632	\$12,031,231	\$14,853,172
2016	\$15,988,720.09	\$20,710,194	\$15,170,003	\$18,760,572

With Respect to CDT's Operating Expenses for the Audit Period

	Operating Exp. CDT Bank Records	Operating Exp. Mar. 2019 Analysis	Operating Exp. Jul. 2019 Letter	Operating Exp. ALC Order
2012	\$4,452,852	\$4,452,852	\$3,822,607	\$4,454,271
2013	\$7,005,221	\$7,005,221	\$3,822,606	\$7,006,640
2014	\$8,859,123	\$8,859,123	\$6,072,554	\$8,862,028
2015	\$12,183,064	\$16,386,632	\$12,031,231	\$12,647,823
2016	\$15,988,720.09	\$20,710,194	\$15,170,003	\$15,917,710

¹ Appellants dispute that the lower court correctly calculated the amount of CDT's gross revenue for the audit period. However, that matter is the substance of the appeal, and is not immediately pertinent to Appellants' response in opposition to the motion to dismiss, which is targeted at Respondent's own improper calculations and communications of tax amounts allegedly owed.

With Respect to CDT's Taxable Income

	Taxable Income ALC Order
2012	\$730,354
2013	\$1,215,948
2014	\$1,488,431
2015	\$2,205,349
2016	\$2,842,862

Appellants are sincerely hopeful that the foregoing tables, which are all based on information that will be part of the Record on Appeal, demonstrate that Respondent's calculations have been wildly unpredictable throughout the entirety of these proceedings. However, most importantly for the purposes of this response in opposition to Respondent's motion to dismiss, Appellants would respectfully direct the Court's attention to one final calculation error for which Respondent is responsible.

In the order from which this appeal is taken, the lower court directed Respondent to prepare a statement of taxes owed by Appellants based on the taxable income attributed to CDT as a result of trial. Respondent's counsel did so via email to Appellants' counsel on December 2, 2021. A true and accurate copy of relevant excerpts of Respondent's most recent statement of Appellants' tax liability is attached hereto as **Attachment E**. A summary of the pertinent assertions is set out in the following table:

	Taxable Income ALC Order	Taxable Income Respondent's Email
2012	\$730,354	\$778,715
2013	\$1,215,948	\$1,212,249
2014	\$1,488,431	\$1,492,156
2015	\$2,205,349	\$2,238,122
2016	\$2,842,862	\$2,860,861

Accordingly, as of the date on which this response is provided, Respondent has not only failed to advise Appellants of its tax liability as established by the order from which this appeal is taken, Respondent continues to overstate the taxable income attributable to Appellants, presently by approximately \$100,000.

ARGUMENT DENYING RESPONDENT'S MOTION TO DISMISS APPEAL

In its Memorandum dated January 12, 2022, Respondent SC DOR relies upon State v. Brown, 358 S.C. 382, 596 S.E.2d 39 (2004) to argue its belief that this Court lacks jurisdiction over Appellant's appeal in this matter. SC DOR does correctly state that in State v. Brown, the Supreme Court concluded that "failure of a party to comply with the procedural requirements for perfecting an appeal *may* (emphasis added) deprive the court of 'appellate' jurisdiction over the case, but it does not affect the court's subject matter jurisdiction." State v. Brown, 358 S.C. 382, 387, 596 S.E. 2d 39, 41 (2004).

The Administrative Law Court issued its Amended Final Order on November 23, 2021. This Amended Final Order was the result of post trial motions filed by both Appellants and Respondent as to the issue of amount of taxes due from the Appellants,

which as stated above and in Attachment E, is still not in compliance with or consistent with findings in the Administrative Law Court's Amended Final Order. Appellants sole avenue to address the continued errors of the Respondent is this Court. While not precedential, this Court recently rendered an Unpublished Opinion No. 2019-UP-349 in the matter of Beltram v. South Carolina Department of Revenue which pertained to similar facts regarding calculations of amounts owed by a taxpayer that were not clear.

Based on the foregoing, Appellant's pray that the Motion to Dismiss be denied.

Respectfully submitted,

s/ Steven Edward Buckingham

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Attorneys for Appellant

ATTACHMENT A

CDT, Inc.					
Income adjustment calculation					
For period 1/1/2012 - 12/31/2016					
					Audited
		Year	Tobacco purchases	ADJ Gross Receipts	COGS/Gross receipts (per bank transactions)
		2012	-	13,150,500.48	carried back 2014
		2013	-	13,150,500.48	carried back 2014
		2014	8,145,420.00	13,150,500.48	62%
		2015	11,939,808.00	21,057,862.43	57%
		2016	14,255,260.00	23,978,570.23	59%
	***Percentages calculated from bank transaction schedule.				
	COGS and Gross receipts numbers are highlighted in purple				
	for each year.				

