

4352

FARM TRUCK LICENSE PLATES — TRUCKS OWNED BY CORPORATION USED TO TRANSPORT ALFALFA HAY — SUCH HAY PURCHASED AS GROWING CROP, CUT AND HANDLED BY CORPORATION EMPLOYEES — SUCH EQUIPMENT NOT “FARM TRUCKS” AND MAY NOT BE SO LICENSED — SECTION 6292 GENERAL CODE.

## SYLLABUS:

*Trucks owned by a corporation, and used for transporting alfalfa hay which hay after being purchased as a growing crop by such corporation, is cut and handled by the employes thereof with the equipment owned by the corporation, are not farm trucks with in the meaning of section 6292 of the General Code and consequently may not be licensed as such*

Columbus Ohio, October 23, 1941

Hon. James W. Williamson, Prosecuting Attorney,  
Wauseon, Ohio.

Dear Sir:

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

"An Ohio Corporation, hereinafter referred to as the company, is locally engaged in processing alfalfa hay. It is their practice to procure their raw material by contracting with the owner of a then growing alfalfa stand some time prior to the ripening of the first cutting, about May 15th. The only contract consists of a stipulation incorporated in a check which is given as an advance or binder payment. A copy of the check is enclosed for your reference.

"After contracting for the crops the company, using its own equipment and labor, does all of the mowing, cutting and handling of the hay. The green hay is loaded upon company trucks and transported to its mill where it is dehydrated after which it is further processed into meal and sold to manufacturers of poultry and livestock feed.

"The trucks used in transporting the green hay to the mill are used for no other purpose.

"Query: Do the company trucks qualify under the provisions of Section 6292, Ohio General Code, as a 'farm truck' entitled to carry on the operations outlined herein under a 'farm truck' license?"

Section 6292, General Code, insofar as the same is pertinent to your question, provides:

"For each farm truck which is owned, controlled or operated by one or more farmers exclusively in farm use as hereinafter defined, and not for commercial purposes, and provided that at least seventy-five percent (75%) of such farm use shall be by or for the one or more owners, controllers or operators of the farm or farms, in the operation of which a farm truck is used, the license tax shall be as follows: \* \* \* "

"For the purposes of this act, use of a farm truck is defined as one used in the transportation from the farm of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm of supplies for the farm including tile, fence and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and/or things used for breeding, feeding or other purposes connected with the operation of the farm or farms."

It will be noted that the farm truck license tax applies only to those trucks which are owned, controlled or operated by farmers exclusively in farm use and not for commercial purposes. Furthermore, seventy-five

percent (75%) of such farm use must be in connection with the farm of the owner, operator or person in control of the truck. Therefore, if the corporation here involved is entitled to use farm truck license plates, it must be determined that such corporation is a "farmer" and owns, controls or operates a farm.

It appears that the corporation is engaged in the business of processing alfalfa hay. In the course of such operations, it contracts with a farmer for the purchase of his then growing alfalfa. The corporation does not plant or cultivate the crop. It only does the mowing, cutting and handling of the hay.

The check which is used to pay the landowner contains all the stipulations applicable to this transaction. This check in so far as the same is pertinent, states:

"Pay to the order of..... \$.....DOLLARS.  
Advance payment on all cuttings and entire crops of alfalfa grown during 194.....on approximately.....acres of land leased at \$..... per acre. Exact acreage to be determined by measurement before final payment. Balance of first third payment due on or about ..... 194..... In case of less than an average number of normal crops or cuttings for the season, and in case of failure or loss of crops or cuttings, inability to harvest, transport, deliver or mill the same, because of drought, storms, excessive rains, labor troubles or other causes beyond the reasonable control of the undersigned, then the undersigned shall not be liable hereunder at the rate specified, and an adjustment shall be made accordingly. The owner represents there are no liens of any kind on the crops."

Although this contract refers to "acres of land leased," it is obvious that the latter word has little if any significance. This fact definitely appears for the reason that the contract is, in substance, merely an agreement to purchase the crop of alfalfa for the particular year, whatever the extent of the crop may be. Furthermore, the corporation takes very little, if any, of the risk incident to usual farming operations. According to the contract, if the crop fails or is below normal, "an adjustment shall be made accordingly."

In 25 C. J. at pages 673 and 674, the following definitions of the word "farmer" are found:

"The word has a well recognized meaning and has been de-

defined as a person engaged in the business of cultivating land or employing it for the purpose of husbandry; a man who cultivates a considerable tract of land in some one of the usual recognized ways of farming; one who is devoted to the tillage of the soil; a person engaged in the tillage of the soil; a tiller of the soil; one who tills the soil; one who resides on a farm, with his family, cultivating such farm, and mainly deriving his support from it; one who owns and resides on a farm; one who directs the business of a farm and works at farm labor; one who cultivates a farm either as owner or lessee; an agriculturist; a cultivator; a husbandman."

I do not deem it necessary to comment on the above definitions other than to say it is obvious that the corporation here involved is not a "farmer" as above defined. It is engaged in the business of manufacturing alfalfa meal, and its only contact with a farm is to purchase a crop grown thereon. In no way can it be said that it is a farmer or engaged in farming operations.

In establishing a lower truck license tax for farm trucks, it was the intent of the Legislature to benefit those who obtain their livelihood from the soil in connection with which operations a truck is used. To say that the corporation in question is engaged in farming and therefore is entitled to farm truck license plates, complies with neither the spirit nor the letter of the law.

Therefore, I am of the opinion that a corporation which is engaged in the business of processing alfalfa hay and which purchases crops of alfalfa, doing no cultivation but mowing, cutting and handling the hay with its own equipment and employees, paying only for the actual crop yield, is not entitled to farm truck license plates for the trucks used to transport the hay from the field to the plant of the company.

Respectfully,

THOMAS J. HERBERT,

Attorney General.