

and fifty-seven dollars and seventy-six cents (\$1357.76) as rent during each and every month of the rest of such term.

Lease from the Western and Southern Life Insurance Company of Cincinnati, Ohio, for the second floor and basement of the Peters Building at 62-68 East Gay Street, Columbus, Ohio, with the exception of approximately 250 square feet at the north end of such basement. This lease is for a term of one year, beginning on the first day of January, 1935, and ending on the thirty-first day of December, 1935, by the terms of which the State will be required to pay a rental of five hundred and thirteen dollars and sixty-one cents (\$513.61) with a deduction of eighty-one dollars and eighty cents (\$81.80) for the month of January, due to the fact that possession of the second floor was not taken until January 10, 1935.

Lease from the Western and Southern Life Insurance Company of Cincinnati, Ohio, for the portion of space in the rear of the Peters Building at 62-68 East Gay Street, Columbus, Ohio, within the confines of the existing foundation walls of the building formerly occupying said space. This lease is for a term of ten and one-half months, beginning on the fifteenth day of February, 1935, and ending on the thirty-first day of December, 1935, by the terms of which the State will be required to pay the sum of thirty dollars (\$30.00) as rental for the last half of February, 1935, and sixty dollars (\$60.00) per month for each month thereafter of such term.

Lease from the Security Savings Bank Company of Athens, Ohio, for Room No. 9 containing approximately 259 square feet of space in the Security Bank Building, Athens, Ohio. This lease is for a term of twenty and two-thirds months, beginning at the date of occupancy in April, 1935, and ending on the thirty-first day of December, 1936, by the terms of which the State will be required to pay a rental of seventeen dollars and fifty cents (\$17.50) each month of said term.

You have submitted encumbrance estimates which contain the certificate of the Director of Finance to the effect that funds are available for the payment of rentals for at least a month of the term of such leases, which is sufficient. In each instance proper evidence of authority has been furnished indicating the right of the persons executing said leases to execute them.

Finding said leases in proper legal form, I hereby approve them as to form and return them herewith.

Respectfully,

JOHN W. BRICKER,

*Attorney General.*

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4220.

CORPORATION—EFFECT OF MERGER OF TWO CORPORATIONS IN OBTAINING LICENSES AND REGISTRATION OF MOTOR VEHICLES.

**SYLLABUS:**

*Where existing Corporations A and C are merged into existing Corporation B rather than forming a new consolidated corporation, the Corporation B need not procure new licenses for the motor vehicles it itself has already registered, but Corporation B into which the constituent Corporations A and C merged must procure new registration and licenses for the motor vehicles acquired, pursuant to the merger agreement from*

*the constituent Corporations A and C, even though such motor vehicles are already registered and licensed by the constituent Corporations A and C.*

COLUMBUS, OHIO, May 4, 1935.

HON. FRANK WEST, *Registrar, Bureau of Motor Vehicles, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

“This bureau is in receipt of the following letter:

“This office represents three motor freight transportation companies and for the sake of this hypothetical question, I will refer to them as Corporations A, B and C, all of which are organized and existing under the laws of the State of Ohio, each owning motor vehicle equipment for which license tags have been purchased for the full year of 1935. These corporations desire to merge or consolidate pursuant to G. C. Sec. 8623-67 et seq.

No new corporation will be organized to finally carry on the operations, but one of the three constituent corporations, namely Corporation B will be the consolidated corporation and the one under which business will be finally carried on. In other words, A and C will merge or consolidate with B under the name of Corporation B which will be continued as it now is in the Office of the Secretary of State.

The question which is confronting us and to which we can obtain no satisfactory answer is whether or not Corporations A, B and C will have to purchase new license tags contemporaneously or immediately after a consolidation agreement is prepared and filed with the Secretary of State?

May we have your advice on this matter as promptly as may be convenient?”

Will you give us your opinion as to whether or not new license plate registrations are required?”

I call your attention to my opinion rendered March 29, 1934, to be found in Opinions of the Attorney General for 1934, Vol. I, page 363, which held as disclosed by the syllabus:

“Where constituent corporations consolidate to form a new corporation, such consolidated corporation must procure new registration and licenses for the motor vehicles acquired pursuant to such consolidation from the constituent corporations, even though such motor vehicles are already registered and licensed by the constituent corporations.”

