

**OPINION NO. 892****Syllabus:**

When an owner sells a house trailer upon which the annual tax levied by Section 4503.06, Revised Code, has been paid, that trailer is not subject to the provisions of Sections 4503.06 and 4503.061, Revised Code, for the remainder of the year for which said tax has been paid, and the purchaser may not be required to pay said tax during the remainder of said year.

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To: Earl W. Allison, Franklin County Pros. Atty., Columbus, Ohio  
By: William B. Saxbe, Attorney General, February 28, 1964

Your request for my opinion reads as follows:

"Revised Code 4503.06, paragraph (F) prior to amendment read:

" 'A house trailer is not subject to the provisions of this section when:

" '(4) the owner has registered and paid the tax on a house trailer in this state for the current year.'

"Revised Code 4503.06 Paragraph F (4), as amended by the General Assembly, reads:

" 'F. A house trailer is not subject to the provisions of this section, when:

" '(4) The annual tax has been paid on the house trailer in this State for the current year.'

"Revised Code Section 4503.061, beginning at the end of the 10th line of the third paragraph reads:

" 'Upon transfer of ownership of a house trailer the certificate as to such trailer expires and the original owner shall immediately remove such certificate from the trailer. Should the original owner make application for the registration of another trailer during the year for which the certificate was issued, he may file an application for transfer of the certificate, etc.'

"Revised Code Section 4503.06, paragraph A reads:

" 'All house trailers in this State on the first day of January, except as otherwise provided, are subject to an annual tax payable by the owner, for the privilege of using or occupying a house trailer in this state. The tax as levied in this section is for the purpose of supplementing the general revenue funds of the local subdivision in which the house trailer has its situs pursuant to the provisions of this section.'

"Revised Code 4503.061, first paragraph reads:

" 'All owners of house trailers having a situs in this state and subject to the tax as provided in Section 4503.06 of the Revised Code must register such trailer with the county auditor of the county containing the taxing district wherein the house trailer has its situs on or prior to the date the tax is due and payable.' (Emphasis ours).

"You will note that Revised Code Section 4503.061 directs that 'upon the transfer of ownership of a house trailer the certificate as to such trailer expires and the original owner shall immediately remove such certificate from the trailer.'

"Revised Code 4503.061 further reads:

" 'No person who is the owner of a house trailer and who is required to register a house trailer as required by this section shall fail to display on the front of such house trailer the certificate issued by the County Treasurer as provided in this Section.'

"In the event an owner sells his trailer on which a tax has been paid for the current year and the owner transfers his registration and certificate to another trailer in compliance with Revised Code 4503.061, will the purchaser of owner's trailer be compelled to pay the current trailer tax notwithstanding Revised Code 4503.06?"

Obviously, the problem arises as a result of an apparent discrepancy between the provisions of Sections 4503.06 and 4503.061, Revised Code. As existing Section 4503.06, Revised Code, became effective September 30, 1963, it is also obvious that no case law will be found interpreting this statute. Therefore, resort must be had to the principles of statutory construction to resolve the problem and in this connection an understanding of the history of this legislation may be helpful.

Prior to January 1, 1962, the entire tax levy provision relative to house trailers appeared in Section 4503.06, Revised Code. Section 4503.061, Revised Code, contained only a single provision, which required display of the certificate issued by the county auditor pursuant to Section 4503.06, Revised Code. At that time the registration of house trailers and collection of the tax was a function of the office of the county auditor only. The tax became due immediately upon occupancy of a house trailer for human habitation and the owner was required to make application to the county auditor for registration and to pay the tax. Upon payment of the tax the auditor issued a certificate. This certificate was valid in any county during the year for which issued. Then existing Section 4503.06, Revised Code, also provided:

"Upon the transfer of ownership of a house trailer the certificate as to such trailer shall expire, and the original owner shall immediately remove such certificate from the trailer. Should the original owner make application for the registration of another trailer during the year for which the certificate was issued, he may file an application for transfer of the certificate accompanied by a transfer tax of one dollar.\* \* \*"

Thus it was apparent that at that time it was the legislative intent that the house trailer tax be collected only once in any given year from any given owner, although in the event of a sale of a house trailer it may have been collectible more than once, as to that trailer.

