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AN OWNER OF HOUSE TRAILER WHO PAID THE TRAILER TAX PRIOR TO JANUARY 1, 1962 IS ENTITLED TO \$4.50 TAX CREDIT, BUT MUST PAY TAX DUE UNDER §4503.06, R.C.—IN DETERMINING COST TO OWNER, ALL IMPROVEMENT ADDED TO HOUSE TRAILER SHOULD BE INCLUDED, BUT IN DETERMINING MARKET VALUE AT TIME OF PURCHASE ONLY IMPROVEMENTS AT THAT TIME TO BE CONSIDERED—IMPROVEMENTS ADDED AFTER ASSESSMENT NOT ADD TO \$ UNTIL FOLLOWING YEAR—ASSESSABLE VALUE OF TRAILER IS 40% OF COST TO OWNER OR MARKET VALUE AT TIME OF PURCHASE—DIV A, §§4503.06, 4503.064, R.C.

## SYLLABUS:

1. The owner of a house trailer who pursuant to Section 4503.06, Revised Code, as existing immediately prior to January 1, 1962, paid the then existing trailer tax, as entitled under Section 4503.064, Revised Code, to receive credit on the tax due under present Section 4503.06, Revised Code (effective January 1, 1962); but said owner must pay the tax due under present Section 4503.06, less said credit, within the time prescribed by that section, or be subject to the penalties contained therein.

2. Under division (E) of Section 4503.06, Revised Code, in determining the cost to the owner, including improvements, all improvements added to such house trailer should be included whether or not they were a part of the trailer at the time of purchase; but in determining the market value of the trailer at the time of purchase, only the existing improvements at the time of purchase should be included in assessing the value.

3. Under Section 4503.06, Revised Code, the tax shall be computed and assessed once each year. Where a trailer is listed and the assessable value is based on "the cost to the owner, including improvements," the fact that improvements are added in the same year *after* the assessment is made does not require the owner to re-list the new or additional value in that year.

4. Under the formula of division (E) of Section 4503.06, Revised Code, the assessable value of a house trailer is forty per cent of either the cost to the owner, including improvements, or market value at the time of purchase, including improvements, whichever is greater, multiplied by the designated percentage applying to the house trailer based on the number of years the current owner of the trailer has had such ownership.

Columbus, Ohio, May 17, 1962

Hon. Paul R. Young, Prosecuting Attorney  
Montgomery County, Dayton, Ohio

Dear Sir:

I have before me your request for my opinion which reads as follows:

"We would like your opinion on the following questions:

"1. When does the penalty apply on House Trailers pursuant to Section 4503.06 in a case where the owner has paid his 1961 fiscal year bases which would run to March 30, 1962 and he has received credit towards his 1962 payment; does the penalty apply after January 30th even though he has paid by reason of the credit to March 30th?

"2. In regards to the assessable value under division (E) of Section 4503.06; it provides that the assessable value shall be 40% of the amount arrived at by computing the cost to the owner or market value at time of purchase whichever is greater of the house trailer *including im-*

*provements*, shall be multiplied by the first calendar year in which the trailer is owned by the current owner by eighty (80) percent; for the second year by seventy (70) percent; etc.

“A. Now then in reference to improvements, suppose (X) buys a trailer without the improvements and lists said trailer for taxation; then later he buys the improvements from the dealer or installs improvements himself later, is he required to re-list the new or additional value?”

“B. Also under this section, what is meant by the ‘first calendar year and second calendar year’ in which trailer is owned by current owner? For example, (X) buys a new trailer January 1962 that is then his first year and his cost would be multiplied by 80%; but suppose (X) buys a five year old trailer on January 1, 1962 would that be considered his first year and also multiplied by 80%, or in other words would January 1, 1962 be considered the first year for anyone irrespective of the age of the trailer?”

Prior to January 1, 1962, division (A) of Section 4503.06, Revised Code, read as follows:

“A tax shall be levied upon house trailers for the purpose of supplementing the general revenue funds of the local subdivisions in which the house trailer is located at the time the tax becomes due in accordance with this action. The year for which the tax is levied shall commence on the first day of April and end on the following thirty-first day of March. The tax shall be collected by and paid to the county auditor of the county in which the house trailer is located at the time the owner makes application for registration as provided in this section.” (127 Ohio Laws, 725)

Effective January 1, 1962, division (A) of Section 4503.06, Revised Code, provides:

“All house trailers in this state on the first day of January, except as otherwise provided are subject to an annual tax, payable by the owner, for the privilege of using or occupying a house trailer in this state. The tax as levied in this section is for the purpose of supplementing the general revenue funds of the local subdivision in which the house trailer has its situs pursuant to the provisions of this section.” (Amended Substitute Senate Bill No. 127 of the 104th General Assembly).

