



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211-9979

November 8, 2017

The Honorable Ralph King Anderson, III
Chief Administrative Law Judge
Edgar A. Brown Building
1205 Pendleton Street, Suite 224
Columbia, SC 29201

Re: Amazon Services, LLC, vs. South Carolina Department of Revenue
Docket Number: 17-ALJ-17-0238-CC

Dear Judge Anderson:

Enclosed please find the South Carolina Department of Revenue's Notice of Motion and Motion for Injunction and Motion for Expedited Hearing in the above-referenced matter. Also enclosed is a Proof of Service.

Should have any questions, please do not hesitate to contact me.

Very truly yours,

OFFICE OF GENERAL COUNSEL FOR LITIGATION

A handwritten signature in cursive script that reads "Lauren Acquaviva".

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c: John von Lehe, Esquire (via e-mail only)
Bryson Geer, Esquire (via e-mail only)
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Enclosures

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SC ADMIN LAW COURT

**STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT**

Amazon Services, LLC,

Petitioner,

vs.

South Carolina Department of Revenue,

Respondent.

Docket No. 17-ALJ-17-0238-CC

**NOTICE OF MOTION AND
MOTION FOR INJUNCTION
AND MOTION FOR
EXPEDITED HEARING**

TO JOHN VON LEHE, ESQUIRE, BRYSON GEER, ESQUIRE, C. WILLIAM PHILLIPS, ESQUIRE, SEAN AKINS, ESQUIRE, AND S. STARLING MARSHALL, ESQUIRE, ATTORNEYS FOR PETITIONER AMAZON SERVICES, LLC:

PLEASE TAKE NOTICE that the undersigned, as attorney for the Respondent South Carolina Department of Revenue (the "Department"), will, not sooner than ten (10) days from the date of service of this Motion, or as soon thereafter as counsel may be heard, move for an Order pursuant to Rule 68 of the South Carolina Administrative Law Court Rules (SCALCR) and Rule 65 of the South Carolina Rules of Civil Procedure (SCRCP) granting the Department certain Injunctive Relief requiring the Petitioner Amazon Services, LLC ("Amazon" or "Petitioner") to (a) begin complying with South Carolina law by collecting sales and use tax on the gross proceeds of all retail sales taking place through Amazon's website, including sales of items owned by third-party suppliers, and (b) deposit those taxes into a trust during the pendency of the instant action. The grounds for this Motion are set forth below. Additionally, the Department requests an expedited hearing on this Motion pursuant to Rule 19, SCALCR. An expedited hearing is necessary because the irreparable harm to the Department and the State, which is discussed below, increases every day the tax at issue goes uncollected.

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SC ADMIN LAW COURT

INTRODUCTION

This Motion seeks to require Amazon to collect taxes owed on all of its South Carolina retail sales (including sales of third-party owned items)—the same taxes owed by every retailer that makes retail sales in South Carolina. Amazon agrees that sales or use taxes are owed to the State for all of its online retail sales in South Carolina, but Amazon has selectively chosen to collect and remit these taxes on only some of its sales (intentionally exempting sales of third-party owned items).

The Amazon business enterprise (the “Amazon Enterprise”) is the world’s largest online retailer.¹ Nearly 43% of all online retail sales in the United States went through the Amazon Enterprise in 2016.² Last year, Amazon’s online sales revenue exceeded \$135 billion.³ The Department projects that Amazon’s online sales revenue for 2017 will exceed \$170 billion.⁴

¹As discussed more fully in the Department’s final Determination, the Petitioner is the affiliate of Amazon.com, Inc., the Amazon parent company, that owns and operates www.amazon.com (the “Website”). Other relevant affiliates of Amazon.com, Inc. include Amazon.com, LLC, Amazon Fulfillment Services, Inc., and Amazon Payments, Inc. These companies collectively make up what most consumers refer to simply as “Amazon.” For sake of ease throughout this Motion, however, the Department refers to the Petitioner alone as “Amazon” and all Amazon affiliates collectively as “the Amazon business enterprise.”

²See BI Intelligence, Amazon accounts for 43% of US online retail sales (February 23, 2017), available at <http://www.businessinsider.com/amazon-accounts-for-43-of-us-online-retail-sales-2017-2>.