ATTACHMENT B

CDT 2012 Income Breakdown

	Bank Deposit
January	\$129,669.71
February	\$140,323.98
March	\$131,397.00
April	\$158,505.52
May	\$229,452.10
June	\$240,256.98
July	\$236,811.15
August	\$341,876.13
September	\$360,109.01
October	\$367,695.14
November	\$376,128.21
December	\$395,762.00
Total	\$3,107,986.93

Total Expense	\$8,145,420.00
Total Taxable Income	\$0.00
Tax Due Pre Tax	\$0.00

***Expense information used from attached
Corporate Adjustment Summary***

CDT 2013 Income Breakdown

	Bank Deposit
January	\$424,937.75
February	\$375,259.70
March	\$390,714.98
April	\$537,321.04
May	\$701,401.71
June	\$635,500.90
July	\$846,633.39
August	\$738,630.60
September	\$620,867.65
October	\$729,398.18
November	\$610,824.33
December	\$672,894.62
Total	\$7,284,384.85

Total Expense	\$7,005,221.00	***Expense information used from attached Corporate Adjustment Summary***
Total Taxable Income	\$279,163.85	
Tax Due Pre Tax	\$13,958.19	

CDT 2014 Income Breakdown

	Bank Deposit	Invoice Totals
January	\$696,399.31	
February	\$741,144.19	
March	\$712,184.36	
April	\$708,426.81	
May	\$793,851.59	\$695,940.39
June	\$807,798.00	\$824,923.37
July	\$977,869.00	\$931,865.74
August	\$1,029,101.15	\$932,294.35
September	\$877,239.73	\$944,137.67
October	\$794,236.75	\$964,516.38
November	\$666,726.15	\$566,425.17
December	\$828,296.56	\$1,100,295.90
Total	\$9,633,273.60	
 Total Expense	 \$8,859,123.00	 ***Expense information used from attached Corporate Adjustment Summary***
 Total Taxable Income	 \$774,150.60	
 Tax Due Pre Penalty	 \$38,707.53	

CDT 2015 Income Breakdown

	Bank Deposit	Invoice Totals
January	\$767,152.15	\$696,569.22
February	\$779,841.79	\$906,632.98
March	\$1,010,228.32	\$1,109,775.06
April	\$971,531.81	\$1,046,388.79
May	\$979,056.52	\$960,277.04
June	\$995,101.19	\$1,133,917.36
July	\$1,044,613.10	\$1,006,758.62
August	\$1,022,308.20	\$1,104,463.62
September	\$1,081,865.86	\$1,189,032.83
October	\$1,155,978.05	\$1,122,587.63
November	\$1,138,324.04	\$1,223,151.84
December	\$1,237,063.07	\$1,118,334.49
Total	\$12,183,064.10	\$12,617,889.48
Total Expense	\$12,646,969.00	***Expense information used from attached Corporate Adjustment Summary***
Total Taxable Income	-\$463,904.90	
Tax Due Pre Penalty	\$0.00	

CDT 2016 Income Breakdown

	Bank Deposit	Invoice Totals
January	\$1,002,516.90	\$1,145,832.40
February	\$1,069,996.52	\$1,226,397.25
March	\$1,397,471.06	\$1,206,988.67
April	\$1,256,105.39	\$1,194,142.30
May	\$1,200,258.92	\$1,454,702.55
June	\$1,342,413.43	\$1,189,955.74
July	\$1,477,852.00	\$1,227,301.22
August	\$1,282,197.21	\$1,429,867.01
September	\$1,409,780.31	\$1,387,486.66
October	\$1,443,302.31	\$1,535,754.39
November	\$1,471,480.32	\$1,609,520.86
December	\$1,635,345.72	\$1,348,300.95
Total	\$15,988,720.09	\$15,956,250.00

Total Expense \$15,913,150.00

***Expense information used from attached
Corporate Adjustment Summary***

Total Taxable Income \$75,570.09

Tax Due Pre Penalty \$3,778.50

ATTACHMENT C



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
Corporate Working Paper

Adjustments To Federal Schedules for 2012

Federal Schedule Field	Description	Reported Amount	Audited Amount	Audit Adjustment
01a. Gross receipts or sales		\$0	\$5,184,625	\$5,184,625
02. Cost of goods sold		\$0	\$4,161,691	-\$4,161,691
19. Other deductions	Carried back 2013 operating expenses	\$0	\$97,443	-\$97,443
12. Taxes and licenses		\$0	\$195,137	-\$195,137
		\$0	\$9,638,896	\$730,354

Explanation of Federal Schedule Adjustments

Operating expenses carried back from tax year 2013. The tobacco excise taxes were estimated based on percentage of taxes to tobacco purchases from tax year 2013.

ADJ- 3-13-19- Carried back additional office expense of \$1419 as verified for 2013 to allowance for operating expense in 2012. Adjusted gross receipts are based on 19% tobacco gross margin percentage.



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
Corporate Working Paper

Adjustments To Federal Schedules for 2013

Federal Schedule Field	Description	Reported Amount	Audited Amount	Audit Adjustment
01a. Gross receipts or sales		\$0	\$8,222,587	\$8,222,587
02. Cost of goods sold		\$0	\$6,600,935	-\$6,600,935
11. Rents		\$0	\$19,710	-\$19,710
19. Other deductions	auto & truck- fuel	\$0	\$27,101	-\$27,101
19. Other deductions	bank charges	\$0	\$5,757	-\$5,757
19. Other deductions	freight	\$0	\$25,066	-\$25,066
19. Other deductions	professional fees- accounting	\$0	\$1,225	-\$1,225
19. Other deductions	supplies	\$0	\$4,164	-\$4,164
19. Other deductions	telephone	\$0	\$4,428	-\$4,428
19. Other deductions	utilities	\$0	\$1,422	-\$1,422
19. Other deductions	miscellaneous	\$0	\$30	-\$30
19. Other deductions	office	\$0	\$3,230	-\$3,230
12. Taxes and licenses		\$0	\$309,135	-\$309,135
19. Other deductions	insurance	\$0	\$4,437	-\$4,437
		\$0	\$15,229,227	\$1,215,947

Explanation of Federal Schedule Adjustments

ADJ- 3-13-19- Gross receipts adjusted to reflect 19% GM on tobacco items and 14.05% on non-tobacco items.
Additional expenses allowed based on CC statements.



