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MOTOR VEHICLE EQUIPMENT — USE TO WHICH DEMOUNTABLE CONTAINER PUT, QUESTION OF FACT — STATUS, DEMOUNTABLE CONTAINER PLACED ON TRUCK CHASSIS OR SEMI TRAILER, HELD IN PLACE BY OWN WEIGHT AND BY CORNER ANGLE IRONS — TOTAL WEIGHT OF VEHICLE — MOTOR VEHICLE LICENSE TAX.

SYLLABUS:

The question as to whether or not a demountable container which is placed on a truck chassis or semi-trailer, and held in place thereon by its own weight and by corner angle irons into which it fits, constitutes motor vehicle equipment, the weight of which is to be included in the total weight of the vehicle in determining the proper motor vehicle license tax, is a question of fact to be determined by the use to which such container is put.

Columbus, Ohio, August 4, 1941.

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

Dear Sir:

This will acknowledge receipt of your request for my opinion as follows:

“Calling your attention to the provisions of Section 6293, General Code, we are requesting your opinion as to whether or not the weight of a ‘container’ should be included in the total weight in determining the proper license plate fee. The ‘container’ is not bolted to the truck chassis or semi-trailer but merely rests upon the truck or semi-trailer, held in place by its own weight and held in position by four corner angle irons. The freight is placed in the ‘container’ and in some instances by means of an electrical crane device the ‘container’ and the load is lifted from the vehicle and left at the point of destination. In other instances the load of freight is removed from the ‘container’ without removal of the ‘container’ itself. These ‘containers’ have doors on the front and rear and on both sides permitting great flexibility in the use of the same when loading or unloading freight.”

Section 6293, General Code, 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.”

An examination of the descriptive material accompanying your request reveals that the so-called “container,” when placed on the truck chassis, serves the same purpose as a truck body and looks exactly like the same. It is now definitely settled in this state that the weight of the vehicle fully equipped includes the weight of the body attached to it. This proposition was decided in the case of *State vs. Daily*, 128 O.S. 32.

The only case in Ohio of any substantial assistance is the case of *State, ex rel. Tejan, et al. vs. Lutz, et al.*, 31 N.P. (N.S.) 473. In that case the court at page 512 laid down the following tests to be applied in determining whether equipment is inherently motor vehicle equipment:

“First, does the apparatus become an integral part of the

truck and form an addition to its structure so that it may be regarded as a part of the truck itself?

Second, whether permanent or detachable, is it *per se* truck equipment?

Third, does its use indicate it to be functioning as part of the truck for truck uses, or as machinery, in itself, for its special use and results?

Fourth, does it carry the truck load, or assist in doing so, or does it merely become an object transported?"

It will be noted that in the foregoing tests the court emphasized the use of the equipment in question. If it carries the truck load or assists in doing so it is an inherent part of the truck and the weight of the same should be included. However, if the use of the container indicates that it is merely an object transported, then the weight of the same should not be included in determining the proper motor vehicle license tax.

Therefore, it appears that the ultimate question is one of fact. If the container is removed from the truck chassis or semi-trailer and then unloaded its use would indicate that it is merely an object transported. In such a situation a container would be serving the same purpose and use as a packing crate or other similar object. However, if it is loaded and unloaded while on the truck chassis or semi-trailer its use would indicate that it is serving the same purpose as a truck body. In such a case it would not constitute merely an object transported but would form an inherent part of the vehicle and the weight of the same should be included in determining the proper tax. Thus, whether the container constitutes motor vehicle equipment depends on the use of the equipment in the given situation as determined by the tests herein set forth.

Therefore, in view of the foregoing, I am of the opinion that the question as to whether or not a demountable container which is placed on a truck chassis or semi-trailer, and held in place thereon by its own weight and by corner angle irons into which it fits, constitutes motor vehicle equipment, the weight of which is to be included in the total weight of the vehicle in determining the proper vehicle license tax, is a question of fact to be determined by the use to which such container is put.

Respectfully,

THOMAS J. HERBERT,
Attorney General.