³See Amazon.com, Inc. U.S. Securities and Exchange Commission (SEC) Form 10-K (filed February 10, 2017), available at <https://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0001018724&owner=exclude&count=40&hidefilings=0>. While this sales figure is listed in Amazon.com, Inc.’s SEC filing, the Department views the Petitioner as the retail arm of the Amazon Enterprise. As such, for purposes of this Motion, the Department, while recognizing that the Amazon Enterprise may include other retailers, has imputed all of Amazon.com, Inc.’s sales related data and statistics to the Petitioner.

⁴Pursuant to Amazon.com, Inc.’s SEC Form 10-Q for the quarterly period ending September 30, 2017 (filed October 27, 2017), Amazon’s online sales revenue increased by 127%

The Amazon Enterprise's exponential growth as an online retailer is due in large part to the various tax-avoidance strategies it has employed since its founding. See Brad Stone, *The Everything Store*, pp. 82–83, 199, 286–94 (2013) (chronicling the Amazon Enterprise's tax strategies). Thus, despite Amazon's significant sales revenues, many states, including South Carolina, are deprived of sales tax revenue from Amazon's online retail sales. Amazon claims it is not obligated to collect or remit sales or use tax on its retail sales of third-party owned items. As a result, Amazon is avoiding an estimated \$1.9 billion nationwide in uncollected sales and use taxes on third-party owned items sold and fulfilled by Amazon in 2016.⁵ Amazon's tax liability will continue to grow and is projected to exceed \$10 billion within the next five years.

The parties do not dispute these taxes are owed to South Carolina. All retailers, whether online or traditional brick-and-mortar, have a duty to collect and remit sales and use tax on their South Carolina sales. Amazon is no different. But, by avoiding these taxes, Amazon enjoys a competitive economic advantage over South Carolina brick-and-mortar retailers.⁶ More importantly, Amazon's failure to collect and remit sales and use tax to South Carolina during the

between September 30, 2016 and September 30, 2017. The Department used that percentage increase to project Amazon's 2017 total online sales revenue.

⁵See Capitol Forum, Vol. 5 No. 96 (March 21, 2017), *available at* <https://thecapitolforum.com/wp-content/uploads/2017/03/Amazon-2017.03.21.pdf>. Additionally, the Department estimates that Amazon owes South Carolina approximately \$57 million in uncollected sales and use taxes on Amazon's sales of third-party owned items (this includes sales fulfilled by Amazon and by the third parties) in 2016.

⁶See Michael Mazerov, *Amazon's Arguments Against Collecting Sales Taxes Do Not Withstand Scrutiny*, pp. 1, 2 (November 29, 2010), *available at* <https://www.cbpp.org/research/amazons-arguments-against-collecting-sales-taxes-do-not-withstand-scrutiny> (stating "What actually seems to be driving Amazon's opposition is simply a desire to maximize the significant competitive advantage it gains over its rivals when they must add the typical 5 percent to 10 percent tax to their prices but Amazon does not" and "Amazon's top management has said publicly from the founding of the company that not charging sales taxes gives it a key competitive advantage over its Main Street rivals").

pendency of this action poses an immediate threat to the State's financial health and economic stability.⁷

The Department's Motion and requested relief eliminates a potential, significant financial risk to the State and levels the playing field for all South Carolina retailers who are complying with the State's sales and use tax requirements. Granting the Department's Motion places a minimal burden on Amazon.

BACKGROUND AND PROCEDURAL HISTORY

In 2011, the South Carolina General Assembly passed the "Distribution Facility Sales Tax Exemption"⁸ in an effort to incentivize Amazon to build a fulfillment center in the State. This legislation gave retailers like Amazon, who satisfied certain requirements, a special five-year exemption from sales and use taxes on that retailer's online retail sales to South Carolina customers. That same year, Amazon opened a fulfillment center in Lexington County, thereby giving Amazon a physical presence in the State. The opening of that fulfillment center, along with Amazon and its affiliates satisfying the requirements set forth in the Distribution Facility Sales Tax Exemption, suspended Amazon's responsibility for collecting and/or remitting sales and use tax on its South Carolina retail sales until January 1, 2016.

On January 1, 2016, the Petitioner registered as a South Carolina retailer and began collecting and remitting sales tax – but only on its online retail sales of Amazon Prime memberships. The Department soon learned that Amazon characterizes its operation of the Website as merely the provision of a nontaxable service and believes its affiliates and third-party

⁷See Mazerov, Amazon's Arguments, p. 1 ("Amazon's refusal to collect sales tax in most states hurts state and local governments' ability to finance education, health care, and other services).