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
Corporate Working Paper

Adjustments To Federal Schedules for 2014

Federal Schedule Field	Description	Reported Amount	Audited Amount	Audit Adjustment
01a. Gross receipts or sales		\$0	\$10,350,459	\$10,350,459
02. Cost of goods sold		\$0	\$8,246,155	-\$8,246,155
11. Rents		\$0	\$18,750	-\$18,750
19. Other deductions	auto & truck- fuel	\$0	\$52,552	-\$52,552
19. Other deductions	bank charges	\$0	\$8,574	-\$8,574
19. Other deductions	freight	\$0	\$14,890	-\$14,890
19. Other deductions	miscellaneous	\$0	\$7	-\$7
19. Other deductions	office	\$0	\$9,123	-\$9,123
19. Other deductions	telephone	\$0	\$3,664	-\$3,664
19. Other deductions	utilities	\$0	\$1,495	-\$1,495
19. Other deductions	supplies	\$0	\$48,872	-\$48,872
19. Other deductions	insurance	\$0	\$2,046	-\$2,046
12. Taxes and licenses		\$0	\$455,900	-\$455,900
		\$0	\$19,212,487	\$1,488,431

Explanation of Federal Schedule Adjustments

ADJ- 3-13-19- Gross receipts adjusted to reflect 19% GM on tobacco items and 14.05% on non-tobacco items.
Additional expenses allowed based on CC statements.



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
Corporate Working Paper

Adjustments To Federal Schedules for 2015

Federal Schedule Field	Description	Reported Amount	Audited Amount	Audit Adjustment
01a. Gross receipts or sales		\$0	\$14,853,172	\$14,853,172
02. Cost of goods sold		\$0	\$12,058,968	-\$12,058,968
11. Rents		\$0	\$26,625	-\$26,625
19. Other deductions	auto & truck- fuel	\$0	\$24,019	-\$24,019
19. Other deductions	bank charges	\$0	\$8,302	-\$8,302
19. Other deductions	freight	\$0	\$17,513	-\$17,513
19. Other deductions	miscellaneous	\$0	\$766	-\$766
19. Other deductions	office expense	\$0	\$12,954	-\$12,954
19. Other deductions	supplies	\$0	\$50,764	-\$50,764
19. Other deductions	telephone	\$0	\$3,916	-\$3,916
19. Other deductions	utilities	\$0	\$6,557	-\$6,557
19. Other deductions	security	\$0	\$5,720	-\$5,720
19. Other deductions	trash	\$0	\$330	-\$330
19. Other deductions	insurance	\$0	\$3,743	-\$3,743
12. Taxes and licenses		\$0	\$427,646	-\$427,646
		\$0	\$27,500,995	\$2,205,349

Explanation of Federal Schedule Adjustments

ADJ- 3-13-19- Gross receipts adjusted to reflect 19% GM on tobacco items and 14.05% on non-tobacco items.
Additional expenses allowed based on CC statements.



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
Corporate Working Paper

Adjustments To Federal Schedules for 2016

Federal Schedule Field	Description	Reported Amount	Audited Amount	Audit Adjustment
01a. Gross receipts or sales		\$0	\$18,760,571	\$18,760,571
02. Cost of goods sold		\$0	\$14,639,466	-\$14,639,466
11. Rents		\$0	\$42,000	-\$42,000
12. Taxes and licenses		\$0	\$1,141,702	-\$1,141,702
19. Other deductions	auto & truck- fuel	\$0	\$39,988	-\$39,988
19. Other deductions	bank charges	\$0	\$13,410	-\$13,410
19. Other deductions	freight	\$0	\$8,035	-\$8,035
19. Other deductions	office expense	\$0	\$8,710	-\$8,710
19. Other deductions	telephone	\$0	\$3,270	-\$3,270
19. Other deductions	utilities	\$0	\$7,798	-\$7,798
19. Other deductions	security	\$0	\$480	-\$480
19. Other deductions	trash	\$0	\$1,222	-\$1,222
19. Other deductions	supplies	\$0	\$11,242	-\$11,242
19. Other deductions	insurance	\$0	\$387	-\$387
		\$0	\$34,678,281	\$2,842,861

Explanation of Federal Schedule Adjustments

ADJ- 3-13-19- Gross receipts adjusted to reflect 19% GM on tobacco items and 14.05% on non-tobacco items.
Additional expenses allowed based on CC statements.

