

**IN THE SUPREME COURT OF FLORIDA**

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CASE NO.: SC2026-0708  
L.T. CASE NO.: 1D2023-3308 / DBPR 2022-010681

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GLOBAL HOOKAH DISTRIBUTORS, INC.,

Petitioner,

vs.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO,

Respondent.

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**PETITIONER'S JURISDICTIONAL BRIEF**

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ON DISCRETIONARY REVIEW FROM THE  
FIRST DISTRICT COURT OF APPEAL  
CASE NO. 1D2023-3308

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## **STATEMENT OF THE ISSUES**<sup>1</sup>

Whether hookah tobacco falls within the statutory phrase “loose tobacco suitable for smoking” as used in section 210.25(12), Florida Statutes.

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1. Petitioner, Global Hookah Distributors, Inc., is referred to as “Global”; Respondent, Department of Business and Professional Regulation is referred to as “Department”; the Appendix is cited as “Ap. Page #”; the First District Court of Appeal’s Opinion below is referred to as the “decision.”

## **INTRODUCTION**

This case presents an express and direct conflict concerning how Florida courts must interpret taxing statutes, invoking this Court's discretionary jurisdiction under article V, section 3(b)(3) of the Florida Constitution.

For nearly 60 years, this Court has adhered to a settled rule: when a taxing statute has more than one reasonable interpretation, courts must adopt the narrower construction that favors the taxpayer. *Maas Bros., Inc. v. Dickinson*, 195 So. 2d 193, 197-98 (Fla. 1967).

The decision below cannot be reconciled with that rule. Although the court acknowledged that the statutory term at issue was susceptible to competing dictionary definitions, it nevertheless relied on statutory purpose and "common understanding" to resolve the perceived ambiguity and adopt the broader, tax-imposing interpretation. This conflicts with *Maas Bros.*' command that ambiguity in a taxing statute must be resolved in the taxpayer's favor.

That same reliance on perceived purpose and colloquial understanding further conflicts with this Court's settled authority holding that such extra-textual considerations may illuminate

statutory text but may not override it, narrow it, or be used to choose among competing reasonable interpretations. *Gov't Emp's Ins. Co. v. Glassco, Inc.*, 394 So. 3d 1115, 1120 (Fla. 2024); *Conage v. U.S.*, 346 So. 3d 594, 598-603 (Fla. 2022).

These conflicts are express, direct, and apparent on the face of the opinions. If left standing, the decision would permit courts to expand taxing statutes through purposive reasoning and common-vernacular intuition, displacing textual limits and the taxpayer-protective canon. This Court's review is therefore necessary to restore uniformity and reaffirm the governing rules of statutory interpretation.

### **STATEMENT OF THE CASE AND FACTS**

This case concerns the interpretation of section 210.25(12), Florida Statutes, a taxing statute. Specifically, the question is whether hookah tobacco—a product comprised of bound ingredients that do not burn or combust during use—is encompassed within the phrase “loose tobacco suitable for smoking.” The First District majority held that hookah tobacco falls within that phrase.

Judge Roberts dissented. Applying the interpretive principles governing taxing statutes, the dissent explained that section

210.25(12) must be construed strongly in favor of the taxpayer and that hookah tobacco does not clearly fall within the ordinary meaning of either “loose” or “suitable for smoking.” Ap. 20-23. The dissent identified multiple grounds for disagreement with the majority’s analysis. Ap. 20–23.

As the dissent observed, the majority did not apply the required text-first hierarchy of statutory interpretation. Instead, it relied on extratextual considerations—including perceived legislative purpose, intent, common vernacular, and what the dissent characterized as a “man on the street” perspective—to supplement the statutory text. Ap. 20–23; *see also*, Ap. 7 (stating that the use of tobacco for nicotine is the “fundamental fact [that] drives our analysis of the statutory text at issue”); Ap. 5, 15, 18-19.

The dissent further explained that the majority failed to apply the interpretive rule specific to taxing statutes. Ap. 22-23. Under that rule, taxes may be imposed only within the clear and definite boundaries of the statute, and any doubt or ambiguity must be resolved in favor of the taxpayer. Ap. 22–23.