⁸See S.C. Code Ann. § 12-36-2691 (2014).

suppliers are the retailers responsible for remitting taxes. The Department initiated an audit of Amazon and determined that Amazon was the entity selling property owned by the third-party suppliers on its Website, which accounted for more than half of Amazon's total online sales.⁹ The Department found that Amazon failed to collect or remit sales or use tax on its sales of property owned by third parties, resulting in a sales and use tax liability of over \$12 million (including penalties and interest) for the first quarter of 2016.

The Department issued Amazon a Proposed Assessment for the unpaid sales and use taxes for the first quarter of 2016, which Amazon timely protested. After the Department issued its final Agency Determination, Amazon filed a request for a contested case hearing. The case is currently pending at the Administrative Law Court (the "ALC" or the "Court") and is scheduled for trial from November 5 – 9, 2018. To date, Amazon continues to make online retail sales of property owned by third-party suppliers to South Carolina consumers, but fails or refuses to collect or remit sales or use tax due for those sales.

ARGUMENT

I. STANDARD OF REVIEW

The Department of Revenue was created to administer and enforce the revenue laws of this State and has broad authority to facilitate tax administration, regulation, and enforcement. See S.C. Code Ann. §§ 12-4-10 and -310 (2014); § 12-36-2660 (2014). Additionally, the Department is authorized by law to seek injunctive relief, and may apply to the ALC for such relief. See S.C. Code Ann. § 1-23-630 (2005). An administrative law judge "has the same power at chambers or in open hearing as do circuit court judges and to issue those remedial writs

⁹As the Department explained in footnote 3 of its final Agency Determination, the Department now questions whether Amazon affiliates whose property is sold on the Website are liable for sales and use tax at all. It is possible that the Petitioner is the seller of Amazon-owned property *and* third-party owned property.

as are necessary to give effect to its jurisdiction.” Section 1–23–630(A).

“Actions for injunctive relief are equitable in nature.” Denman v. City of Columbia, 387 S.C. 131, 140, 691 S.E.2d 465, 470 (2010). Importantly, the “[p]urpose of a preliminary injunction is to preserve the status quo and prevent irreparable harm to the party requesting it.” Compton v. S.C. Dep’t of Corrections, 392 S.C. 361, 366, 709 S.E.2d 639, 642 (2011). Thus, in order to obtain an injunction, the Department must demonstrate a likelihood of success on the merits, irreparable harm, and the absence of an adequate remedy at law, all of which are present here. Denman, 387 S.C. at 140, 691 S.E.2d at 470.

II. THE COURT SHOULD ORDER A TEMPORARY INJUNCTION REQUIRING AMAZON TO COLLECT SALES AND USE TAX ON ALL OF ITS ONLINE SALES DURING THE PENDENCY OF THE ACTION, INCLUDING ITS SALES OF PROPERTY OWNED BY THIRD-PARTY SUPPLIERS.

A. The Department is likely to succeed on the merits of the pending contested case hearing.

“In evaluating whether a plaintiff is entitled to a preliminary injunction, the court must examine the merits of the underlying case only to the extent necessary to determine whether the plaintiff has made a sufficient prima facie showing of entitlement to relief.” Compton at 367, 709 S.E.2d at 642. In its final Agency Determination, the Department made a sufficient prima facie showing that Amazon is a person in the business of selling tangible personal property at retail and, as such, is responsible for collecting and/or remitting sales and use tax.

As explained more fully in the final Agency Determination, South Carolina law imposes a seven percent *sales tax* on every person or entity engaged in the business of selling tangible personal property at retail within South Carolina. See S.C. Code Ann. §§ 12-36-20, -30, -60, -910(A), and -1110 (2014). Similarly, South Carolina law imposes a seven percent *use tax* on “the storage, use, or other consumption in this State of tangible personal property purchased at

retail for storage, use, or other consumption in this State” S.C. Code Ann. § 12-36-1310(A) (2014).

Sales tax is remitted by the in-state retailer, who may choose (but is not required) to pass the cost on to its customers. By contrast, use tax is ordinarily remitted by the customer. However, South Carolina law shifts the responsibility to remit use tax under certain circumstances. Specifically, S.C. Code Ann. §§ 12-36-1340 and -1350 (2014) require all retailers who maintain a place of business in this State, like Amazon, to collect and remit use tax on behalf of the customer. Thus, Amazon is responsible for remitting sales tax on property delivered to South Carolina customers from within the State and for collecting and remitting use tax on property delivered from a point outside the State directly to the customer in South Carolina.¹⁰ See S.C. Code Ann. Regs. 117-334 (2012). Despite this legal obligation, Amazon is intentionally not collecting or remitting any sales or use tax to the Department on its online sales of third-party owned items.