ATTACHMENT D

STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
OFFICE OF THE GENERAL COUNSEL

Physical Address:

300A Outlet Pointe Blvd.
Columbia, SC 29210



Mailing Address:

PO Box 12265
Columbia, SC 29211-9979

July 31, 2019

Rick Reames, III, Esquire
James Rourke, Esquire
Nexsen Pruet
P. O. Box 2426
Columbia, SC 29202

Re: Department Determination
CDT, Inc.
2012 – 2016 Corporate Income Tax
Our File Number: 190115

Dear Counsel:

Enclosed is the South Carolina Department of Revenue's Determination in the above-referenced matter. If you disagree with the Determination, you may request a contested case hearing before an Administrative Law Judge. If you choose to pursue such remedy, you must do so within thirty (30) days of the date of this letter. If you fail to respond within this time limitation, you will lose your right to appeal the Department Determination and your protest will be ended. Should you desire a contested case hearing, you must complete the enclosed request form and mail it, along with a \$150.00 filing fee, to the Administrative Law Court at the address stated on the form's instruction sheet.

The Administrative Law Court rules require that you also send me a copy of your request. My address is as follows: PO Box 12265, Columbia, SC 29211-9979.

Sincerely,

OFFICE OF GENERAL COUNSEL FOR LITIGATION

A handwritten signature in blue ink, appearing to read "Sean G. Ryan", is written over the typed name.

Sean G. Ryan, Esquire
Managing Counsel for Litigation
Sean.Ryan@dor.sc.gov
803-898-5375

SGR/gjm

Enclosures

DEPARTMENT DETERMINATION

Taxpayer:

CDT, Inc.
3801 Calhoun Memorial Highway, Suite C
Easley, SC 29640-9033

Periods at Issue:

Corporate Income Tax Years 2012-2016

Matter in Dispute:

Did CDT, Inc., (Taxpayer) earn more business income than the amounts reported on its tax returns for the Periods Involved.

Tax Year	Tax¹	Interest²	Penalties	Total
2012	\$25.00	\$7.00	\$12.50	\$44.50
2013	\$25.00	\$6.05	\$12.50	\$43.55
2014	\$25.00	\$5.13	\$12.50	\$42.63
2015	\$25.00	\$4.23	\$11.37	\$40.60
2016	\$25.00	\$3.09	\$ 9.87	\$37.96
Total	\$125.00	\$25.50	\$58.74	\$209.24

Determinations:

The Taxpayer earned more business income than the amounts reported on its tax returns for the Periods Involved.

Relevant Facts:

1. The Taxpayer is a tobacco wholesaler, which supplies tobacco products to local convenience stores for resale. The business also supplies soft drinks and snacks, but these products represent only a small percentage of the business' revenues. The business is located at 3801 Calhoun Memorial Highway, Suite C in Easley, South Carolina.

¹Because the Taxpayer is an S Corporation, its income is not taxed at the corporate level, rather that income flows through to the shareholders and taxed at the shareholder level. Taxation of the additional income determined herein is addressed in a separate Department Determination for the Taxpayer's sole shareholder, Vimlesh Patel. While the Taxpayer's income is not taxed, it is still liable for Corporate License fees.

²Charges for accrued interest apply. See S.C. Code Ann. § 12-54-25 (2014). The interest amount has been updated from the Proposed Notice of Assessment and is computed through September 4, 2019, and will continue to accrue until this matter is resolved.

2. During the course of a Tobacco & Cigarette Tax audit, the South Carolina Department of Revenue (Department) discovered that the Taxpayer had not filed South Carolina Corporate Income Tax returns for 2012 through 2016. In response to the Taxpayer not filing corporate returns, the Department began a corporate income tax audit.
3. On October 6, 2016, the Department notified the Taxpayer that it was the subject of a corporate income audit. In its notification, the Department requested that the Taxpayer provide copies of its books and records. Despite this request, the Taxpayer did not provide any records. The Department previously obtained monthly purchase reports during a tobacco audit, which showed purchases for November and December of 2014 and all months in 2015 and 2016. In addition, the Department summoned the Taxpayer's bank records directly from the Taxpayer's bank. Because the Taxpayer refused to provide records, the Department utilized the purchase reports and bank records to complete a corporate income tax audit.
4. On March 2, 2018, the Taxpayer's Power of Attorney provided the Department with South Carolina Corporate Income Tax returns for the Period Involved. All of the provided returns are dated February 5, 2018. The Department's auditor reviewed the provided returns and compared such to the bank transaction summaries for each year. Gross receipts on the returns were significantly less than deposits into the bank account for all years.
5. Review of the tobacco purchase reports revealed that purchases reported by the Taxpayer were only slightly lower than the total amount deposited into the bank account. Cost of goods sold, as identified through bank transactions, was on average 64% of purchases according to the tobacco purchase reports. This information indicates that the Taxpayer makes substantial purchases with cash, which is not deposited into the bank account.
6. In order to calculate the Taxpayer's total gross receipts, including both deposited funds and cash used directly for the purchase of goods, the Department's auditor prepared percentages based on the bank transaction schedule. The Taxpayer's deposits were compared against the Taxpayer's cost of goods sold in order to create a percentage. The Department used this percentage to mark up the purchases reported on the tobacco purchase reports. The resulting amount was used as estimated gross receipts for the business in 2015 and 2016. For 2014, only two monthly reports were available, these two monthly figures were averaged and the average was carried over twelve months to estimate annual purchases for 2014. Because the Taxpayer refused to provide records and the Department did not have purchase reports for 2012 or 2013, the Department used the gross receipts of 2014 for 2012 and 2013.
7. The Taxpayer did not provide any documentation to support the amounts of expenses claimed on the corporate returns. The Taxpayer's bank records do not support any of the expense amounts claimed on the returns. Therefore, operating expenses for the business were adjusted to the amounts verified from the bank statements. On March 28, 2018, the Department issued the Taxpayer a Proposed Assessment for the Period Involved. The Proposed Assessment included tax, penalties, and interest determined in the audit.