The opinion above referred to related to the case of Corporations A, B, C and D consolidating to form Corporation X, by virtue of Section 8623-67 et seq. of the General Code. Section 8623-67, General Code, provides in part:

“Any two or more corporations organized under this act or any previous corporation act of this state may consolidate into a single corporation hereinafter called ‘consolidated corporation,’ which may be any one of such constituent corporations or a new corporation to be formed by such consolidation, \* \* \* .”

Section 8623-68, General Code, provides inter alia:

"When the agreement of consolidation is signed, acknowledged and filed as required in the preceding section the separate existence of all of the constituent corporations, or all of the constituent corporations except the one into which such constituent corporations have been merged, as the case may be, shall cease, except for the limited purpose hereinafter specified, and the constituent corporations shall become a new corporation, or be merged into one of such corporations, as the case may be, \* \* \* .

Such consolidated corporation shall be subject to all the liabilities and duties of each of such corporations so consolidated; and all property, real, personal and mixed, and all debts and liabilities due to any of said constituent corporations on whatever account, as well for subscriptions for shares as all other things in action of or belonging to each of such corporations, shall be vested in the consolidated corporation, *and all property, rights, privileges, powers, franchises, and immunities and all and every other interest shall thereafter be as fully and effectually the property of the consolidated corporation as they were the property of the several and respective constituent corporations, \* \* \* .*" (Italics the writer's)

It should be noted that Section 8623-67, General Code, and Section 8623-68, General Code, relate to what in a technical legal sense is termed a "merger" as well as to the "consolidation" of corporations.

Section 6294-1, General Code, relative to the transfer of ownership of motor vehicles, provides in part:

"Upon the *transfer of ownership* of a motor vehicle its registration shall expire, and it shall be the duty of the original owner to immediately notify the director of highways of the name and address of the new owner and return to the director of highways the registration certificate for cancellation. The original owner shall also remove the number plates from a motor vehicle upon *transfer of ownership* of such vehicle. \* \* \* " (Italics the writer's)

In my opinion to be found in Opinions of the Attorney General for 1934, Vol. I, page 363, referred to supra, I collated all former opinions of the Attorney General relative to the question of transfer of ownership of a motor vehicle under Section 6294-1, General Code, supra. An analysis of these opinions will show that the necessity for new license plates is dependent upon whether there is a transfer of ownership of a motor vehicle from one legal entity to another.

In Opinions of the Attorney General for 1929, Vol. I, page 557, at page 559, it is stated:

"This department in construing this provision in Opinion No. 2066, (O. A. G. 1928, Vol. II, p. 1135), directed to you under date of May 7, 1928 held that the privilege of transferring number plates from the original car to another car is *personal* to the original owner and that *the number plates on a car may not be assigned for transfer to the new owner of such car*. The matter of assigning a distinctive number to a motor vehicle and issuing number plates therefor is one that follows the filing of an application for the registration of such motor vehicle and the payment of the tax imposed by the motor vehicle license law. It follows, that where the owner of a motor vehicle, who has filed an application for the registration of such motor vehicle and has paid the annual license tax or fee therefor, sells or transfers such motor

vehicle to another person during such current year, the license issued to the original owner on such motor vehicle cannot be transferred to the vendee or transferee of such motor vehicle; but that such vendee or transferee as a condition to his right to operate such motor vehicle upon the public roads or highways of this state, is required to file an application for the registration of such motor vehicle and pay therefor such part of the normal tax as is provided by the provisions of Section 6295, General Code, above quoted." (Italics and parenthesis the writer's)