Amazon agrees that tangible personal property is sold at retail on its Website to users or consumers in South Carolina. It asserts, however, that its sales of property owned by third parties are not sales made by Amazon, and therefore, Amazon is not required to pay the tax on those sales. This arrangement between Amazon and third parties where one person sells goods owned by another is a consignment sale. See Travelscape, LLC v. S.C. Dept. of Revenue, 08-ALJ-17-0076-CC, 2009 WL 769017 at *22 n. 15 (S.C. Admin. Law Ct. Feb. 12, 2009). In South Carolina, consignment sales are subject to the sales and use tax. See S.C. Code Ann. § 12-36-

¹⁰Amazon currently has 105 fulfillment centers in the United States. See Dennis Green and Anaele Pelisson, This map of how Amazon’s warehouse locations shows how it’s taking over America, (September 27, 2017), available at <http://www.businessinsider.com/amazon-warehouse-locations-in-us-2017-9>. Only three of those fulfillment centers are located in South Carolina. As such, the Department estimates that a vast majority of the tax at issue is use tax.

90(1)(a) (2014).

Amazon hosts its Website so its customers can select from a variety of items. Amazon sells property owned by its affiliates and third parties through its Website. Amazon controls where and to whom the property is sent and effects the actual transfer of the property to its customers. Amazon accepts payment for said property and holds the funds in “escrow” for later disbursement of a portion of the funds to third parties. Finally, Amazon exercises control over transaction details such as customer service and returns. Accordingly, Amazon is a retailer under South Carolina law. As such, the Department has made a sufficient prima facie showing that Amazon is liable for sales and use tax and has demonstrated that it has a high likelihood of success on the merits.

B. The State of South Carolina and all South Carolina retailers who properly collect and/or remit sales and use tax on retail sales made in South Carolina will suffer irreparable harm if Amazon continues to avoid collecting sales and use tax during the pendency of this case.

i. The financial risks the Department and State face constitute irreparable harm.

If Amazon continues to avoid collecting sales and use tax during the pendency of the instant action, the Department, as the agency of the State tasked with collecting taxes authorized by the General Assembly, will be forced to take an unreasonable financial risk. Based on the information obtained from its audit, the Department projects Amazon could owe the State in excess of \$500 million in unpaid sales and use taxes by the conclusion of this litigation, which could take as long as five years if the case is appealed to the U.S. Supreme Court. There is no guarantee that Amazon will be able to pay the State its current or future tax liability – especially in light of the significant amount of the potential tax liability.

Estimates indicate that in 2016 alone, Amazon failed to collect over \$1.9 billion in sales

and use taxes nationwide just on sales of third-party owned items fulfilled by Amazon.¹¹ This liability could exceed \$10 billion by the conclusion of this litigation. In addition, despite being one of the world's largest retail companies, Amazon operates a volatile business and its financial reports contain a number of disclosures revealing various competitive pressures.¹² This volatility could make it difficult, if not impossible, for the Department to collect the projected \$500 million that will be due at the conclusion of this litigation. Given the ever-changing economic climate and the competitive nature of the retail industry, the Department (and the State) should not be forced to assume this kind of financial risk.

Moreover, if the Department prevails in this contested case hearing, other states are expected to follow the Department's lead and assert that Amazon is legally required to collect and remit sales and use taxes on its online sales in their states. As Amazon itself has acknowledged, if the Court affirms the Department's position and holds that Amazon is a retailer subject to South Carolina's sales and use tax, there will be a ripple effect resulting in large tax liabilities in other states. See Amazon 10-Q, p. 11 (filed October 27, 2017) ("If South Carolina or other states were successfully to seek additional adjustments of a similar nature, **we could be subject to significant additional tax liabilities**") (emphasis added). Although South Carolina may have been the first state to litigate this issue, there is no guarantee that the tax owed to the State of South Carolina will have priority over the tax obligations of other states who may choose to follow suit.

¹¹See Capitol Forum, *supra*.

