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TRACTOR—AGRICULTURAL—VEHICLE AS DESCRIBED AND DEFINED IN SECTIONS 4501.01 AND 4511.01 RC, NOT A COMMERCIAL TRACTOR AS DEFINED IN SECTION 5728.01, SUBDIVISION C, RC—NOT AMENABLE TO HIGHWAY USE TAX LEVIED UNDER CHAPTER 5728 RC.

SYLLABUS:

An "agricultural tractor," as that vehicle is described and defined in Sections 4501.01 and 4511.01, Revised Code, is not a commercial tractor as defined in Section 5728.01, subdivision (C) Revised Code, so as to render it amenable to the highway use tax levied under Chapter 5728, Revised Code.

Columbus, Ohio, January 11, 1954

Hon. R. E. Foley, Registrar, Bureau of Motor Vehicles  
Columbus, Ohio

Dear Sir:

I am in receipt of your request for my opinion, reading as follows:

“Your attention is invited to the provisions of the highway use tax law, Sections 5728.01 to 5728.17, inclusive, Revised Code, and to the definition of motor vehicle under Section 4501.01, Revised Code, of the license registration law.

“We request your opinion whether or not the definition of ‘commercial tractor’ under Section 5728.01, Revised Code, includes an agricultural tractor.”

You have directed my attention to the definition of “motor vehicle” as set forth in Section 4501.01, Revised Code, relating inter alia, to the licensing and registration of such vehicles. Without repeating that definition at length, it is appreciated that subdivision (B) of said section specifically excepts “\* \* \* agricultural tractors and machinery used in the production of horticultural, agricultural and vegetable products.” However, this is by no means determinative of whether or not an agricultural tractor is a motor vehicle, as that latter term is defined in the statutes, hereinafter referred to as the highway use tax statutes, Section 5728.01 et seq., Revised Code. Section 5728.01, supra, contains its own definition of “motor vehicle,” and it is to that section that I must advert in order to formulate an answer to your inquiry. Subdivision (A) of said section provides as follows:

“(A) ‘Motor vehicle’ means everything on wheels which is self-propelled other than by muscular power or power collected from electric trolley wires and other than vehicles or machinery not designed for or employed in general highway transportation, used to transport or propel property over a public highway;”

Having before me no particularized or factual description in terms of function or structure of the vehicle referred to in your letter, as an “agricultural tractor,” it is obviously necessary to establish some definition of such a vehicle in order to determine whether or not it is comprehended by the quoted portion of Section 5728.01, supra. In this connection it may

be observed that an agricultural tractor is defined in substantially the same terms, in at least two statutes, Sections 4501.01 and 4511.01, Revised Code, as:

“\* \* \* any self-propelling vehicles designed or used for drawing other vehicles or wheeled machinery but having no provision(s) for carrying loads independently of such other vehicles, and *used principally for agricultural purposes.*” (Matter in parentheses indicate that plural form is employed in Sec. 4501.01, supra; singular form in Sec. 4511.01, supra.)

(Emphasis added.)

It should also be noted that the definition above has been incorporated by reference in Chapters 4503, 4507 and 4513, Revised Code.

There are, of course, inherent difficulties in attempting to superimpose one statutory definition upon another, particularly where the statutes are unrelated. However, the above quoted provision appears to be of such general application as to justify that procedure, at least, in this instance. The statutory meaning may be said to conform to both the legal and lay understanding of what constitutes an agricultural tractor, and its use in statutes having differing legislative objectives contra-indicates that it was custom tailored for a restricted or exclusive legislative purpose. It would seem to be honestly descriptive of that which it purports to define in a dictionary sense as well as a legislative sense.

Revisiting the term “motor vehicle” as employed in Section 5728.01, supra, if we transpose the qualification relating to design and employment in general highway transportation to the end of that provision, retaining its precise verbiage, and eliminate language not pertinent to the instant inquiry, the subdivision would read as follows:

“‘Motor vehicle’ means everything on wheels which is self-propelled, \* \* \* used to transport or propel property on the public highway; (other than vehicles \* \* \* *not designed for or employed in general highway transportation.*)

(Matter in parentheses, transposed. Emphasis added.)

In such context, it is manifest that whether or not upon occasion a vehicle is used to transport or propel property on the public highway, the ultimate factor which brings it within or without the statutory definition, is whether or not it is designed for, or employed in general highway transportation. The question stated in the terms of the definition previously

established, resolves itself into whether a vehicle "used principally for agricultural purposes" is a vehicle "designed for or employed in general highway transportation."

The word "designed", in my opinion, means something more than structural design or external appearance. To hold otherwise, would lead to a conclusion that its use in connection with the term "employed" is, at least, partially redundant. If a vehicle is actually employed in general highway transportation, it must be designed for it in the sense that its structure is adapted or adaptable to that function. Its external structural appearance is determined and limited only by the imagination, conventional or unconventional, of its fabricator.

Consequently, the word "designed" is used in its broader sense, and in the context here considered is equivalent to an intended or dedicated purpose to which the vehicle is to be put by its then possessor, regardless of its structure; and the term "employed" signifies an application of the vehicle to that purpose, pursuant to that intention.

"General highway transportation" indicates a customary, usual and common use of the vehicle as distinguished from an occasional or sporadic use divorced from, or ancillary to its primary and principal and dedicated purpose. Thus, a vehicle used principally for agricultural purposes is, ipso facto, neither designed for nor employed in general highway transportation. That is to say, its use primarily and chiefly in the production of agricultural products precludes its *general* use in a totally different capacity. That the vehicle is intended and dedicated to that agricultural purpose is presumed, prima facie, from the fact of its being so used.

There will, of course, be individual fact situations where it will become a matter for administrative determination in the first instance, as to whether a particular vehicle, considered in the light of its intended or dedicated and factual function, is used principally for agricultural purposes on the one hand, or designed for or employed generally in highway transportation on the other. In any event, its principal use in the former function negates its general designation or employment in the latter.

It follows, then, that an agricultural tractor, as defined and described in Sections 4501.01 and 4511.01, supra, is not a motor vehicle as defined in the highway use tax statutes, since it is "not designed for or employed in general highway transportation" within the purview of subdivision (A)

of Section 5728.01 supra. Since subdivision (C) of said section defines a commercial tractor as a “\* \* \* *motor vehicle* designed and used to propel or draw a trailer or semi-trailer \* \* \*,” such agricultural tractor is not a commercial tractor within the meaning of said subdivision.

It may be noted parenthetically that the term “designed,” as used in the highway use tax statutes, is the subject of more exhaustive discussion in my Opinion Number 3398 issued to the Tax Commission on the 11th day of January, 1954, which is in accord with the conclusions reached herein.

Accordingly, within the limitations heretofore indicated, and in specific answer to your question, it is my opinion that an agricultural tractor, as that vehicle is described and defined in Sections 4501.01 and 4511.01, Revised Code, is not a commercial tractor as defined in Section 5728.01, subdivision (c), Revised Code, so as to render it amenable to the highway use tax levied under Chapter 5728, Revised Code.

Respectfully,

C. WILLIAM O'NEILL

Attorney General