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MOTOR VEHICLE EQUIPMENT — FRAMEWORK AND DRAWERS PLACED IN TRUCK — USED TO CARRY BAKERY PRODUCTS, NOT SUCH EQUIPMENT — WEIGHT SHOULD NOT BE INCLUDED IN TOTAL WEIGHT OF VEHICLE TO DETERMINE MOTOR VEHICLE LICENSE TAX — SECTION 6293 G.C.

SYLLABUS:

A framework and drawers which are placed in a truck and used to carry bakery products do not constitute motor vehicle equipment under the provisions of Section 6293, General Code, and therefore, the weight of such equipment should not be included in the total weight of the vehicle in determining the proper motor vehicle license tax.

Columbus, Ohio, March 27, 1942.

Hon. Cylon W. Wallace, Registrar, Bureau of Motor Vehicles,
Columbus, Ohio.

Dear Sir:

You have requested my opinion as to whether a framework and drawers which are placed in a bakery truck and used to carry bakery products constitute motor vehicle equipment under the provisions of Section 6293, General Code, the weight of which should be included in the total weight of the vehicle in determining the proper motor vehicle license tax. The information submitted reveals that the framework of the cabinet is screwed into a panel in the front of the truck. Drawers, in which the pastries are carried, are placed in such framework.

Your question arises by reason of the phraseology of Section 6293, General Code, which provides in part:

“The weight of all motor vehicles shall be the weight of the vehicle fully equipped as determined on a standard scale, except the weight of any machinery mounted upon or affixed to a motor vehicle and which is not inherently motor vehicle equipment shall not be included in the determination of the total weight.”

It is apparent from the language of the foregoing statute that the Legislature did not intend that every piece of equipment, whether permanently or temporarily affixed, should be considered motor vehicle

equipment and included in the taxable weight. As was stated in the case of *State ex rel. Tejan, et al., v. Lutz, et al*, 31 N.P. (N.S.) 473 at page 518:

“Every container or receptacle in which a load is placed is not necessarily a part of the truck upon which it rides. It is necessary to analyze both its inherent nature, its characteristics and its primary purpose.”

At page 509, it was said:

“The court entertains no doubt that the primary and sole purpose of the Legislature was to tax the operation of a motor vehicle fully equipped as such.”

The decision of the *Tejan* case, *supra*, was based on Section 6293, General Code, which at that time provided:

“The weight of all motor vehicles shall be the weight of the vehicle fully equipped as determined on a standard scale.”

However, in 1939, (118 O.L. 68) the Legislature added the words:

“Except the weight of any machinery mounted upon or affixed to a motor vehicle and which is not inherently motor vehicle equipment shall not be included in the determination of the total weight.”

Thus, it is apparent that since the decision in the *Tejan* case the Legislature has enlarged the exempted field.

In the *Tejan* case, *supra*, the Court said at pages 512 and 513:

“Apparent difficulty might seem to arise from the fact that many pieces of machinery and apparatus are placed on the truck in such a way as to be attached thereto, and usable only during the period the truck is used. This does not make it inherently truck equipment, nor an integral part of the truck. * * *

“Adaptation of use of a truck to a particular form of business may require the placement of machinery and apparatus on it to perform or accomplish the work of that particular purpose or business. * * * Obviously, apparatus which is usable both on the truck and off is not, generally speaking, *per se*, truck equipment, but is rather service or trade apparatus, device, equipment or machinery, for the particular work in which it is used.”

It appears from the foregoing observations that there are certain trade accessories or equipment which may be attached to a motor vehicle to assist in the particular work in which such vehicle is used but which equipment does not constitute motor vehicle equipment so as to be taxable as part of the truck weight. Such accessories are not manufactured or designed to be truck equipment.

In the instant situation, the cabinet, tested by the foregoing rules, obviously does not constitute motor vehicle equipment. It is merely a trade accessory and serves the same practical purpose as sacks, baskets, boxes or other similar objects, which cannot be considered, by any stretch of imagination or reason as per se motor vehicle equipment. The vehicle is fully equipped for the transportation of merchandise without such cabinet. This accessory merely facilitates the handling of the bakery products. Detachment of the cabinet from the structure of the truck in no way lessens the motivation or purposes of the truck as a transportation unit. For these reasons, it appears that such cabinet does not constitute motor vehicle equipment.

Therefore, in specific answer to your inquiry, I am of the opinion that a framework and drawers which are placed in a truck and used to carry bakery products do not constitute motor vehicle equipment under the provisions of Section 6293, General Code, and therefore, the weight of such equipment should not be included in the total weight of the vehicle in determining the proper motor vehicle license tax.

Respectfully,

THOMAS J. HERBERT
Attorney General.