¹²For example, Amazon explains in its most recent quarterly financial report filed with the SEC that it is at risk of being subjected to additional sales tax or other tax liabilities, it faces intense competition that could reduce its sales and profits, its stock price is highly volatile due to its rapidly evolving business model, and it may experience significant fluctuations in its operating results and growth rate as a result of customer demand and increased operating costs. See Amazon.com, Inc.'s SEC Form 10-Q (filed October 27, 2017).

Amazon does not dispute that a sales or use tax is owed for the purchases made on its Website or that those taxes are owed to the State. Rather, Amazon disputes who made the sale and, thus, who is liable for collecting and remitting the sales and use tax to the Department. Ordering Amazon to collect the tax due and remit it to a trust simply ensures that the State will receive what it is owed at the end of the litigation.

Moreover, even if this Court ultimately determines that Amazon is not a retailer, the tax (which will have been paid by the customer if this Court orders Amazon to collect it) will already be held in a trust and available to be remitted to the Department on behalf of the third-party suppliers and/or Amazon's customers who owe it. If a trust fund is not established and the third-party suppliers and/or Amazon's customers are found to be the legally liable taxpayers, those taxpayers will suffer a huge financial burden and the State will not be guaranteed to receive the taxes it is undisputedly owed.

These risks to the State could be eliminated if the Court required Amazon to collect the sales and use tax and hold the tax in trust. The Department's request for injunctive relief in this case is warranted because of the size of the amount in dispute combined with the size of the potential future liability. The requested remedy relieves the Department from having to act as a creditor, provides the State with assurance that it will receive the revenue it is currently owed, places Amazon's third-party suppliers and South Carolina customers in a more tenable position in the unlikely event Amazon prevails on the merits, and places little to no burden on Amazon.

ii. The likely erosion of the State's tax base constitutes irreparable harm.

Allowing Amazon to continue failing to collect sales and use tax during the pendency of this action will also result in an erosion of the State's tax base. Amazon holds a competitive advantage over taxpayers who are complying with South Carolina law by properly remitting

sales and use taxes to the Department.¹³ As explained above, in-state retailers must collect and remit use tax on behalf of their customers. Although it is not legally required, most retailers choose to pass the cost of the sales tax on to their customers. Thus, in effect, a business that avoids paying sales and use tax is able to sell its products at a price that is seven percent cheaper than a retailer who collects the sales and use tax from its customers.

If Amazon is allowed to maintain this economic advantage during the pendency of this action, many of these compliant retailers/taxpayers (most of whom are brick and mortar retailers) will be unable to compete. This advantage threatens to put compliant taxpayers out of business.¹⁴ As a result, the State's tax base—approximately 36% of which comes from sales and use tax revenue—will erode. Even in the likely event the Department prevails on the merits, the taxes, penalties, and interest due would not remedy the damage to the local economy and compliant taxpayers who form the State's tax base.

C. The contested case hearing, by itself, provides an inadequate remedy at law.

“An ‘adequate’ remedy at law is one which is as certain, practical, complete and efficient to attain the ends of justice and its administration as the remedy in equity.” Nutt Corp. v. Howell Rd., LLC, 396 S.C. 323, 328, 721 S.E.2d 447, 450 (Ct. App. 2011) (citing Milliken & Co. v. Morin, 386 S.C. 1, 8, 685 S.E.2d 828, 832 (Ct.App.2009)). “It is not enough that there be some

¹³See Stone, *supra*, at 287 (noting that the legal avoidance of collecting state sales tax is one of the Amazon Enterprise's “biggest tactical advantages”). See also, Brian Baugh et al., Can Taxes Shape an Industry? Evidence from the Implementation of the “Amazon Tax”, p. 3 (Working Paper 20052, April 2014), available at <http://www.nber.org/papers/w20052.pdf>.

¹⁴Michael Mazerov, New York's “Amazon Law”: An Important Tool For Collecting Taxes Owed On Internet Purchases, p. 3 (July 24, 2009), available at <https://www.cbpp.org/research/new-yorks-amazon-law-an-important-tool-for-collecting-taxes-owed-on-internet-purchases?fa=view&id=2876> (“Given the inherently narrow profit margins in retailing, the loss of sales to remote sellers resulting from this price advantage can make it much harder for some local businesses to survive”).

remedy at law, but that remedy must be just as practical, efficient, and prompt as the remedy in equity.” Chisolm v. Pryor, 207 S. C. 54, 56, 35 S. E. 2d 21, 24 (1945). Here, the remedy at law is inadequate because it lacks certainty, and it is not as prompt as an injunction.

First, the remedy at law lacks certainty. The contested case hearing does not provide an adequate remedy at law because the Department cannot be certain that Amazon will be able to pay the amount in dispute or the estimated \$500 million that Amazon could owe at the conclusion of this litigation. Because the Department cannot be certain that it will collect any of the tax owed, the State cannot accurately project the future tax base, resulting in a negative impact on the State’s budgeting process. Thus, while a court order requiring Amazon to pay the appropriate tax, penalties, and interest may provide a legal remedy for the audit period in dispute, that remedy is inadequate given the uncertainty of Amazon’s ability to pay its total liability for taxes owed for the 3-5 years this case will likely last.

Further compounding this uncertainty is the possibility that other states will borrow from the Department’s position. If other states adopt the Department’s position and prevail, the cumulative effect of their collection efforts may bankrupt Amazon and leave the Department to recover less than the full amount owed. The Court need look no further than Fairfield County and the failed V. C. Summer nuclear project for an example of a large and apparently successful company suddenly filing bankruptcy and – without warning – leaving South Carolinians to absorb the costs.

Second, the remedy at law is not as prompt as an injunction. As discussed throughout this motion, this litigation and subsequent appeals will last several years. In the meantime, the \$12 million liability for the audit period will go unpaid, and all sales and use tax that accrues from April 1, 2016 through the conclusion of this litigation, likely in excess of \$500 million, will

go unpaid as well. The injunction requested by the Department provides immediate relief that is more prompt than a final order on the underlying substantive issue. Moreover, such injunctive relief would protect the Department, the State, and compliant taxpayers until the underlying issues are ultimately resolved.

Although litigation is often lengthy and uncertain, the Department urges the Court to consider the unique circumstances of the present dispute. The likely length and uncertainty of this litigation is amplified by the novelty of the substantive issue, the alleged constitutional issues which could end up at the U.S. Supreme Court, the hundreds of millions of dollars at issue, and the fact that this is a national issue that could quickly consume Amazon. It is those unique factors that cause the remedy at law to be inadequate, and it is those unique factors that support injunctive relief in this case.

D. Injunctive relief will preserve the status quo.

As described above, South Carolina law requires retailers like Amazon to collect and remit sales and use tax on all of its retail sales. Although the General Assembly chose to temporarily suspend Amazon's sales tax obligation, this special exemption ended on December 31, 2015. Accordingly, beginning January 1, 2016, Amazon's tax obligations reverted to the status quo that existed without the special legislative exemption. Thus, absent an extension of the exemption or court order, South Carolina law requires Amazon to collect and remit sales and use tax. Amazon cannot write its own laws and stay its duty to collect and remit during the pendency of this action just because it does not agree with South Carolina's law. Amazon may challenge its legal tax obligations, which it has done here, but until the Court determines otherwise it should be required to collect and remit these taxes. Thus, the Department's requested relief maintains the status quo for retailers as established by South Carolina law.

III. THE COURT SHOULD HEAR THIS MOTION ON AN EXPEDITED BASIS.

The Department requests that the above-described motion be heard on an expedited basis and prior to any hearing on the merits. The relief requested by the Department is equitable in nature and is designed to preserve the status quo (that Amazon is a retailer who must collect and/or remit sales and use tax on all of its online retail sales) and prevent irreparable harm until a hearing on the merits can be held. Therefore, for the reasons set forth above, an expedited hearing is warranted.

CONCLUSION

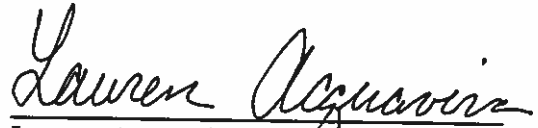
WHEREFORE, AS A RESULT OF THE FOREGOING, the Department is informed and believes, and respectfully prays that this Court hear arguments on this motion on an expedited basis, and issue an Order:

- A. Requiring Amazon to collect sales and use tax on the gross proceeds of all sales taking place through Amazon's Website, including sales of items owned by third-party suppliers;
- B. Requiring Amazon to deposit the sales and use tax it collects into a trust pending the outcome of this litigation; and
- C. Granting any such other relief as the Court may deem just and proper.

{Signature on Following Page}

Respectfully submitted,

SOUTH CAROLINA
DEPARTMENT OF REVENUE



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