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MOTOR VEHICLES—RATES OF TAXATION SET OUT IN HOUSE BILL 115, 97 GENERAL ASSEMBLY BECOME EFFECTIVE APRIL 1, 1948—CANNOT BE APPLIED TO APPLICATIONS FOR REGISTRATION OF MOTOR VEHICLES FILED AND TAXES PAID BEFORE THAT DATE.

SYLLABUS:

The rates of taxation set out in House Bill No. 115 of the 97th General Assembly become effective April 1, 1948 and cannot be applied to applications for registration of motor vehicles filed and taxes paid before that date.

Columbus, Ohio, November 20, 1947

Hon. Edward T. Fogo, Registrar, Bureau of Motor Vehicles  
Columbus, Ohio

Dear Sir:

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

“Section 6294 of the General Code reads in part as follows:

‘Every owner of a motor vehicle and every person mentioned as owner in the last certificate of title, bill of sale or sworn statement of ownership of a motor vehicle which shall be operated or driven upon the public roads or highways of this state shall before the first day of April of each year, except as herein otherwise expressly provided, cause to be filed, by mail or otherwise, in the office of the registrar or a deputy registrar, a written application in not less than triplicate for registration for the following registration year, beginning the first day of April of such registration year, on blanks to be furnished by the registrar for that purpose, \* \* \*.’

Section 6292 of the General Code prescribes the rate of such taxes as will be imposed upon the various types of motor vehicles. This section was amended by the recent session of the legislature to provide a uniform or \$10.00 license fee for all passenger cars rather than the \$7.00, \$10.00 and \$16.00 fee based on the horsepower of the passenger car as is now in effect. The act amending Section 6292 of the General Code specifically provided that ‘this Act shall go into effect April 1, 1948.’ \* \* \*

Section 6294 of the General Code provides as follows:

‘From March 1 to April 1 of any given year it shall be lawful for the owner of a motor vehicle to use license placards of either the current registration year or the next succeeding year.’

It has been the practice of the bureau for many, many years to place license plates on sale one month in advance of the date they were actually required to be carried on the motor vehicle under our law. The foregoing part of Section 6294 as quoted was enacted to assist and stimulate the sale of license plates through the allowing of them to be carried on motor vehicles as soon as purchased on or after March 1 of each year. There has also been a practice in the bureau for many years of reserving certain license plates held by individuals from year to year. The applications on these special license plates are mailed to the holder of

these special numbers in January of each year with the request that they be returned to the bureau on or before February 15. In all instances, whether it be in the reservation series or those plates sold over the counter prior to April of each year, the application is taken on an application blank dated for the succeeding registration year which, for our next issue, would be dated 1948.

The writer would appreciate your interpretation of the registration law as amended and the specific advice if we may legally charge the new license fee on all 1948 passenger car licenses regardless of the date such application is accepted."

The sections of the General Code which are pertinent to your inquiry provide in part as follows:

Section 6291, General Code.

"An annual license tax is hereby levied upon the operation of motor vehicles on the public roads or highways of this state \* \* \*. Such tax shall be at the rate specified in this chapter and shall be paid to and collected by the registrar or deputy registrar at the time of making application for registration as herein provided."

Section 6291-1, General Code.

"The registrar shall designate the county auditor and one or more persons in each county to act as deputy registrars, who shall accept applications for the annual license tax \* \* \*."

Section 6292, General Code.

"The rates of such taxes shall be as follows: \* \* \*."

Section 6294, General Code.

"Every owner of a motor vehicle \* \* \* which shall be operated or driven upon the public roads or highways of this state shall before the first day of April of each year \* \* \* cause to be filed \* \* \* in the office of the registrar or a deputy registrar, a written application \* \* \* for registration for the following registration year, beginning the first day of April of such registration year, \* \* \*"

From March 1 to April 1 of any given year, it shall be lawful for the owner of a motor vehicle to use license placards of either the current registration year or the next succeeding registration year."

Section 6298, General Code.

“Upon the filing of such application and the payment of the tax imposed by this chapter, the registrar \* \* \* shall assign to such motor vehicle a distinctive number, and, issue and deliver to the owner \* \* \* a certificate of registration \* \* \* and two number plates, \* \* \*.”

As pointed out in your request, the rates of taxation at present prescribed by Section 6292, General Code, for passenger cars vary according to the horsepower of the cars licensed. This section was amended by House Bill No. 115 of the 97th General Assembly, to provide a uniform tax for all passenger cars. Section 2 of House Bill No. 115 provides as follows:

“This act shall go into effect April 1, 1948.”

You ask my opinion as to whether or not you can lawfully charge the rates provided by House Bill No. 115 when applications are made prior to April 1, 1948 for the license year beginning on that date. It is my opinion that you cannot, and that the tax must be collected at the old rate until April 1, 1948.

I reach this conclusion by a consideration of the plain language of House Bill No. 115 and the statute set out above. The statute requires that an application for registration shall be filed by the owner of a motor vehicle before April 1, and that the tax shall be paid at the time of making application. The registrar can collect the tax only at the rates authorized by law, and prior to April 1, 1948 the only rates legally in existence are the rates presently set out in Section 6292, General Code. By the express terms of the legislative enactment the new rates do not become a part of Section 6292 until April 1, 1948, and prior to that date the registrar cannot collect taxes under a statute that is not yet legally in existence.

In view of the fact that the General Assembly was dealing with a licensing period which begins annually on April 1, I think it quite possible that it intended the new rates to cover all applications for the 1948 license year no matter when filed. However, I cannot substitute my opinion as to the General Assembly's probable intention for the plain meaning of the unequivocal language which it employed.

In view of the above it is my opinion that the rates of taxation set

out in House Bill No. 115 of the 97th General Assembly become effective April 1, 1948 and cannot be applied to applications for registration of motor vehicles filed and taxes paid before that date.

Respectfully,

HUGH S. JENKINS,  
Attorney General.