It is apparent under the facts presented in your inquiry that on the merger of Corporations A and C into the existing Corporation B that there will be a transfer of ownership of the motor vehicles owned by Corporations A and C to Corporation B. That is, Corporation B is a corporation and legal entity wholly separate and distinct from Corporations A and C. I am unable to legally differentiate between a transfer of ownership of a motor vehicle from one individual to another individual from the transfer of ownership of a motor vehicle from one corporation or legal entity to another corporation or legal entity separate and distinct in law from the transfer or even though it be by virtue of a merger or consolidation in pursuance of Sections 8623-67, et seq., General Code, and even though Section 8623-68, General Code, supra, provides that there shall be vested in the consolidated corporation, "all property, rights, privileges, powers, franchises, and immunities and all and every other interest." Motor vehicle licenses are not property rights but merely personal rights derived from payments of a license tax and the privilege of using such license plates is personal to the owner. It is my view that the "privileges" referred to in this section do not contemplate the use of license plates of the Corporations A and C by the Corporation into which they are merged, Corporation B. In my opinion Section 8623-68, General Code, was not meant to in any way modify the provisions of Section 6294-1, General Code, relative to the expiration of motor vehicle registrations upon transfer of ownership of a motor vehicle. Consequently, it is my opinion that upon the merger of Corporations A and C into the Corporation B, that Corporation B will have to re-register and license the motor vehicles transferred to it from Corporations A and C inasmuch as there has been a transfer of ownership from the legal entities A and C to the legal entity, B Corporation.

However, you also inquire as to whether or not Corporation B will have to re-register and license the motor vehicles now owned and licensed by it for the year 1935. Inasmuch, as stated supra in this opinion, that the necessity for new license plates is dependent upon whether there is a transfer of ownership from one legal entity to another, it is apparent that there will be no transfer of ownership of the motor vehicles already owned by Corporation B and consequently Corporation B would not be required to purchase new license plates for the motor vehicles it already owns and has licensed. This result was implied in my opinion to be found in Opinions of the Attorney General for 1934, Vol. I, page 363 at page 366, wherein it was stated:

"Under Section 8623-68, General Code, quoted in part supra, if the constituent corporations merged into one of the old corporations rather than forming a new consolidated corporation, the old corporation might not have to procure new licenses for the motor vehicles it itself had already registered, inasmuch as this situation would be comparable to a mere change of name and would be covered by the reasoning of the opinion found in Opinions of the Attorney General for 1931, Vol. II, page 692, \* \* \* ."

In specific answer to your inquiries, it is my opinion that where existing Corporations A and C are merged into existing Corporation B rather than forming a new consolidated corporation, the Corporation B need not procure new licenses for the motor vehicles it itself has already registered, but Corporation B into which the constituent Corporations A and C merged must procure new registration and licenses for the motor vehicles acquired, pursuant to the merger agreement, from the constituent Corporations A and C, even though such motor vehicles are already registered and licensed by the constituent Corporations A and C.

Respectfully,  
 JOHN W. BRICKER,  
*Attorney General.*

4221.

MOTOR VEHICLE—GRANTOR REQUIRED TO PRESENT COPIES OF BILLS  
 OF SALE TO CLERK OF COURTS.

**SYLLABUS:**

*By virtue of Section 6310-10, General Code, the duty is placed upon the grantor in a bill of sale for a motor vehicle to present both copies of the bill of sale to the clerk of courts of the county wherein the passage of title was consummated within three days after such passage of title. The grantor is subject to the penalties provided in Section 6310-14, General Code, if he or his lawfully appointed agent for such purpose does not present such bills of sale within the three-day period after the passage of title to the motor vehicle. Although the grantee, as such, may not present such copies of the bill of sale to the clerk of courts, he may do so if he acts as agent for and on behalf of the grantor.*

COLUMBUS, OHIO, May 4, 1935.

HON. FRANK A. ROBERTS, *Prosecuting Attorney, Batavia, Ohio.*

DEAR SIR:—I am in receipt of your communication which reads as follows:

“The Clerk of Courts of this county is having considerable difficulty with the new amendment to Section 6310-10 of the General Code of Ohio, House Bill 252. The principal difficulty is arising out of the clause of the amendment providing that ‘Bills of sale must be recorded by the grantor instead of the grantee.’

Should a literal conclusion be placed upon this statute serious difficulties would be presented to automobile dealers and other vendors. Automobiles are often sold and deliveries made to destinations far distant from the place of residence of the grantor and should it be necessary for him personally to deliver the bill of sale to the Clerk of Courts in the county of residence of the grantee, it appears that needless expenditure of time and effort would result.

The Clerk has also been advised by an agent of the Tax Commission that where a bill of sale is mailed to him unless the envelope contains the return address of the grantor rather than the grantee, he is not authorized to accept the same for filing. A strict interpretation of the language of the statute