



ALAN WILSON  
ATTORNEY GENERAL

September 30, 2021

Mr. Kevin A. Shwedo, Executive Director  
South Carolina Department of Motor Vehicles  
PO Box 1498  
Blythewood, SC 29016

Dear Mr. Shwedo:

You have requested an opinion from this Office regarding whether the South Carolina Department of Motor Vehicles ("DMV") can collect infrastructure maintenance fees from entities that title or register vehicles in South Carolina with the intent of using them for short-term rentals.

### LAW/ANALYSIS

To provide some background, motor vehicles utilizing the highways in South Carolina are required to be registered and licensed:

Every motor vehicle, trailer, semitrailer, pole trailer and special mobile equipment vehicle driven, operated or moved upon a highway<sup>1</sup> in this State shall be registered and licensed in accordance with the provisions of this chapter. It shall be a misdemeanor for any person to drive, operate or move upon a highway or for the owner knowingly to permit to be driven, operated or moved upon a highway any such vehicle which is not registered and licensed and the required fee paid as provided for in this chapter.

S.C. Code Ann. § 56-3-110 (1976 Code, as amended) (emphasis added).

However, some motor vehicles are exempt from registration and licensing:

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<sup>1</sup> "'Street' or 'highway' means the entire width between boundary lines of every way publicly maintained when any part of it is open to the use of the public for vehicular travel." S.C. Code Ann. § 56-3-20 (1976 Code, as amended).



- (1) a vehicle driven, operated, or moved upon a highway pursuant to the provisions of this chapter relating to nonresidents or under temporary permits issued by the department as authorized;
- (2) any implement of husbandry, including a knuckleboom loader mounted on a trailer or straight truck, whether of a type otherwise subject to registration and license which only incidentally is operated or moved upon a highway;
- (3) a special mobile equipment vehicle which only occasionally is moved over a highway and special mobile equipment vehicle of the State or its departments, agencies, or political subdivisions;
- (4) a vehicle owned and operated by the government of the United States; and
- (5) a trailer or semitrailer commonly used in combination with a large commercial motor vehicle, as defined in Section 12-37-2810, for which trailer or semitrailer the fee imposed pursuant to Section 12-37-2860 is paid and applicable registration requirements provided pursuant to Article 23, Chapter 37, Title 12, are met, and a distinctive permanent plate has been issued pursuant to Section 12-37-2860.
- (6) firefighting vehicles that are publicly owned by the state or a county, municipality, or special purpose district . . .

S.C. Code Ann. § 56-3-120 (1976 Code, as amended).

DMV “may register and license vehicles . . . upon application being made therefor by the owner and the required fees paid . . .” S.C. Code Ann. § 56-3-190 (1976 Code, as amended) (emphasis added). The owner of a motor vehicle required to be registered and licensed in this State must pay registration and license fees when registering and licensing the vehicle and biennially after that. See S.C. Code Ann. § 56-3-610 (1976 Code, as amended). In addition to registration and license fees, the owner or lessee of a motor vehicle required to be registered is initially responsible for paying an infrastructure maintenance fee:

- (A) In order to account for the necessary road maintenance caused by each item traversing the roads of this State, in addition to the registration fees imposed by this chapter, the owner or lessee of each vehicle or other item that is required to be registered pursuant to this chapter must pay an infrastructure maintenance fee upon first titling or registering the vehicle or other item. Also, the owner



or lessee of each trailer or semitrailer must pay the fee upon first titling or registering the trailer or semitrailer. The Department of Motor Vehicles may not issue a title or registration until the infrastructure maintenance fee has been collected . . . .

(B) If upon purchasing or leasing the item from a dealer, the owner or lessee first registers the item in this State, then the fee equals five percent, not to exceed five hundred dollars, of the gross proceeds of sales, or sales price, as those terms are defined in Chapter 36, Title 12. If the dealer holds a South Carolina retail license or offers to license, title, or register the item, then the dealer must collect the fee and remit it to the Department of Motor Vehicles. If the dealer does not license, title, or register the item, the customer must pay the infrastructure maintenance fee to the department when titling or registering the vehicle.

(C)(1) If upon purchasing or leasing the item from a person other than a dealer, the owner or lessee first registers the item in this State, then the fee equals five percent, not to exceed five hundred dollars, of the fair market value of the item. If the lessee purchases the vehicle he originally leased and the registrant of the vehicle remains the same, the person does not owe an additional infrastructure maintenance fee.

(2) Excluded from the fee imposed pursuant to this subsection are:

(a) items transferred:

(i) to members of the immediate family;

(ii) to a legal heir, legatee, or distributee;

(iii) from an individual to a partnership upon formation of a partnership, or from a stockholder to a corporation upon formation of a corporation;

(iv) to a licensed motor vehicle or motorcycle dealer for the purpose of resale;



(v) to a financial institution for the purpose of resale;

(vi) as a result of repossession to any other secured party, for the purpose of resale;

(vii) to an insurer for the purpose of applying for a salvage title;

(b) the fair market value of an item transferred to the seller or secured party in partial payment;

(c) gross proceeds of transfers of items specifically exempted by Section 12-36-2120 from the sales or use tax;

(d) items where a sales or use tax has been paid on the transaction necessitating the transfer . . . .

(D)(1) If upon purchasing or leasing the item, the owner or lessee first titles or registers the item in another state, and subsequently registers the item in this State, then the fee equals two hundred fifty dollars.

(2) This subsection does not apply if the owner or lessee of the item is serving on active duty in the Armed Forces of the United States. The exclusion allowed by this item also extends to items owned by the spouse or dependent of a person serving on active duty in the Armed Forces of the United States . . . .

