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State of South Carolina  
**Department of Revenue**  
300A Outlet Pointe Blvd., Columbia, South Carolina 29210  
P.O. Box 125, Columbia, South Carolina 29214

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**SC PRIVATE LETTER RULING #14-1**

**SUBJECT:** Delivery Company as Transportation for Hire  
(Property Tax)

**REFERENCES:** S.C. Constitution, Article X, Section 1(2)  
S.C. Code Ann. Section 12-43-220(g) (2014)  
S.C. Code Section 12-4-540 (2014)

**AUTHORITY:** S.C. Code Ann. Section 12-4-320 (2014)  
S.C. Code Ann. Section 1-23-10(4) (2005)  
SC Revenue Procedure #09-3

**SCOPE:** A Private Letter Ruling is an advisory opinion issued to a specific taxpayer by the Department to apply principles of law to a specific set of facts or a particular tax situation. It is the Department's opinion limited to the specific facts set forth, and is binding on agency personnel only with respect to the person to whom it was issued and only until superseded or modified by a change in statute, regulation, court decision, or another Departmental advisory opinion, providing the representations made in the request reflect an accurate statement of the material facts and the transaction was carried out as proposed.

**Question:**

Is Taxpayer's furniture, fixtures and equipment used in the conduct of its business assessed at nine and one-half percent as property of a business primarily engaged in transportation for hire as provided in S.C. Constitution, Article X, Section 1(2) and S.C. Code Section 12-43-220(g)?

**Conclusion:**

Yes. Taxpayer's furniture, fixtures and equipment used in the conduct of its business is assessed at nine and one-half percent since Taxpayer is primarily engaged in transportation for hire as provided for in S.C. Constitution, Article X, Section 1(2) and S.C. Code Section 12-43-220(g).

Facts:

Taxpayer is engaged in the business of delivering “X” throughout the State of South Carolina and the country for compensation. Taxpayer holds a Certificate of Public Convenience and Necessity for Charter Air Transportation. Taxpayer and its related companies use planes, trucks and vans to deliver “X” throughout the State and the country for a fee. Taxpayer owns both real and personal property within the State which is used for the distribution and transportation of both within and without South Carolina.

Discussion:

The South Carolina Constitution, Article X, Section 1(2) provides:

(2) “All real and personal property owned by or leased to companies primarily engaged in transportation for hire of persons or property and used by the company in the conduct of such business shall be taxed on an assessment equal to nine and one-half percent of the fair market value of such property.”

Code Section 12-43-220(g) also reads:

“All real and personal property owned by or leased to companies primarily engaged in the transportation for hire of persons or property and used by such companies in the conduct of such business and required by law to be assessed by the Department shall be taxed on an assessment equal to nine and one-half percent of the fair market value of such property.

The department shall apply an equalization factor to real and personal property owned by or leased to transportation companies for hire as mandated by federal legislation.

... ”

Taxpayer holds a Certificate of Public Convenience and Necessity for Charter Air Transportation and is required to be assessed by the Department for property tax purposes. See, S.C. Code Section 12-4-540.<sup>1</sup>

In instances in which there is no definition contained in the statute, it is an accepted practice in South Carolina to resort to the dictionary to determine the literal meaning of words used in statutes. For cases where this has been done, see Hay v. South Carolina Tax Commission, 273 SC 269, 255 S.E.2d 837 (1979); Fennell v. South Carolina Tax Commission, 233 S.C. 43, 103 S.E.2d 424 (1958); Etiwan Fertilizer Co. v. South Carolina Tax Commission, 217 SC 484, 60 S.E.2d 682 (1950).

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<sup>1</sup> “Code Section 12-4-540(A)(1) provides in relevant part: The department has the sole responsibility for the appraisal, assessment, and equalization of the taxable values of corporate headquarters, corporate office facilities, and distribution facilities and of the real and personal property owned by or leased to the following businesses and used in the conduct of their business:

...  
(d) airline;  
... ”

Moreover, the legislation's words must be given their plain and ordinary meaning without resort to a forced or subtle construction which would work to limit or to expand the operation of the statute. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991). The plain meaning of the statute cannot be contravened. State v. Leopard, 349 S.C. 467, 563 S.E.2d 342 (2002).

Looking at *The American Heritage College Dictionary*, Fourth Ed. (2002), the most applicable definition for the term "transportation" is "the business of conveying passengers or goods" while the term "hire" means "to engage the services of for a fee; employ".

The plain meaning of the phrase "transportation for hire", based on the common dictionary use of those words, is "the business of conveying passengers or goods for a fee". This phrase describes Taxpayer's activities of transporting packages for compensation. Accordingly, Taxpayer is a company engaged in "transportation for hire" of property and persons. Therefore, Taxpayer's business personal property used in the conduct of its business and required by law to be assessed by the Department is subject to an assessment ratio of nine and one-half percent.

#### SOUTH CAROLINA DEPARTMENT OF REVENUE

s/Rick Reams III  
Rick Reames III, Director

August 5, 2014  
Columbia, South Carolina

CAVEAT: This advisory opinion is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting the advisory opinion may not rely on it. If the taxpayer relies on this advisory opinion, and the Department discovers, upon examination, that the facts and circumstances are different in any material respect from the facts and circumstances given in this advisory opinion, then the advisory opinion will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this advisory opinion, changes in a statute, a regulation, or case law could void the advisory opinion.