Effective January 1, 1962, existing Sections 4503.06 and 4503.061, Revised Code, were repealed in their entirety and new provisions enacted. In this form administration of the house trailer tax was divided between the county auditor's and county treasurer's offices. County auditors were made responsible for registration of trailers and for the computation and assessment of the tax whereas the tax itself was to be collected by and paid to the county treasurer. Upon payment of the tax the treasurer was required to issue a certificate to the owner evidencing payment.

The language which existed in the previous Section 4503.06, Revised Code, to the effect that the certificate was to be valid in any county

during the year for which issued did not appear in this version of said section but subdivision (F) (4) of Section 4503.06, Revised Code, accomplished the same effect by providing:

"(F) A house trailer is not subject to the provisions of this section when:

"\* \* \* \* \*"

"(4) The owner has registered and paid the tax on a house trailer in this state for the current year."

Section 4503.061, Revised Code, of the law as effective January 1, 1962, required registration of house trailers with the county auditor, provided that the registration certificate should be valid in any county during the year for which issued and contained this language:

"\* \* \* Upon the transfer of ownership of a house trailer, the certificate as to such trailer expires and the original owner shall immediately remove such certificate from the trailer. Should the original owner make application for the registration of another trailer during the year for which the certificate was issued he may file an application for transfer of the certificate accompanied by a transfer tax of one dollar.\* \* \*"

Thus it appears that as applicable here the legislative intent in this version of the law remained substantially the same as that which existed in the previous version, namely; that the house trailer tax be collected only once in any given year from any single owner, although in the event of a sale of a house trailer it may be collected more than once as to that trailer when payable by a second owner. The language of 4503.06 (F) (4), Revised Code, as then existent, is consistent with this conclusion and so also was the conclusion of my predecessor in Opinion No. 2693, Opinions of the Attorney General for 1961, when considering the amendment which was to go into effect January 1, 1962.

Insofar as applicable to our inquiry the amendment of September 30, 1963, changed the language of Section 4503.06 (F) (4), Revised Code, to read:

"(F) A house trailer is not subject to this section when:

"\* \* \* \* \*"

"(4) The annual tax has been paid on the house trailer in this state for the current year."

Also it was made possible for the treasurer to issue the certificate evidencing payment of the tax to a vendee under an agreement to purchase.

The enactment of September 30, 1963 amended only Section 4503.06, Revised Code. Section 4503.061, Revised Code, was not affected in any manner. Before September 30, 1963 the first paragraph of that section read, and it now reads:

"All owners of house trailers having a situs in this state and subject to the tax as provided in Section 4503.06 of the Revised Code must register such trailer with the county auditor of the county containing the taxing district

wherein the house trailer has its situs on or prior to the date the tax is due and payable." (Emphasis added)

The following rules of statutory construction are, in my opinion applicable:

(1) To the extent possible the provisions of Sections 4503.06 and 4503.061, Revised Code, must be harmonized because the doctrine of repeal by implication is not favored in law. Morrow v. Morrow, 18 O.L.A., 235.

(2) General taxing statutes are to be liberally construed in favor of the taxpayer, Cincinnati v. Connor, 55 Ohio St., 82, Davis v. Willoughby, 173 Ohio St., 338, and exceptions thereto strictly construed, National Tube Co., v. Glander, 157 Ohio St., 407.

(3) In Ohio, the intention of the legislature must be gathered from the language of the statute. Slingluff v. Weaver, 66 Ohio St., 621, State ex rel. v. Evatt, 144 Ohio St., 65.

Applying this last principle first, it is apparent that the intention of the legislature in amending subdivision (F) (4) of Section 4503.06, Revised Code, is clear. Its effect is to eliminate the requirement that the "owner has registered and paid the tax" in order to bring the exemption into operation. Under the present statute the exemption is applicable if the annual tax has been paid on the house trailer in this state for the current year." Thus, clearly, the legislature has abandoned the concept that the tax shall be paid only once in a given year by a single owner and has substituted therefore a concept that the tax shall be paid only once in any given year as to a given house trailer. From this it follows that after the annual tax has been paid on a specific house trailer that house trailer is, for the balance of that year, not subject to the tax as provided in Section 4503.06, Revised Code.

