

"B" would be required to file the return provided for in section 5546-29, General Code, manifestly the provisions of the above section would apply and, therefore, if "B" fails or refuses to make such return criminal proceedings could be instituted against "B" under the provisions of the above section.

Therefore, under the facts stated in your communication, it is my opinion that:

1. The use of the automobile in Ohio by "B" is subject to the tax provided for in section 5546-26 of the General Code.

2. If said tax is not paid by the seller and "B" does not file with the Tax Commission the return provided for in section 5546-29, General Code, "B" would be subject to the assessment and penalty provided for in section 5546-37, General Code.

3. While "C" would not be a bona fide owner of the automobile, "B" could not be prosecuted for filing a sworn statement of ownership naming "C" as the bona fide owner.

4. If "B" fails to file with the Tax Commission, the return provided for in section 5546-29, General Code, criminal proceedings could be instituted against him under the provisions of section 5546-43, General Code.

Respectfully,

JOHN W. BRICKER,
Attorney General.

5467.

APPROVAL—CONTRACT FOR HIGHWAY IMPROVEMENT IN
FAYETTE COUNTY, OHIO.

COLUMBUS, OHIO, May 5, 1936.

HON. JOHN JASTER, JR., *Director of Highways, Columbus, Ohio.*