
Opinion of the Tax Commissioner

Date Issued: October 11, 1991

Opinion No: 91-0014

Tax: Personal Property

XXXX
XXXX
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Subject: Motor Vehicles

This request for an opinion of the Tax Commissioner was received on May 28, 1991. Specifically, it concerns the effect of Am. Sub. H.B. 831 on the personal property tax on equipment used in business affixed to licensed motor vehicles, but which is not inherently motor vehicle equipment.

XXXX (hereinafter taxpayer) has submitted the following factual information:

1. The taxpayer owns ready-mix concrete trucks licensed by the state of Ohio.
2. The taxpayer pays a personal property tax upon the mixing drum affixed to the truck, and a license tax for the truck based upon only the chassis weight.

QUESTIONS FOR WHICH OPINIONS ARE REQUESTED

1. Pursuant to Am. Sub. H.B. 831, are the mixing drum and load to be included in the weight of the vehicle in determining the amount of the license tax?
2. Is the drum subject to the personal property tax if also included in the vehicle weight to determine the license tax?

OPINION

Amended Substitute House Bill 831 of the 118th Ohio General Assembly, effective July 17, 1990, established Ohio's participation in the International Registration Plan of commercial motor vehicles (hereinafter IRP). Concomitant with the IRP is a new method to determine vehicle weight for licensing purposes. Although an analysis of Am. Sub. H.B. 831 would apparently provide an answer to this taxpayer's first question, the Tax Commissioner is unable to render an opinion on this issue. Revised Code section 5703.50 provides that "tax" includes "only those taxes imposed on tangible personal property listed in accordance with Chapter 5711. of the Revised Code and taxes imposed under Chapters 5733., 5739., 5741., and 5747. of the Revised Code." Since the question requests an opinion on a license tax in Chapter 4503., a tax that the Department of Taxation does not administer, the Tax Commissioner cannot issue the requested opinion (the licensing of motor vehicles is the responsibility of the Bureau of Motor Vehicles, Department of Highway Safety).

The taxpayer's second question can be answered. It is the Tax Commissioner's opinion that the new law does not provide for an exclusion from the personal property tax for any equipment affixed to a motor vehicle that is not inherent motor vehicle equipment. Additionally, there is no provision in Am. Sub. H.B. 831 that declares the tax due per the license tax rate schedule set forth in R.C. 4503.042 as the exclusive tax on motor vehicle ownership. Further, historically the taxpayer's drums affixed to its cement trucks have been subject to personal property tax because the drums are personal property "used in business," as that term is defined in R.C. 5701.08(A). The taxpayer has not presented any information to indicate that there has been a change in the manner in which the taxpayer uses the drums in its business, nor does the new law provide for a statutory exemption from personal property taxation for equipment affixed to a motor vehicle that is not inherent motor vehicle equipment. Therefore, the taxpayer's drums affixed to its cement trucks are subject to the personal property tax.

This opinion applies to the taxpayer and its property only. It may not be transferred or assigned.

In addition, the tax consequences stated in this opinion may be subject to change for any of the reasons stated in R.C. 5703.53(C). It is the duty of the taxpayer to be aware of such changes. R.C. 5703.53(E).

Roger W. Tracy
Tax Commissioner