Considering the interpretive rules announced and applied by the majority, Global seeks this Court’s review based on express and

direct conflict. The decision's reliance on extratextual considerations to supplement statutory text, and its expansive rather than narrow reading of section 210.25(12), implicate conflicts with decisions of this Court and other district courts of appeal concerning statutory interpretation and the construction of taxing statutes.

### **ARGUMENT**

Express and direct conflict exists when a district court announces a rule of law that is irreconcilable with a rule announced by another court on the same question of law. *Askew v. Fla. Dep't of Child. & Families*, 385 So. 3d 1034, 1037 (Fla. 2024) (quoting *Kartsonis v. State*, 319 So. 3d 622, 623 (Fla. 2021)); *see also*, *Watson Realty Corp. v. Quinn*, 452 So. 2d 568, 569 (Fla. 1984) (accepting jurisdiction based on conflict between the district court opinion and dictum in a prior Supreme Court case).

The decision below does exactly that. It announces rules governing (1) the treatment of ambiguity in taxing statutes, that cannot be squared with this Court's precedent, and (2) the role of statutory purpose and colloquial understanding in resolving textual ambiguity. The resulting conflicts concern how Florida courts

interpret taxing statutes specifically and statutes generally—not how those rules were applied to the facts of this case.

**I. Conflict jurisdiction exists because the decision announced a rule that, in tax statutes, courts may use purpose-driven interpretation to avoid applying the canon requiring construction in favor of the taxpayer.**

The First District’s decision conflicts with this Court’s established rules governing the construction of taxing statutes. This Court has long held that taxing statutes must be strictly construed against the taxing authority and in favor of the taxpayer. *Maas Bros., Inc.*, 195 So. 2d at 197-98; *Brandy’s Prods., Inc. v. Dep’t of Bus. & Prof’l Regul.*, 188 So. 3d 130, 132-133 (Fla. 1st DCA 2016) (interpreting section 210.25(12) narrowly in favor of the taxpayer). Taxes may be imposed only within the clear and definite boundaries drawn by the Legislature, and any ambiguity or reasonable doubt must be resolved in the taxpayer’s favor. *Id.*

When a taxing statute has competing reasonable interpretations, courts may not adopt a broader construction based on legislative purpose or perceived policy goals. *Id.*; *see also, Dep’t of Revenue v. GTE Mobilnet of Tampa, Inc.*, 727 So. 2d 1125, 1128 (Fla. 2d DCA 1999). Strict construction is mandatory unless the

Legislature has clearly expressed an intent to tax. *Maas Bros.*, 195 So. 2d at 197-98; *GTE Mobilnet*, 727 So. 2d at 1128. Where the Legislature has not clearly taxed a product, courts may not supply that clarity by inference. *Id.*

The First District's decision expressly departs from those rules. The majority acknowledged contemporaneous dictionary definitions supporting both parties' interpretations of the statutory phrase at issue. Ap. 14-17. Nevertheless, after invoking statutory purpose and common understanding, the court concluded that those competing meanings presented no equally fair readings and therefore declined to apply strict construction in favor of the taxpayer. Ap. 17 n. 5; Ap. 5, 7, 14-19. In effect, the court used purpose to eliminate ambiguity and justify an expansive construction of a taxing statute.

That announced rule directly conflicts with this Court's tax-statute jurisprudence. This Court—and the district courts—have made clear that ambiguity in a taxing statute triggers strict construction in favor of the taxpayer; it may not be neutralized through purposive reasoning that selects one reasonable interpretation over another. Where the text supports more than one plausible ordinary meaning, the court is not free to declare ambiguity

extinguished by reference to purpose, intuition, or perceived legislative objectives.

This is not a mere disagreement over application. It is an announced rule of law permitting courts to rely on statutory purpose and vernacular intuition to avoid strict construction in taxing statutes and to expand tax liability beyond the statute's clear and definite terms. The cited cases hold precisely the opposite: ambiguity in a taxing statute must be resolved for the taxpayer, not eradicated through purposive expansion. Ambiguity does not disappear because a court believes one reading better advances legislative purpose. This Court's intervention is needed to resolve this conflict.