8. On June 26, 2018, the Department received the Taxpayer's protest of the Proposed Assessment.
9. On August 23, 2018, the Appeals section of the Department conducted a telephone conference with the Taxpayer and its Power of Attorney. The Taxpayer expressed its disagreement with the findings of the audit. The Department requested that any additional information the Taxpayer would like to submit for review and consideration would need to be submitted no later than September 6, 2018.
10. The Taxpayer did not provide any additional information or documentation by September 6, 2018. Then, on October 4, 2018, the Department received notification that the Taxpayer retained counsel to represent it in this matter. The Taxpayer's counsel requested documentation regarding the audit which the Department provided. The Taxpayer's counsel stated they would be in contact to discuss the audit the following week.
11. On November 6, 2018, the Department's Appeals section held a telephone conference with the Taxpayer's counsel to discuss the findings of the audit. Counsel requested time to meet with their client and determine if there was any additional information they could gather. The Department agreed to give the Taxpayer until November 20, 2018 to contact the Department after speaking with their client.
12. On November 20, 2018, the Taxpayer's counsel contacted the Department requesting additional time so that a certified public account could review the Taxpayer's records and review the audit. On December 19, 2018, the Department contacted Taxpayer's counsel and informed them that any and all information that they would like to be considered for review be submitted no later than January 9, 2019.
13. On January 9, 2019, the Taxpayer's counsel provided a revised protest of the proposed assessment along with additional documentation regarding the Taxpayer's business. The documents provided included sales data for three months of 2012. The gross margin percentages for these three months varied between 13.5% and 23.8%. Due to the small number of samples and the fact that they are from the oldest period in the audit, The Department adjusted the findings of the audit using the 23.8% gross margin percentage. On January 18, 2019, the Department issued the Taxpayer a revised Proposed Assessment reflecting the adjustments made after receipt of documentation from the Taxpayer.
14. After reviewing the revised Proposed Assessment, the Taxpayer still disagreed with the findings of the audit. After continued discussions between the Taxpayer's counsel and the Department's Appeals section, the Taxpayer provided additional documents to the Department on February 7, 2019.
15. The additional documents provided by the Taxpayer contained spreadsheets without headings making the documents very difficult to decipher and did not contain any sales reports. The Department's auditor reviewed the additional materials and allowed additional business expenses totaling \$9,095.00.

16. After continued discussions between the Department and the Taxpayer's counsel, the audit remained unresolved. Therefore, on March 28, 2019, the Department notified the Taxpayer's counsel that the matter would be sent to the Department's Office of General Counsel for Litigation for issuance of this Department Determination.

Analysis:

I. The Taxpayer Earned More Business Income Than The Amounts Reported On Its Tax Returns For The Periods Involved.

The Taxpayer is a tobacco wholesaler, which supplies tobacco products to local convenience stores for resale. The business also supplies soft drinks and snacks, but these products represent only a small percentage of the business' revenues. Despite being located in South Carolina and conducting its business in South Carolina, the Taxpayer did not file South Carolina Corporate Income Tax returns until after the Department began an audit of the Taxpayer.³

During the course of the audit, the Department requested that the Taxpayer provide documentation regarding its income and expenses during the Periods Involved. Despite the Department's requests, the Taxpayer refused to provide any records to the Department. The Department previously obtained monthly purchase reports during a tobacco audit of the Taxpayer, which showed purchases for November and December of 2014, and all months in 2015 and 2016. In addition, the Department summoned the Taxpayer's bank records directly from the Taxpayer's bank. Because the Taxpayer refused to provide records, the Department utilized the purchase reports and bank records to complete a corporate income tax audit.

Prior to the inception of the audit, the Taxpayer did not file income tax returns for the Periods Involved. Only once the audit began did the Taxpayer's Power of Attorney provide tax returns. Unfortunately, the Taxpayer did not provide documentation to support the amounts reported on these late returns. In situations where the amounts on a taxpayer's returns are unsubstantiated, as is the case in this matter, the Department may employ any proper and reasonable audit method necessary to ascertaining the correctness of that return. S.C. Code Ann. § 12-54-100 (Supp. 2018). When a taxpayer fails to provide documentation to support his or her returns, the Department utilizes information obtained from third parties as a tool to reconstruct the taxpayer's activities and thereby determine that taxpayer's liability. In the present matter, the Department utilized purchase records obtained from a third party vendor to determine the quantity and cost of tobacco and other goods purchased by the Taxpayer to operate its wholesale business.

In order to initially calculate the Taxpayer's total gross receipts, including both deposited funds and cash used directly for the purchase of goods, the Department's auditor prepared percentages based on the Taxpayer's bank transaction schedule. The Taxpayer's deposits were compared against the Taxpayer's cost of goods sold in order to create a percentage. The Department used this percentage to mark up the purchases reported on the tobacco purchase reports. The resulting

³Pursuant to S.C. Code Ann. § 12-54-85 (C) (2014), because the Taxpayer failed to file returns as required, the thirty-six month limitation on the assessment of taxes provided in § 12-54-85 (A) does not apply in this matter.

amount was used as estimated gross receipts for the business in 2015 and 2016. For 2014, only two monthly reports were available, these two monthly figures were averaged and the average was carried over twelve months to estimate annual purchases for 2014. Because the Taxpayer refused to provide records and the Department did not have purchase reports for 2012 or 2013, the Department used the gross receipts of 2014 for 2012 and 2013.

