

3297.

FOREIGN CORPORATION—METHOD TO BE FOLLOWED BY TAX COMMISSION IN DETERMINING THE PROPORTIONATE AMOUNT OF THE FAIR VALUE ON AN ASSET BASIS OF THE CAPITAL STOCK—SECTION 5498 CONSTRUED.

SYLLABUS:

Method of arriving at the proportionate amount of the fair value on an asset basis of the capital stock of a foreign corporation doing business in this state, under section 5498, discussed.

COLUMBUS, OHIO, April 26, 1926.

The Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—We are in receipt of your request of recent date as follows:

“A foreign corporation reporting to the commission under the Dempsey act discloses:

“1. That all of its property is located in Ohio and has a value of \$2,227,-408.00.

“2. That its business during the preceding year was \$2,637,034.09.

“3. That none of this business was transacted in Ohio.

“4. That the fair value of its capital stock as shown by its return to the Commissioner of Internal Revenue was \$3,199,027.00.

“Please advise the commission as to the method or formula to be followed by it in determining ‘the proportionate amount of the fair value on an asset basis of the capital stock’ of this company ‘represented by the sum of all the property owned or used and business done by it, located or transacted within this state’ to be certified by us to the auditor of state as required by section 5498 of the General Code.”

In view of the amendment of section 5498, previous opinions of this department and decided cases are of little assistance. See for example, among said opinions, the Attorney General’s Opinions for 1916, page 995, and *State vs. Cabin Creek Consolidated Coal Company*, 17 N. P. (n. s.) 60.

Section 5498, as amended, 111 O. L., 473, provides:

“Upon the filing of the report provided for in the last preceding sections, the tax commission, if it shall find such report to be correct, shall, on the first Monday in September, determine the amount of the fair value on an asset basis of the capital stock of every domestic corporation, required to file a report under section 1 of this act; and the proportionate amount of the fair value on an asset basis of the capital stock of every foreign corporation, required to file a report under section 1 of this act, represented by the sum of all the property owned or used and business done by it, located or transacted within this state. On the first Monday in October, the tax commission shall certify to the auditor of state the amount so determined by it for each such corporation.”

Under this section the proportion referred to is not clear and definite, but it is apparent that the proportion to be taken is that part of the fair value of the capital

stock which business done and property owned in this state bears to the business done and the property owned everywhere.

Accordingly, the Commission should first determine the value of the property of the corporation owned or used in Ohio. It will then determine the amount of business, if any, done in this state and the sum of the two will be the numerator of the fraction.

The Commission will then determine the value of the property of the company wheresoever located and the entire business done by the corporation, and the sum of the two will be the denominator of the fraction.

The formula may therefore be expressed as follows:

Ohio property plus Ohio business

Entire property plus entire business
X Fair Value of Capital Stock.

For example, if in the present case the Commission should determine the fair value of the capital stock to be \$3,200,000, and the value of the property located in Ohio to be \$2,200,000, and the business done as \$2,600,000, the numerator is fixed at \$2,200,000 and the denominator as \$4,800,000 and the fraction reduces to 11-24ths, which gives the proportion of the fair value of the stock to be assessed for taxation at the rate of 1-12th of one per cent.

Respectfully,

C. C. CRABBE,

Attorney General.

3298.

MAXIMUM LOAD—PERMITTED TO BE CARRIED BY A COMMERCIAL TRACTOR AND A SEMI-TRAILER OPERATED TOGETHER.

SYLLABUS:

The maximum load permitted to be carried by a commercial tractor and a semi-trailer operated together, is ten tons for the commercial tractor and eight tons for the semi-trailer, making a total of eighteen tons.

COLUMBUS, OHIO, April 26, 1926.

HON. GEORGE F. SCHLESSINGER, *Director, Department of Highways and Public Works, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your communication as follows:

“As a result of the recent order of this department reducing the maximum allowable loads during the period of thawing a number of inquiries have been received regarding the use of semi-trailers.

In order that I may be in a position to furnish definite and correct advice in reply to such inquiries I am requesting your opinion on the following:

What is the maximum load permitted on a combination of vehicles composed of semi-trailer and commercial tractor?”

As your letter speaks of “a combination of vehicles composed of a semi-trailer and commercial tractor” it suggests that you consider a semi-trailer when attached to another vehicle for operation thereof as merging into and constituting a single vehicle during such operation.

Under date of January 8th, 1926, the Attorney General, in Opinion No. 3054, rendered to the Hon. Thad H. Brown, Secretary of State, held as follows: