

1031.

MOTOR VEHICLES—FEE FOR TRAILERS—HOUSE BILL NO. 573 CON-
STRUED.

Under the provisions of section 6292 G. C., as amended in H. B. 573, a tax of twenty cents per hundred pounds gross weight of a vehicle and load, or fractional part thereof, shall be paid for trailers, if said tax as computed amounts to \$2.50 or more. However, if the tax as above computed is less than \$2.50, then the minimum tax provision applies and \$2.50 shall be paid. It is not the intention of the law to require the payment of both.

COLUMBUS, OHIO, February 27, 1920.

HON. HARVEY C. SMITH, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I am in receipt of the following request for opinion from the registrar of automobiles:

“A question has come up concerning the fee necessary for trailers, section 6292, House Bill No. 573 amending the General Code. The wording of this section is vague.

“The minimum fee on trailers is \$2.50. They are to be taxed at the rate of \$0.20 (twenty cents) per hundred weight, gross vehicle and load, as are commercial cars.”

Does this law mean the \$0.20 per cwt. vehicle and load is added to the fee of \$2.50, or does it mean that a trailer must weigh more than 1250 pounds before the fee can be raised above \$2.50 trailer fee?”

Section 6292 G. C., as amended in house bill No. 573, which must furnish the answer to your inquiry, is as follows:

“Each owner of a motor vehicle shall pay or cause to be paid taxes as follows:

For each motor bicycle or motorcycle, two dollars and fifty cents; and for each side car, one dollar and fifty cents.

For each passenger car having twenty-five horsepower or less, eight dollars; for each such car having more than twenty-five and not more than thirty-five horsepower, twelve dollars; for each such car having more than thirty-five horsepower, twenty dollars.

For each commercial car, the same tax based on horsepower, and in the same classifications as are herein provided for passenger cars, and in addition thereto twenty cents for each one hundred pounds gross weight of vehicle and load, or fractional part thereof.

For each trailer, the same tax based on gross weight of vehicle and load, herein provided for commercial cars.

The minimum tax for any vehicle having motive power other than a motor bicycle or a motorcycle shall be eight dollars; and for each trailer, two dollars and fifty cents.

Each manufacturer or dealer shall pay or cause to be paid a tax of twenty dollars for each place of business in this state.”

The fourth paragraph of this section, which relates to the tax for a commercial car, provides the same tax for a commercial car, based upon its horse-power, as is designated for passenger cars in the preceding paragraph, and provides a further tax for said commercial cars in the following language:

“and in addition thereto twenty cents for each one hundred pounds gross weight of vehicle and load, or fractional part thereof.”

The fifth paragraph of said section, which relates to the tax for trailers, reads as follows:

"For each trailer, the same tax based on gross weight of vehicle and load, herein provided for commercial cars."

As you suggest in your communication, this paragraph requires that the tax for a trailer shall be twenty cents for each one hundred pounds gross weight of vehicle and load, or fractional part thereof.

The sixth paragraph of said section, after providing for a minimum tax for motor vehicles other than motor bicycles and motorcycles, also provides a minimum tax for trailers as follows:

"and for each trailer, two dollars and fifty cents."

"Minimum tax" as used in this connection means the lowest possible tax that may be required for this purpose. It is not believed that there is any provision in said section 6292 to indicate that it was the intention of the legislature to require the payment of both the minimum tax and the tax to be computed on the gross weight of vehicle and load, in so far as said section relates to trailers.

In view of the foregoing it is the opinion of this department that if the tax for a trailer, computed at the rate of twenty cents for each one hundred pounds gross weight of trailer and load, or fractional part thereof, is two dollars and fifty cents, or more, no other tax is required, in which case the minimum tax provided has no application. On the other hand, if the tax as computed on the gross weight of vehicle and load is less than two dollars and fifty cents, then the provision designating the minimum tax applies and in such case the sum of two dollars and fifty cents should be paid.

Respectfully,

JOHN G. PRICE,

Attorney-General.

1032.

CORPORATIONS—RECEIVER—WHEN REQUIRED TO FILE RETURN OF PERSONAL PROPERTY FOR TAXATION—DAY PRECEDING SECOND MONDAY OF APRIL—SECTION 5372-1 G. C. CONSTRUED.

A liquidating receiver of the assets of a corporation is not within the terms nor the effect of section 5404-1 G. C., requiring personal property returns of incorporated companies to be made as of the first day of January, he is, however, subject to section 5372-1 G. C., requiring, receivers, assignees and other similar officers to list for taxation property held or controlled by them for others (including corporations) on the day preceding the second Monday of April.

COLUMBUS, OHIO, February 27, 1920.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Receipt is acknowledged of your letter of recent date requesting the opinion of this department upon the following question:

"Is the receiver for a corporation required to file a return of the personal property of the corporation for taxation as of the first day of January or as of the day preceding the second Monday in April?"

and enclosing a letter from Messrs. Bayly, Simmons & Dewitt, attorneys-at-law Cleveland.

Section 5404-1 G. C., which changes the time as of which certain personal property returns shall be made from the day preceding the second Monday of April to the first day of January, refers to "incorporated companies" only (108 O. L., Part I, 131-132).