To calculate the Taxpayer's expenses for 2014 and 2015 the Department utilized the cost of goods sold as reported by the Taxpayer on its tobacco purchase reports. Only two tobacco purchase reports were available for 2014, therefore the Department utilized the average of those expenses for all months of 2014. Because the Taxpayer refused to provide records and the Department did not have purchase reports for 2012 or 2013, the Department used the expenses of 2014 for 2012 and 2013.

In January of 2019, after the Department issued its Proposed Assessment, the Taxpayer provided additional documentation regarding its business. The documents provided included sales data for three months of 2012. The gross margin percentages for these three months varied between 13.5% and 23.8%. Due to the small number of samples and the fact that they are from the oldest period in the audit, The Department adjusted the findings of the audit by applying the Taxpayer's own 23.8% gross margin percentage to its purchases. On January 18, 2019, the Department issued the Taxpayer a revised Proposed Assessment reflecting the adjustments made using the 23.8% gross margin percentage. The revised calculations for 2012 and 2013 reflect net income of \$3,356,185.00, including \$7,203,847.00 in gross receipts, \$3,726,583.00 in cost of goods sold, and operating expenses totaling \$96,024.00. The revised calculations for 2014 reflect net income of \$3,425,810.00, including gross receipts of \$9,549,526.00, \$5,914,877.00 in cost of goods sold, and operating expenses totaling \$157,677.00. The revised calculations for 2015 reflect a net income of \$4,993,067.00, including gross receipts of \$12,031,231.00, \$6,821,610.00 in cost of goods sold, and operating expenses totaling \$156,612.00. The revised calculations for 2016 reflect net income of \$5,852,236.00, including gross receipts of \$15,170,003.00, \$9,018,599.00 in cost of goods sold, and operating expenses totaling \$132,211.00.

Pursuant to S.C. Code Ann. § 12-36-2540 (2014), a taxpayer is obligated to keep and preserve records of the business sufficient for the Department to determine the amount of tax due. Specifically, sellers of tangible personal property are required to keep all "records, receipts, invoices, and other pertinent papers". In this case, the Taxpayer failed to maintain sufficient records supporting its tax returns. Accordingly, the Department used a reasonable method to calculate the Taxpayers income and expenses.⁴

In this case, the Department properly determined the Taxpayer's income and expenses based on the Taxpayer's gross proceeds of sales, as calculated through its purchase history. The use of a mark-up percentage as a means of determining the gross proceeds of sales is well recognized as an appropriate means of reconstructing income where a taxpayer's records are incomplete or

⁴Other jurisdictions have applied reasonable methods to determine the appropriate tax where few, if any, records are available, SQS Foodstores Inc. v. Tracy, 2002 WL 31116698 (Ohio App. 7 Dist. 2002); Yilmaz, Inc. v. Director, Div. of Taxation, 390 N. J. Super. 435, 444, 915 A.2d 1069, 1074 (N. J. Super. A. D. 2007).

inaccurate. See, In Re: A Finding Concerning The Sales Tax Liability Of John Doe dba XYZ Store For The Period April 1, 1987 Through March 31, 1990, South Carolina Tax Commission Decision No. 93-89, (Sept. 23. 1993); Cebollero v. Commissioner, 967 F.2d 986 (4th Cir.1992) *aff'g.*, T.C.Memo. 1990-618; Bollella v. Commissioner, 374 F.2d 96 (6th Cir.1967) *aff'g.* T.C.Memo. 1965-162; Kurnick v. Commissioner, 232 F.2d 678 (6th Cir.1956) *aff'g.* T.C. Memo 1965-162; Stone v. Commissioner, 22 T.C. 893, 905-906 (1954).

II. The Taxpayer Is Liable For Corporate License Fees.

Pursuant to S.C. Code Ann. § 12-20-20(A) (2014), every domestic corporation must file an annual report with the Department on or before April 15th of the following year. Pursuant to S.C. Code Ann. § 12-20-50(A) (2014), every corporation required to file an annual report must also pay an annual corporate license fee. The annual license fee is equal to fifteen dollars plus one dollar for each thousand dollars, or fraction of a thousand dollars, of capital stock and paid-in or capital surplus of the corporation. In no case may the license fee provided by this section be less than twenty-five dollars. Id. The license fee must be paid on or before the original due date for filing the annual report. Id. The tax returns provided by the Taxpayer do not list any capital or paid in surplus amount. Because the Taxpayer did not cooperate with the audit or provide records, the Department had no means of determining if the taxpayer paid in capital during the audit period, or if the amount would have been sufficient to increase the minimum license fee of \$25.00. In the absence of additional documentation, the Department assessed the statutory minimum license fee of \$25.00 for each year.

III. The Taxpayer Is Liable For Interest and Penalties.

Civil penalties are applied to every South Carolina tax law that requires a return unless otherwise provided. S.C. Code Ann. § 12-54-43 (2014). Such penalties are considered a tax owed this State. Id. Further, “[i]f any tax is not paid when due, interest is due on the unpaid portion from the time the tax was due until paid in its entirety.” S.C. Code Ann. § 12-54-25(A) (2014). Penalties are applicable to this matter pursuant to § 12-54-43. S.C. Code Ann. § 12-54-43(C)(1) (2014) states:

In the case of failure to file a return on or before the date prescribed by law, there must be added to the amount required to be shown as tax on the return, a penalty of five percent if the failure is not for more than one month, with an additional five percent for each additional month or fraction of the month not exceeding twenty-five percent in the aggregate.

Additionally, S.C. Code Ann. § 12-54-43(E)(2014) states:

In the case of failure to pay any amount of any tax required to be shown on return which is not shown, including an assessment within ten days of the date of the notice and demand for payment, there must be added to the amount of tax stated in the notice and demand one-half of one percent of the amount of

the tax if the failure is for not more than one month, with an additional one-half of one percent for each additional month or fraction of a month which the failure continues, not exceeding twenty-five percent in the aggregate.

Here, the Taxpayer failed to timely file its corporate income tax returns or timely pay its corporate license fees for the Periods Involved. Therefore, the Department's auditors applied failure to file and failure to pay penalties to the Taxpayer's liability, pursuant to §§ 12-54-43(C)(1) and 12-54-43(E).

IV. The Taxpayer's Arguments Are Not Persuasive.

The Taxpayer asserts that the Department's calculations are incorrect and overstate its income. The Taxpayer's assertions stem from its belief that the Department's reconstruction of its income and expenses is not accurate. The need to reconstruct the Taxpayer's income stems entirely from the Taxpayer's own failure to maintain records supporting the amounts on its returns. Accordingly, any inaccuracy in the Department's calculations is solely the result of the Taxpayer's own failure to maintain records. It is the taxpayer's own failure to comply with the statutory duty to keep and maintain records that forced the Department to utilize a markup method to determine its tax liability. As the Tenth Circuit Court of Appeals recognized in Jones v. C.I.R., if a taxpayer fails to keep adequate records, the taxing authority can use any reasonable method to compute the taxpayer's liability. The taxpayer cannot later complain that the liability so computed by that authority is inexact. Jones v. C.I.R., 903 F.2d 1301 (10th Cir. 1990).

Conclusion:

The Taxpayer failed to maintain adequate records for tax purposes and failed to timely file returns. The records that are available do not support the Taxpayer's returns thereby requiring the Department to determine the Taxpayer's income using the best information available. The Department determined the Taxpayer's income and expenses using the recognized and approved purchase markup method. Based upon the Department's audit, the Taxpayer earned more business income than the amounts reported on its tax returns for the Periods Involved.

July 31, 2019

Filing and Assignment of a Contested Case with the Administrative Law Court

Complete the Request for Contested Case Hearing **and** Certificate of Service form in its entirety. File the original by mailing it or hand delivering it to the Administrative Law Court, along with a copy of the decision from the agency (for example: Department Determination) **and the appropriate filing fee**. Be sure to serve a copy of the Request on the agency which you are appealing (see address below) as well as any other known parties or protestants.

Your case will be deemed filed with the Administrative Law Court upon receipt of your request and filing fee, and will normally be assigned to an administrative law judge within a week of filing. You should receive a Notice of Assignment within a few days of your case being assigned. The Notice of Assignment will have the case caption, docket number, date of filing and the name of the administrative law judge assigned to your case. Once your case has been assigned, all filings and questions regarding your case should be directed to the assigned judge.

Clerk's Office
South Carolina Administrative Law Court
1205 Pendleton Street, Suite 224
Columbia, SC 29201

South Carolina Department of Revenue
Litigation & Appeals
Office of General Counsel
P.O. Box 12265
Columbia, SC 29211-9979

Last Name:		First:	Middle:	☐ Mr. ☐ Mrs.	☐ Miss ☐ Ms.	Docket No. (To Be Completed by ALC)
Mailing Address:			City:		State and Zip:	
Home Number:		Work Number:		Cell Number:		*E-Mail Address:

REPRESENTATION

Attorney E-Mail Address:

Date _____

Date _____

Attention: All cases filed in the Administrative Law Court are subject to the Rules of Procedure found at the Court's website www.scalc.net or from the Clerk of Court. Failure to follow these rules may result in dismissal of your case.

ATTACHMENT E



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
Individual Income Working Paper

Individual Income Adjustments Summary for 2012

	Reported	Audited
1. Federal Taxable Income	\$27,109	\$778,715
2. Total Additions	\$0	\$0
3. Sum of Federal Taxable Income and Additions	\$27,109	\$778,715
4. Total Subtractions	\$0	\$0
5. South Carolina Income Subject to Tax	\$27,109	\$778,715
10. Total South Carolina Tax	\$1,425	\$54,034
15. Tax less Non-Refundable Credits	\$1,414	\$54,023
23. Total Payments	\$1,222	\$1,222
24. Overpayment	\$0	\$0
25. Amount Due	\$192	\$52,801
26. Use Tax	\$0	\$0
30. Refund Amount	\$0	\$0
31. Tax Due	\$192	\$52,801



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
Individual Income Working Paper