**II. Conflict jurisdiction exists because the decision announced a rule that courts may use statutory purpose and common vernacular as primary tools to interpret statutory text.**

This Court has consistently held that statutory interpretation is governed by a text-first hierarchy in which courts derive meaning from the words the Legislature enacted, read in context and according to their ordinary meaning, before resorting to extratextual considerations. *Alachua Cnty. v. Watson*, 333 So. 3d 162, 169 (Fla. 2022); *Conage*, 346 So. 3d at 598-603.

While statutory purpose may illuminate text, it cannot override the Legislature’s chosen language. *Gov’t Emp’s Ins. Co.*, 394 So. 3d at 1120 (Fla. 2024). Nor may courts resolve statutory meaning by reference to colloquial or “common sense” understandings untethered from the statutory text, particularly where the text admits of more than one reasonable ordinary meaning. *Conage*, 346 So. 3d at 600-01.

Consistent with those principles, this Court has emphasized that courts must “exhaust all the textual and structural clues” bearing on statutory meaning and, where those clues resolve the interpretive question, the court’s “sole function” is to apply the statute as written. *Conage*, 346 So. 3d at 598 (quoting *Alachua Cnty.*, 333 So. 3d at 169). Statutory purpose may not be invoked to justify ignoring or narrowing the text, nor may courts adopt interpretations grounded in what seems sensible, intuitive, or consistent with perceived legislative goals rather than the words the Legislature enacted. *See, Gov’t Emp’s Ins. Co.*, 394 So. 3d at 1120; *Conage*, 346 So. 3d at 598-603.

The First District’s decision conflicts with this settled framework. The court expressly announced that a nicotine-centered

“fundamental fact drives our analysis of the statutory text at issue,” rejected a narrower ordinary meaning because it would “ignor[e] a purpose of tobacco taxation,” and resolved statutory meaning by asking how an “ordinary person” would describe the product at issue. Ap. 5, 7, 15, 18-19, 22. In substance, the court treated statutory purpose and common vernacular as dispositive drivers of meaning rather than interpretive aids subordinate to text.

That directive cannot be reconciled with this Court’s controlling decisions on statutory interpretation. Under this Court’s decisions, statutory purpose and common vernacular may not drive interpretation in a manner that displaces text or resolves competing reasonable readings based on policy concerns or vernacular intuition. Rather, purpose and vernacular may assist interpretation only after textual analysis has been exhausted and only insofar as they remain tethered to the enacted language.

Ultimately, the First District’s decision did not resolve the statute’s meaning by applying the ordinary meaning of the statutory language before resorting to perceived legislative purpose and colloquial understanding. Instead, it permits perceived legislative purpose and colloquial understanding to resolve competing

reasonable textual meanings. This directly conflicts with this Court’s text-first framework. This Court’s intervention is necessary to resolve that conflict.

### **CONCLUSION**

This Court has jurisdiction under article V, section 3(b)(3) and should accept review to resolve the conflicts expressed herein. If left uncorrected, the decision will not only alter the construction of section 210.25(12) but will also establish a methodology that threatens statewide uniformity in the interpretation of all Florida statutes—especially taxing statutes. Courts across Florida would be empowered to displace textual limits and the taxpayer-protective canon whenever they perceive a broader reading to better serve legislative goals. This would undermine settled tax jurisprudence.

Because the decision below expressly and directly conflicts with controlling decisions of this Court and other district courts on these critical questions of law, this Court’s intervention is necessary to restore uniformity and reaffirm the governing rules of statutory interpretation. The Court should accept jurisdiction to resolve these conflicts and prevent the expansion of taxing statutes through judicially invented purpose and intuition.

Respectfully submitted this 15th day of May 2026,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 15th day of May 2026, a true and correct copy of the foregoing Brief on Jurisdiction was served by e-mail to the Division's Chief Appellate Counsel, Matthew Mears, at:

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**CERTIFICATE OF COMPLIANCE**

I CERTIFY that the foregoing Brief on Jurisdiction complies with the applicable font requirements of Florida Rule of Appellate Procedure 9.045 and complies with the applicable word count limit requirements of Florida Rule of Appellate Procedure 9.210(a)(2)(A), containing 1,818 words.

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