

OPINION NO. 75-002

Syllabus:

R.C. 4503.12(C) does not permit the unused portion of a credit subtracted in a prior transfer of registration to be carried over to a later transfer of registration in order to reduce or eliminate any "additional fee" due upon the later transfer.

To: James A. Garry, Registrar, Bureau of Motor Vehicles, Columbus, Ohio
By: William J. Brown, Attorney General, January 9, 1975

Your request for my opinion as to the fees to be charged upon transfer of registration of a motor vehicle reads as follows:

"We respectfully request an opinion regarding Section 4503.12 of the Motor Vehicle Laws of Ohio.

"In the past, it has been the policy of the BMV to:

"(a) collect additional fees plus a transfer fee (\$1.00) if the transfer of a commercial registration involves transfer to a vehicle in a higher weight classification.

"(b) collect only a transfer fee (\$1.00) if the transfer of a commercial registration involves

transfer to a vehicle in a lower weight classification.

"At this time we are studying a change in policy in cases where a series of commercial registration transfers are initiated by one individual.

"For example: An individual purchases #20 commercial plates and later transfers the registration to a #12 truck (lower weight). Only a transfer fee of \$1.00 is charged. No additional fee is collected. See (b) above.

"Some time later, the same individual transfers the #12 registration to a #18 truck (higher weight). At this time an additional fee is charged. See (a) above.

"The point of contention is this:

"Should the individual be allowed to apply credit from his first transfer (#20 down to #12) toward his second transfer (#12 back up to #18)?

"Historically, the BMV has contended that the two transfers in the example were separate and distinct transactions and therefore refunds have not been given.

"We now feel that a credit might indeed be proper in cases of multiple transfers within the same licensing year.

"Should we proceed with this new interpretation and permit credits?"

The Section of the Revised Code to which you refer, R.C. 4503.12, in pertinent part, provides as follows:

"Upon the transfer of ownership of a motor vehicle, the registration of such motor vehicle shall expire, and the original owner shall immediately remove such number plates from such motor vehicle, except that:

* * * * *

"(C) Should the original owner make application for the registration of another motor vehicle at any time during the remainder of the current registration year, he may file an application for transfer of registration accompanied by a transfer fee of one dollar and the original certificate of registration. The transfer of such number plates from the motor vehicle for which originally issued to a motor vehicle purchased by the same person in whose name the original number plates were issued shall be done within a period not to exceed ten days. At the time of application for transfer the registrar of motor vehicles shall compute and collect an additional fee, based upon the amount which would be due on a new registration as of the date on which the license plates were first displayed on the

motor vehicle to which the registration is to be transferred, less a credit for the unused portion of the original registration beginning on the date such plates are displayed on the motor vehicle to which registration is to be transferred. In computing the amount due and credits to be allowed as of any date during a current registration year, the first day of the quarterly period in which such date occurs shall apply. As to passenger cars, trucks, trailers, and motorcycles, transfers within the same class only shall be allowed." (Emphasis added.)

At the outset, it must be noted that the language of R.C. 4503.12(C) provides the proper method for computation of the "additional fee," if any, due upon the transfer of any type of motor vehicle registration. The computation of the fee is not a matter of policy. The method prescribed by the statute must be followed as a matter of law. Once the proper interpretation has been made, there can be no change in the method of computation prior to an amendment of the statute.

The plain language of R.C. 4503.12(C) indicates that the only credit to be taken into account in calculating the "additional fee," if any, due upon a transfer of registration is that given "for the unused portion of the original registration beginning on the date such plates are displayed on the motor vehicle to which registration is to be transferred." Clearly, the "original registration" refers to that registration immediately preceding the "new registration." The statutory computation provided in R.C. 4503.12(C) does not contemplate credits for any prior to that period "beginning on the date such plates are displayed on the motor vehicle to which registration is to be transferred." When there is a series of transfers of registration by the same person within a single year, only the unused portion of the registration immediately preceding the last new registration is to be taken as a credit. Thus, credits from prior transfers cannot be carried over to reduce or eliminate an additional fee due upon a present transfer of registration. It is apparent from the face of R.C. 4503.12(C) that such section contemplates the calculation of additional fees on an individual transfer basis. I conclude, therefore, that your new interpretation of R.C. 4503.12(C), which would involve the integration of several transfers, is not the proper interpretation. Your traditional interpretation, that transfers of registration under R.C. 4503.12(C) must be kept separate and distinct, is correct.

Opinion No. 2127, Opinions of the Attorney General for 1921, Vol. I, p. 456, provides some authority for this conclusion. In that Opinion, my predecessor had occasion to construe G.C. 6294-1, the predecessor of R.C. 4503.12(C). At that time, the Section read as follows:

"Upon the transfer of ownership of a motor vehicle its registration shall expire, and it shall be the duty of the original owner to immediately notify the secretary of state of the name and address of the new owner and return to the secretary of state the registration certificate for cancellation. The original owner shall also remove number plates from a motor vehicle upon transfer of ownership of such vehicle. Should the

original owner make application for the registration of another motor vehicle within thirty days after such cancellation, he may file a new application accompanied by a fee of one dollar, and pay the tax thereon, less the amount of the tax that would be collected on account of the vehicle transferred, on the date of such application."

(Emphasis added.)

Although the above-quoted language provides a method of computation different from that now provided in R.C. 4503.12(C), it is similar to R.C. 4503.12(C) in that some credit, however calculated, is to be given in respect to the prior registration fee. In Opinion No. 2127, supra, my predecessor was confronted with the following questions:

"(1) Transferring license plates from one vehicle to another. The above section provides that transfer may be made on a new application by the owner on payment of a fee of one dollar and paying the tax thereon less the amount of the tax that would be collected on account of the vehicle transferred on the date of such application. For example, Jones sells his Ford car, \$8.00 horse power fee, takes off and cancels his license number on that car; later he buys a Hudson, \$12.00 horse power fee, makes a new application, pays the difference of \$4.00 and a transfer fee of \$1.00, totaling \$5.00. The question causing so much controversy with the public is, can the department make a refund with the conditions reversed as follows: He sells his Hudson, \$12.00 horse power fee, and transfers to a new Ford, \$8.00 horse power fee.

"(2) Jones registers a Packard Twin Six, paying \$20.00; sells it and buys a Ford, makes a transfer with \$1.00 fee, sells the Ford and buys a Packard Twin Six; additional fee \$12.00, transfer \$1.00; total, \$13.00; goes through the same operation four times, at the end of which he has his license on a Ford car and has paid \$56.00 aside from the transfer fees of \$4.00 for licensing the same. The department to date has followed the above plan; shall it continue?"

In answering the second question, which is similar to the question you now present, my predecessor, at p. 458 of the Opinion, came to the following conclusion:

"The plan outlined as the procedure followed by your department appears to be in strict conformity with the law, and while there may be apparent hardship visited upon automobile owners who find it necessary to secure new license tags on account of transfers of their cars, the fact remains that the law provides for such a course, and this office finds no reason to criticize your plan in the slightest particular."

In specific answer to your question, it is my opinion and you are so advised that R.C. 4503.12(C) does not permit the unused portion of a credit subtracted in a prior transfer of

registration to be carried over to a later transfer of registration in order to reduce or eliminate any "additional fee" due upon the later transfer.