(H) Notwithstanding any other provision of this section, any transaction exempt pursuant to Section 12-36-2120(25), is also exempt from the infrastructure maintenance fee.<sup>2</sup>

S.C. Code Ann. § 56-3-627 (1976 Code, as amended) (emphasis added).

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<sup>2</sup> According to S.C. Code Ann. § 12-36-2120(25) (1976 Code, as amended), “motor vehicles (excluding trucks) or motorcycles, which are required to be licensed to be used on the highways, sold to a resident of another state, but who is located in South Carolina by reason of orders of the United States Armed Forces . . .” are exempt from sales tax.



In our opinion, DMV can collect infrastructure maintenance fees from owners and lessees of motor vehicles that are titled or registered in South Carolina for use as short-term rentals. Pursuant to the plain language<sup>3</sup> of the statutes discussed above, motor vehicles that utilize the highways of this State are required to be registered and licensed, and motor vehicles used as short-term rentals are not exempt. Therefore, owners and lessees of short-term rentals must pay the required fees, which include registration and license fees and an infrastructure maintenance fee. Like any other vehicle that is required to be registered, a title or registration will not be issued for a short-term rental until the infrastructure maintenance fee has been paid.

Additionally, the use of a vehicle, such as for rental purposes, appears to be irrelevant to payment of an infrastructure maintenance fee. The language of section 56-3-627 plainly requires the owner or lessee of a vehicle that is required to be registered to pay an infrastructure maintenance fee when first titling or registering the vehicle. The statute does not account for short-term rentals of motor vehicles. Furthermore, an infrastructure maintenance fee is imposed under three circumstances: purchases or leases from a dealer, purchases or leases from a person other than a dealer, and purchased or leased vehicles which were first registered out-of-state and later registered in South Carolina by the same owner. This shows that the initial titling or registration of a vehicle that has been purchased or leased, and not its use for rental purposes, is significant when it comes to payment of an infrastructure maintenance fee.

Finally, the purpose of the infrastructure maintenance fee is to “account for the necessary road maintenance caused by each item traversing the roads of this State.” S.C. Code Ann. § 56-3-627 (emphasis added). All of these factors indicate that infrastructure maintenance fees can be collected from owners and lessees of motor vehicles used as short-term rentals.

You draw our attention to an advisory opinion of the South Carolina Department of Revenue (“DOR”), SC Revenue Ruling #18-1, in which DOR discussed whether an infrastructure maintenance fee or a sales and use tax applied to the sale or purchase of a vehicle. DOR stated that the general rule was:

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<sup>3</sup> In Op. S.C. Atty. Gen., 2013 WL 5494616 (September 18, 2013), we stated:

“[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.” Hodges v. Rainey, 341 S.C. 79, 86, 533 S.E.2d 578, 581 (2000). “[Courts] will give words their plain and ordinary meaning, and will not resort to a subtle or forced construction that would limit or expand the statute’s operation.” Harris v. Anderson County Sheriffs Office, 381 S.C. 357, 362, 673 S.E.2d 423, 425 (2009). “If a statute’s language is plain, unambiguous, and conveys a clear meaning, then the rules of statutory interpretation are not needed and a court has no right to impose another meaning.” Strickland v. Strickland, 375 S.C. 76, 85, 650 S.E.2d 465, 472 (2007) . . .



If the vehicle is required to be registered under Chapter 3 of Title 56 and is registered with the SCDMV, the infrastructure maintenance fee applies and is remitted to the SCDMV. The sale or purchase of a vehicle that is subject to the infrastructure maintenance fee is exempt from state and local sales and use taxes

...

Id.

In the advisory opinion, DOR was asked if short-term rentals (e.g., daily, weekly) of motor vehicles were subject to the sales tax. DOR responded:

Yes. The exemption for sales of motor vehicles subject to an IMF upon registration of the motor vehicle at the SCDMV does not apply since short-term rentals are not registered by the customer and therefore are not subject to an IMF.

For example, if a person rents a motor vehicle for a week while in South Carolina on business, or a person rents a motor vehicle to move furniture from one location to another, then the rental payments are subject to the sales tax and not subject to the IMF.

Id (emphasis added).

We believe that DOR's advisory opinion does not contradict our conclusion. The advisory opinion determines that customers of short-term rentals do not pay infrastructure maintenance fees, because they do not register the vehicles. It does not prohibit owners and lessees from paying infrastructure maintenance fees when registering or titling motor vehicles that will be used as short-term rentals.

### CONCLUSION

It is our opinion that DMV can collect infrastructure maintenance fees from owners and lessees of motor vehicles that are titled or registered in South Carolina for use as short-term rentals. Motor vehicles that utilize the highways of this State are required to be registered and licensed, and motor vehicles used as short-term rentals are not exempt. See S.C. Code Ann. §§ 56-3-110, 56-3-120. The initial titling or registration of a vehicle that has been purchased or leased, and not its use for rental purposes, is significant when it comes to payment of an infrastructure maintenance fee. See S.C. Code Ann. § 56-3-627. Finally, the purpose of the infrastructure maintenance fee is to "account for the necessary road maintenance caused by each item traversing the roads of this State." Id (emphasis added).



Mr. Kevin A. Shwedo  
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Sincerely,

A handwritten signature in blue ink, appearing to read "Elinor V. Lister".

Elinor V. Lister  
Assistant Attorney General

REVIEWED AND APPROVED BY:

A handwritten signature in blue ink, appearing to read "Robert D. Cook".

Robert D. Cook  
Solicitor General