Thus, the 104th General Assembly repealed former Section 4503.06, Revised Code, and enacted a new provision which broadened the tax base and changed the tax period.

Section 4503.064, Revised Code, provides :

“Four dollars and fifty cents shall be credited towards the taxes due, for the year 1962, as levied by section 4503.06 of the Revised Code, provided that the tax, as levied by section 4503.06 of the Revised Code, prior to January 1, 1962 has been paid.”

The problem posed by your first question necessitates that I determine whether the credit allowed by Section 4503.064, Revised Code, precludes the imposition of the penalty for failure to pay the tax due under present Section 4503.06 until after March 31, 1962. The penalty is specified in division (G) and (H) of Section 4503.06, Revised Code, as follows :

“(G) The tax is due and payable as follows :

“(1) When a house trailer acquires a situs in this state, as provided in this section, on or after the first day of January and on or prior to the thirtieth day of June, a minimum of one-half of the tax is due and payable immediately upon the expiration of a thirty day period commencing with the date the situs is acquired and one-half on or prior to the first day of October ;

“(2) When a house trailer acquires a situs in this state, as provided in this section, on or after the first day of July and on or prior to the thirty-first day of December the entire tax is due and payable immediately upon the expiration of a thirty day period commencing with the date the situs is acquired.

“(H) If the payments of the tax are not made as provided in division (G) (1) or (G) (2) of this section, a penalty of one dollar a day for each continuing day of nonpayment to a maximum of twenty-five dollars shall be imposed and collected in addition to the tax due and owing.”

Present Section 4503.06, Revised Code, indicates that the legislature has created a new tax to be substituted for that prescribed by the former section. The time for the payment of this new tax is specifically set forth and section 4503.064, Revised Code, provides a credit upon the new tax for payment of the tax prescribed by former Section 4503.06, Revised Code.

The legislature did not provide that the payment of the tax imposed by former Section 4503.06, Revised Code, would exempt the taxpayer

from payment until after March 31, 1962 but instead provided a credit on the new tax. The payment of the former tax cannot be considered to have the effect of a license and the use of a credit rather than an exemption clearly indicates an intention that all persons should pay on the date prescribed by the new law. This procedure eliminates confusion while clearly protecting the individual from the imposition of a dual tax.

I therefore conclude that the owner of a house trailer who, pursuant to Section 4503.06, Revised Code, as existing immediately prior to January 1, 1962, paid the then existing trailer tax, is entitled to receive \$4.50 credit as provided in Section 4503.064, Revised Code, on the tax due under present Section 4503.06, Revised Code; but said owner must pay the tax due under present Section 4503.06, Revised Code, less said credit, within the time prescribed by that section or be subject to the penalties contained therein.

Coming now to your second question, designated "2 A" and concerning the method of computing the tax and the inclusion of improvements acquired after the purchase of a house trailer, division (E) of Section 4503.06, Revised Code, provides:

"The tax shall be computed and assessed by the county auditor of the county containing the taxing district wherein the house trailer has its situs by multiplying the assessable value of the house trailer by the tax rate of the taxing district in which the house trailer has its situs, and shall be not less than eighteen dollars in any case.

"The assessable value of the house trailer shall be forty per cent of the amount arrived at by the following computation:

"The cost to the owner, or market value at time of purchase, whichever is greater, of the house trailer, including improvements, shall be multiplied for the first calendar year in which the trailer is owned by the current owner, by eighty per cent; for the second year by seventy per cent, for the third year by sixty per cent, for the fourth year by fifty per cent, for the fifth year by forty per cent, for the sixth year and each year thereafter by thirty per cent; provided, when a house trailer, which is not located in this state on the first day of January, is acquired or first enters this state, the assessable value for that year is determined by multiplying the assessable value as computed under the provisions of this section by a fraction whose numerator is the number of full months remaining to the following thirty-first day of December, commencing with the date of acquisition or entrance into this state, and whose denominator is twelve. If the minimum tax of

eighteen dollars is applicable to a house trailer not located in this state on the first day of January, the tax is determined by multiplying one dollar and fifty cents by the number of full months remaining to the following thirty-first of December commencing with the date of acquisition or entrance into this state.”