At this point the emphasized language in the previous quotation from Section 4503.061, Revised Code, becomes significant. This section is a part of the general taxing statute and must therefore be construed liberally in favor of the taxpayer. I conclude therefore that the purchaser of a house trailer which has previously been registered and the annual tax thereon paid for the current year is in fact a purchaser of a trailer which, for the current year, is not subject to the tax as provided in Section 4503.06, Revised Code. It follows, that the purchaser of such a trailer is neither required to pay the tax nor to register the trailer for the current year, i.e., the year for which the annual tax has been paid on that trailer.

Section 4503.061, Revised Code, also provides:

"No person who is the owner of a house trailer and who is required to register a house trailer as required by this section shall fail to display on the front of such house trailer the certificate issued by the county treasurer as provided in this section.

"When any house trailer required to be registered by this section, is not registered, the owner of such house trailer shall be fined not less than twenty-five nor more than fifty dollars." (Emphasis added)

The emphasized language in each of these paragraphs indicates that they have no application if registration is not required and I have concluded that registration is not required as to a specific house trailer

which has previously been registered for the current year and the annual tax for the current year has been paid.

In so concluding, I am not unaware of the problems which may arise in the area of inspection for compliance with the statute. However, the statute clearly does not provide for registration of trailers which are not subject to the tax and I perceive that the question of whether such registration is desirable or necessary is a matter for legislative consideration and not one of statutory interpretation.

I have now substantially answered your inquiry. However, the conclusion reached requires some comment concerning what effect may be given to the portion of Section 4503.061, Revised Code, which provides:

"Upon the transfer of ownership of a house trailer the certificate as to such trailer expires and the original owner shall immediately remove such certificate from the trailer. Should the original owner make application for the registration of another trailer during the year for which the certificate was issued he may file an application for the transfer of the certificate.\* \* \*

It seems apparent that the legislature failed to consider the presence of this language in Section 4503.061, Revised Code, in enacting the most recent amendment to Section 4503.06, Revised Code. These two sections reflect a lack of continuity in the basic concept of the tax being levied which, although it does not render them completely incompatible, clearly reflects a degree of incongruousness.

The first sentence above quoted specifies that the certificate shall expire as to such trailer upon a transfer of ownership. Since the certificate itself reflects the ownership, it seems rather obvious that it must expire when the ownership changes. However, if the annual tax has been paid on a specific trailer for the current year, neither the expiration of the certificate nor the removal of it from the trailer, which is provided in mandatory terms, can alter that fact.

The second sentence quoted above makes it possible for an owner to transfer a certificate from a trailer which he has sold to one which he has purchased. As indicated previously, if the purchased trailer is one upon which the annual tax has been paid for the year in question, it is actually not required to be registered for that year. However, the transfer of a certificate to such a trailer, which is provided for in permissive terms, would serve a useful purpose. It would eliminate the problems mentioned earlier regarding inspection for compliance.

If the purchased trailer is one upon which the tax has not been paid for the year in question, the transfer of a certificate would serve no useful purpose. Such a trailer would not be exempt from the provisions of Sections 4503.06 and 4503.061, Revised Code, and a transfer of a certificate to such a trailer cannot alter this fact.

To the extent that the foregoing harmonizes the two sections in issue, the first rule of construction mentioned earlier is satisfied. To the extent that it does not, I rely upon Thorniley, Auditor v. State, ex rel. Dickey, 81 Ohio St., 108, which held, in part:

"Although repeals by implication are not favored, earlier legislation must give way when it is necessary to carry out the later expression of the legislative will;  
\* \* \*

In answer to your specific question, it is my opinion, when an owner sells a house trailer upon which the annual tax levied by Section 4503.06, Revised Code, has been paid, that trailer is not subject to the provisions of Sections 4503.06 and 4503.061, Revised Code, for the remainder of the year for which said tax has been paid, and the purchaser may not be required to pay said tax during the remainder of said year.