

mind that a public officer who advances public funds without legal authority therefor is personally responsible for any loss occasioned by reason thereof.

Should the auditor feel justified in making such advancements before proper records are available and proper adjustments made in accordance with the statute, he might take as a basis for doing so the number of motor vehicles registered for the year 1925 or any other basis that might in his judgment be proper. In so doing, however, he should maintain such coefficient of safety as would preclude the possibility of making an over-payment to any municipality as it is of course possible that some municipalities might not have as many motor vehicles registered in proportion to the total number in the state in any one year as it had in the previous year.

Respectfully,
EDWARD C. TURNER,
Attorney General.

193.

TRANSFER OF AUTOMOBILE LICENSE—MUST APPLY WITHIN 30 DAYS
AND PAY CERTAIN FEES.

SYLLABUS:

Under the provisions of Section 6294-1, General Code, the owner of an automobile properly in possession of a license for the current year is entitled to make application for the registration of another motor vehicle within thirty days after the transfer of ownership, and upon the payment of a fee of one dollar together with the proper and additional tax thereon, if any, he is entitled to receive a new registration certificate good for the remainder of the current year.

COLUMBUS, OHIO, March 16, 1927.

HON. CARL Z. GARLAND, *Prosecuting Attorney, Batavia, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication requesting my opinion on the following state of facts:

“On December 15, 1926, A owns a Ford automobile and is operating the same properly on a 1926 license; December 15th A purchases a 1927 license for his automobile; December 20, 1926, A trades his automobile for a new Ford but does not have either the 1926 or 1927 license transferred to the second car until January 3, 1927, on which date he calls at the auditor's office of this county and makes a request to have his 1927 license, which he purchased for his first automobile transferred to his new Ford. Would it not have been proper that the transfer should be made as requested?”

Under the provisions of Section 6291, General Code, an annual license tax is declared to be levied upon the operation of motor vehicles on the public roads or highways of this state for the purpose of enforcing and paying the expense of administering the law relative to the registration and operation of such vehicles and of maintaining and repairing the public roads, highways and streets. Said tax is levied at the rates specified in this chapter and is required to be paid to and collected by the deputy commissioner at the time of making application for registration.

Section 6291-1, General Code, provides for the appointment of deputy commissioners who are authorized to accept applications for the annual license tax and *assign distinctive numbers* in the same manner as the commissioner of motor vehicles would do, in cases where such application is made direct to him. The deputy commissioner is required to keep and file each application and register each motor vehicle with the name and address of the owner thereof.

The pertinent parts of Section 6292, General Code, are as follows:

"Each owner of a motor vehicle shall pay or cause to be paid taxes as follows: * * * For the calendar year 1926 and for each calendar year thereafter, for each passenger car having twenty-five horse-power or less, four dollars; for each such car having more than twenty-five and not more than thirty-five horse-power, six dollars; for each such car having more than thirty-five horse-power, ten dollars. * * * "

According to your statement A was properly exercising his license for the year 1926. On December 15, 1926, he purchased a license for 1927.

Section 6294, General Code, provides in part as follows:

"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 January of each year, except as herein otherwise expressly provided, cause to be filed, by mail or otherwise, in the office of the commissioner of motor vehicles or a deputy commissioner, a written application in triplicate for registration for the following year, beginning the first day of January of such year, on blanks to be furnished by the commissioner of motor vehicles for that purpose, containing the following information:

- (1) A brief description of the motor vehicle to be registered, including the name of the manufacturer, the factory number of such vehicle, the year's model, engine number, the amount of motive power, if any, in figures of horse-power, * * * .
- (2) The name, residence and business addresses of the owner, and township, city, or village in which such owner resides.
- (3) The district of registration * * * .
- (4) Whether such motor vehicle is a new or used motor vehicle.
- (5) Date of purchase of such motor vehicle and whether such motor vehicle has been listed for taxation * * * .

Each deputy commissioner other than the county auditor shall forthwith, upon receipt of any application for registration together with the license fee, transmit such fee together with a duplicate copy of the application to the county auditor of the county in which such person resides. In any case where an application for registration is made to any deputy commissioner in any county other than the county in which such applicant resides, such fee and duplicate copies of the application shall be sent at once to the county auditor of the county in which such applicant resides and the original copy of such application shall be mailed to the commissioner of motor vehicles at Columbus * * * ."

Section 6294-1, General Code, provides for the duties of an owner upon the transfer of ownership, and is as follows:

"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

Secretary of State of the name and address of the new owner and return to the Secretary of State the registration certificate for cancellation. The original owner shall also remove number plates from a motor vehicle upon transfer of ownership of such vehicle. Should the original owner make application for the registration of another motor vehicle within thirty days after such cancellation, he may file a new application accompanied by a fee of one dollar, and pay the tax thereon, less the amount of the tax that would be collected on account of the vehicle transferred, on the date of such application."

Section 6298, General Code, provides that upon the filing of the application and the payment of the tax the commissioner or his deputy shall assign to such motor vehicle a *distinctive number* and issue a certificate of registration, and two number plates, duplicates of each other to the owner.

According to your statement, this was a completed transaction on December 15th. The owner having purchased a new car thereafter and before January 1st, made application on January 3rd to have his transaction theretofore made on December 15, 1926, apply to his new car instead of the old one.

It is my opinion that the deputy commissioner referred to in your letter was within his rights in refusing the request of the owner of the car on January 3, 1927, if A refused to file the necessary "new application accompanied by a fee of one dollar" as provided in Section 6294-1, *supra*. From your statement, the new car being of the same horse power as the old, it was unnecessary to pay any additional tax.

Under the provisions of Section 6294-1, General Code, providing for the transfer he was entitled to file a new application accompanied by a fee of one dollar and have the transfer properly made to the new car.

Respectfully,
EDWARD C. TURNER,
Attorney General.

194.

TAX DUPLICATE—EFFECT OF LATE DELIVERY TO COUNTY TREASURER.

SYLLABUS:

The delivery of the tax duplicate to the county treasurer at a later date than that prescribed by statute does not absolve the county treasurer from the duty of publishing the tax rates as required by Sections 2648 and 6252, General Code.

COLUMBUS, OHIO, March 16, 1927.

HON. D. A. BAIRD, *Prosecuting Attorney, Elyria, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication which reads:

"We are requesting your information as to the interpretation of General Code Section 6252 and Section 2648, in view of the following circumstances in this county.

The property in Lorain county has been re-appraised and the tax rates have been changed in the various subdivisions in the county, as well as for