The pertinent language in this instance is the following :

“The cost to the owner, or market value at time of purchase, whichever is greater, of the house trailer, including improvements, shall be multiplied § \* \*”

Thus, taking the language literally, the assessable value is the greater of :

1. The cost to the owner, including improvements.
2. The market value of the trailer, including improvements, *at the time of purchase.*

As to “1”, in determining the cost to the owner, improvements made at any time should be included, since the words “at the time of purchase” clearly apply only to the words “market value.”

As to “2”, in determining the market value of the trailer, only the existing improvements at the time of purchase should be included in assessing the value.

As to assessing the value of a house trailer, such should be done when the trailer acquires a situs. In this regard, division (C) of Section 4503.06, Revised Code, reads :

“(C) The situs of a house trailer used or occupied in this state is the local taxing district wherein the house trailer is located on the first day of January, except, when a house trailer, which is not located in this state on the first day of January, is acquired or first enters this state, the situs of such house trailer is the local taxing district wherein such house trailer is located immediately upon the expiration of a thirty day period commencing with the date of acquisition or entrance into this state.”

Under division (E) of Section 4503.06, set forth earlier, provision is made for the county auditor of the county containing the taxing district wherein the house trailer has its situs to compute and assess the tax. Under the language used, it is clear that such computation and assessment is done only once in each year. Thus, when a trailer is listed and the assessable value is based on “the cost to the owner, including improvements;” the

fact that improvements are added in the same year *after* the assessment does not require the owner to re-list the new or additional value in that year. (Such improvements will, of course, be considered in the assessment made in the next taxable year.)

Considering your third question, designated "2 B", division (E) of Section 4503.06, *supra*, provides that the assessable value of the house trailer is forty per cent of either the cost to the owner, including improvements, or market value at the time of purchase, including improvements, *whichever is greater*, multiplied by:

Eighty per cent for the first calendar year in which the trailer is owned by the current owner;

Seventy per cent for the second year;

Sixty per cent for the third year;

Fifty per cent for the fourth year;

Forty per cent for the fifth year;

Thirty per cent for the sixth and later years.

Thus, if X bought a five year old trailer on January 1, 1962, 1962 would be the first calendar year in which the trailer is owned by X, the current owner, and the eighty per cent figure would be used in calculating the assessable value of the house trailer.

It is true that under the above reasoning a five year old trailer could be taxed at the same rate as a new trailer. In enacting the new tax, however, the legislature did not use the age or present value of the trailer as a basis for assessment—the length of ownership by the current owner is the determining factor. Accordingly, I can only follow the clear provision which the legislature has enacted.

In answer to your specific questions, it is my opinion and you are advised:

1. The owner of a house trailer who pursuant to Section 4503.06, Revised Code, as existing immediately prior to January 1, 1962, paid the then existing trailer tax, is entitled under Section 4503.064, Revised Code, to receive \$4.50 credit on the tax due under present Section 4503.06, Revised Code (effective January 1, 1962); but said owner must pay the tax due under present Section 4503.06, less said credit, within the time prescribed by that section, or be subject to the penalties contained therein.

2. Under division (2) of Section 4503.06, Revised Code, in determining the cost to the owner, including improvements, all improvements added to such house trailer should be included, whether or not they were a part of the trailer at the time of purchase; but in determining the market value of the trailer at the time of purchase, only the existing improvements at the time of purchase should be included in assessing the value.

3. Under Section 4503.06, Revised Code, the tax shall be computed and assessed once each year. Where a trailer is listed and the assessable value is based on "the cost to the owner, including improvements," the fact that improvements are added in the same year *after* the assessment is made does not require the owner to re-list the new or additional value in that year.

4. Under the formula of division (E) of Section 4503.06, Revised Code, the assessable value of a house trailer is forty per cent of either the cost to the owner, including improvements, or market value at the time of purchase, including improvements, whichever is greater, multiplied by the designated percentage applying to the house trailer based on the number of years the current owner of the trailer has had such ownership.

Respectfully,

MARK MCELROY

Attorney General