Individual Income Adjustments Summary for 2013

	Reported	Audited
1. Federal Taxable Income	\$0	\$1,212,249
2. Total Additions	\$0	\$0
3. Sum of Federal Taxable Income and Additions	\$0	\$1,212,249
4. Total Subtractions	\$0	\$3,900
5. South Carolina Income Subject to Tax	\$0	\$1,208,349
10. Total South Carolina Tax	\$0	\$84,099
15. Tax less Non-Refundable Credits	\$0	\$84,099
23. Total Payments	\$0	\$0
24. Overpayment	\$0	\$0
25. Amount Due	\$0	\$84,099
26. Use Tax	\$0	\$0
30. Refund Amount	\$0	\$0
31. Tax Due	\$0	\$84,099



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
Individual Income Working Paper

Individual Income Adjustments Summary for 2014

	Reported	Audited
1. Federal Taxable Income	\$0	\$1,492,156
2. Total Additions	\$0	\$0
3. Sum of Federal Taxable Income and Additions	\$0	\$1,492,156
4. Total Subtractions	\$0	\$3,950
5. South Carolina Income Subject to Tax	\$0	\$1,488,206
10. Total South Carolina Tax	\$0	\$103,684
15. Tax less Non-Refundable Credits	\$0	\$103,684
23. Total Payments	\$0	\$0
24. Overpayment	\$0	\$0
25. Amount Due	\$0	\$103,684
26. Use Tax	\$0	\$0
30. Refund Amount	\$0	\$0
31. Tax Due	\$0	\$103,684



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
Individual Income Working Paper

Individual Income Adjustments Summary for 2015

	Reported	Audited
1. Federal Taxable Income	\$0	\$2,238,122
2. Total Additions	\$0	\$0
3. Sum of Federal Taxable Income and Additions	\$0	\$2,238,122
4. Total Subtractions	\$0	\$4,000
5. South Carolina Income Subject to Tax	\$0	\$2,234,122
10. Total South Carolina Tax	\$0	\$155,894
15. Tax less Non-Refundable Credits	\$0	\$155,894
23. Total Payments	\$0	\$0
24. Overpayment	\$0	\$0
25. Amount Due	\$0	\$155,894
26. Use Tax	\$0	\$0
30. Refund Amount	\$0	\$0
31. Tax Due	\$0	\$155,894



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
Individual Income Working Paper

Individual Income Adjustments Summary for 2016

	Reported	Audited
1. Federal Taxable Income	\$0	\$2,860,861
2. Total Additions	\$0	\$0
3. Sum of Federal Taxable Income and Additions	\$0	\$2,860,861
4. Total Subtractions	\$0	\$4,050
5. South Carolina Income Subject to Tax	\$0	\$2,856,811
10. Total South Carolina Tax	\$0	\$199,481
15. Tax less Non-Refundable Credits	\$0	\$199,481
23. Total Payments	\$0	\$0
24. Overpayment	\$0	\$0
25. Amount Due	\$0	\$199,481
26. Use Tax	\$0	\$0
30. Refund Amount	\$0	\$0
31. Tax Due	\$0	\$199,481

RECEIVED

Jan 24 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Deborah Brooks Durden, Administrative Law Judge

Appellate Case Nos.: 2021-001528 & 2021-001547

CDT, Inc., ... Appellant,

v.

South Carolina Department of Revenue Respondent.

AND

Vimlesh V. Patel and Punita Patel Appellants,

v.

South Carolina Department of Revenue Respondent.

PROOF OF SERVICE

The undersigned counsel for Appellants hereby certify, subject to penalty of perjury, that the following document(s) was/were served upon the following by the following means as of the date identified below.

Document(s): Appellants' Consolidated Response in Opposition to Respondent's Motion to Dismiss w/ *Attachments A-E*

Counsel Served: For Respondent
Sean G. Ryan (S.C. Bar No. 0076585)
Jason P. Luther (S.C. Bar No. 0078021)
South Carolina Department of Revenue
Office of General Counsel
300A Outlet Pointe Boulevard
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Means of Delivery: *Via Email Only*

Courts Served: Office of the Clerk of the Court of Appeals

Means of Delivery: *Via email to ctappfilings@sccourts.org*

Date: January 24, 2022

Respectfully submitted,

s/ Steven Edward Buckingham

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Attorneys for Appellant



Scott F. Talley
Wendy N. Griffith
Roger L. Couch*
* Of Counsel
Ginny L. Merck-Dupont

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Jan 24 2022

SC Court of Appeals

January 24, 2022

Jenny A. Kitchings, Clerk
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: CDT, INC v. South Carolina Department of Revenue
CA No. 19-ALJ-17-0338-CC
Appellate Case No.: 2021-00528

Vimlesh V. Patel and Punita Patel v. South Carolina Department of Revenue
CA No. 19-ALJ-17-0338-CC
Appellate Case No.: 2021-001547

Dear Clerk:

Enclosed please find the Appellants' Consolidated Response in Opposition to Respondent's Motion to Dismiss with attachments and Proof of Service for same in connection to the above matters for filing.

By copy of this letter to Sean G. Ryan and Jason P. Luther, attorneys for Respondent, I am serving them with a copy of same.

If you have any questions or need anything additional, please do not hesitate to contact my office at 864-595-2966.

With kind regards, I remain

Yours very truly,
TALLEY LAW FIRM, P.A.

1/24/ Scott F. Talley

Scott F. Talley

/hh

Enclosures

Copy to: Sean G. Ryan, Esquire
Jason P. Luther, Esquire