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1. HOUSE TRAILER—CLASSIFICATION NOT LOST SOLELY BY REASON OF REMOVAL OF CHASSIS AS INCIDENT TO MOUNTING OF BODY ON FOUNDATION—SECTION 6290 G. C.
2. STATUTORY CLASSIFICATION LOST WHEN HOUSE TRAILER HAS BEEN RECONSTRUCTED SO AS TO BE UNFIT FOR USE AS CONVEYANCE WITHOUT FURTHER RECONSTRUCTION—NO LOSS OF CLASSIFICATION BY DISASSEMBLY OF SEVERAL PARTS OF STRUCTURE.
3. QUERY, CHANGE IN STRUCTURE OF HOUSE TRAILER, DISASSEMBLY OR RECONSTRUCTION—ONE OF FACT—SHOULD BE DETERMINED IN FIRST INSTANCE BY COUNTY AUDITOR.

SYLLABUS:

1. A house trailer as defined in Section 6290, General Code, does not lose its classification as such solely by reason of the removal of the chassis as an incident to the mounting of the body on a foundation.
2. A house trailer loses its statutory classification as such when it has been so reconstructed as to render it unfit for use as a conveyance without further reconstruction; but mere disassembly of the several parts of the structure does not cause such loss of classification.

3. The question in particular cases of whether a change in the structure of a house trailer is a disassembly or a reconstruction is one of fact, and should be determined in the first instance by the county auditor.

Columbus, Ohio, June 5, 1952

Hon. John Rossetti, Prosecuting Attorney
Stark County, Canton, Ohio

Dear Sir :

Your request for my opinion reads as follows :

“Our county auditor has submitted to us a question relating to application of the trailer tax as provided in Section 6292-2 of the General Code. The question arises from a set of circumstances in which it is necessary to first determine whether the trailer has become part of a realty.

“The facts presented are that the owner of the trailer, which is not upon land owned by him, has removed the wheels, axles, hitch and entire chassis from the trailer and has now placed it on a permanent foundation of cement blocks. The original form and shape of the trailer has not been otherwise altered. The auditor is in doubt whether the trailer should now be added to the real estate duplicate as an improvement or whether it is still subject to the trailer tax.

“Upon reviewing the definition of ‘house trailer’ as it appears in General Code Section 6290, it is noted that it includes any ‘vehicle’ whether resting on wheels, jacks, or other foundation. The latter phrase might include a foundation of the type described above, but on the other hand, the last two lines of the paragraph further state ‘and used or so constructed as to permit its being used as a conveyance upon the public streets or highways.’ Of course with the entire chassis removed the trailer could not be used on the highway.

“Specifically, our question is :

“Is a house trailer from which the entire chassis has been removed, and which is now mounted on a permanent cement block foundation, subject to the house trailer tax or has it become a part of the realty?

“In view of the comparative newness of the house trailer tax and the absence of any helpful decisions, we suspect you may have received numerous inquiries of a similar nature and will readily appreciate your opinion.”

The definition of a "house trailer" is found in paragraph 7a, Section 6290, General Code, which reads:

"'House trailer' means any self-propelled and nonself-propelled vehicle so designed, constructed, reconstructed, or added to by means of accessories in such manner as will permit the use and occupancy thereof for human habitation whether resting on wheels, jacks or other foundation and used or so constructed as to permit its being used as a conveyance upon the public streets or highways."

This language prescribes the following tests in the determination of whether a particular structure falls within the classification defined:

1. The structure must constitute a vehicle.
2. It must be so designed, constructed, etc., as to permit use and occupancy for human habitation.
3. It must be used or so constructed as to permit its being used as a conveyance upon the public streets or highways.

It is my understanding that your inquiry involves no question as to the application of the second test above stated. We are, however, concerned with the first and third tests and, as to them, we must give effect to the language of the definition "whether resting on wheels, jacks or other foundation."

It is obvious that where the chassis has been removed from a house trailer, it has lost one of the prime attributes of a vehicle, as this term is usually and ordinarily understood, since it is not then capable of use as a conveyance. Nor, in such case, could it be said to be "used or so constructed as to permit its being used as a conveyance upon the public streets or highways" within the usual and ordinary meaning of this language. It clearly appears, however, because of the necessity of giving effect to the limiting words "whether resting on wheels, packs or other foundation," that we are not free to adopt such usual and ordinary meaning.

In order to give to this language any effective meaning we must concede that the General Assembly clearly intended that a house trailer should not lose its classification as such merely because it had been placed on a foundation and so had become temporarily immobile. Thus we come to consider the effect of removing the trailer's chassis before mounting the body on a foundation.

It is common knowledge that in placing any wheeled vehicle on a fixed foundation, the prior removal of the chassis from the body will not only facilitate that operation but will tend also to produce a more effective end result. We may, therefore, conclude that the General Assembly contemplated that in many cases, if not in the usual case, the owner of such a vehicle would remove the chassis prior to placing it on a foundation; and since no exception is made in the statute with respect to such removal, we may conclude also that such removal alone is not sufficient to cause such vehicle to lose its classification under the statute.

I do not, of course, wish to be understood as holding that such a vehicle could never lose its statutory classification. It must be conceded that where such a vehicle has been reconstructed to such extent that it cannot, by simple reassembly of its parts, be made suitable for use as a conveyance, such loss of classification would occur. In other words, if the reconstruction in the process of immobilization is such that further steps of reconstruction are required again to fit the structure for use as a vehicle, then its classification as a house trailer has been lost; but if the vehicle has been merely disassembled and mounted on a foundation, the structure retains its statutory classification.

Here it should be pointed out that the question in particular cases of whether a disassembly or a reconstruction has occurred is one of fact and so is properly one for administrative determination by the officer responsible for the collection of the tax on such structures. This officer is, of course, the county auditor who is responsible also for making up the real estate tax duplicate. The auditor, therefore, is in a position to determine such questions of fact independent of any other administrative agency.

Respectfully,

C. WILLIAM O'NEILL
Attorney General