

**OPINION 65-65****Syllabus:**

1. A "house trailer" within the definition contained in Section 4501.01 (I), Revised Code, may be exempt from taxation as provided for in Section 4503.06, Revised Code, if the trailer comes within the provisions of Section 4503.06 (F) (2), Revised Code.

2. A "house trailer" used as a temporary dwelling by its owner while engaged in an itinerant business is exempt from the tax provided in Section 4503.06, Revised Code, so long as it comes within the exemption provisions of Section 4503.06 (F) (2), Revised Code.

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**To: Joseph Murray, Ashland County Pros. Atty., Ashland, Ohio**  
**By: William B. Saxbe, Attorney General, April 21, 1965**

A request for my opinion reads in part as follows:

"Would you please render your formal or informal opinion upon the following question: What is the proper interpretation of the exemption for travel trailers under Ohio Revised Code Section 4503.06 (F) (2)?

\* \* \* \* \*

"The facts are as follows:

"(1) The owner of the house trailer in question is a permanent (homeowning) resident of Ashland, Ohio, and operates a restaurant in the City of Ashland during twelve (12) months of the year.

"(2) The same person owns two trailers which he uses for three (3) months of the year while traveling around the State of Ohio as a concessionaire at county fairs.

"(3) One of the two trailers is considered as used in business and taxed as personal property. The other trailer is used as a temporary residence during this three-month period while traveling the fair circuit.

"The question is: Is the trailer used as a temporary residence under these conditions a travel trailer as defined under Section 4503.06 (F) (2), and therefore, exempt from tax, or is it subject

to tax under Section 4503.06? The trailer is under 4,500 pounds and 30 feet in length.

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

The term "house trailer" and the term "travel trailer" are defined in Section 4501.01, Revised Code, which provides in pertinent part:

"As used in Chapters 4501., 4503., 4505., 4507., 4509., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided:

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

"(I) '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, when connected to indicated utilities, whether resting on wheels, jacks, or other temporary foundation and used or so constructed as to permit its being used as a conveyance upon the public streets or highways.

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

"(K) 'Travel trailer' means a vehicular portable structure built on a chassis and not exceeding a gross weight of four thousand five hundred pounds when factory equipped for the road or an overall length of thirty feet and designed to be used as a temporary dwelling for travel, recreational and vacation uses.

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

The concept of a travel trailer was introduced into the motor vehicle law by Amended House Bill No. 479, (130 Ohio Laws 1746) effective September 16, 1963.

Almost immediately thereafter, Section 4503.06, Revised Code, pertaining to the house trailer tax, was amended by Amended Substitute House Bill No. 228, (130 Ohio Laws 1664) effective September 30, 1963.

Section 4503.06, supra, now provides in pertinent part:

"(A) 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 this section.

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

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

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

"(2) It is a travel trailer, meaning a vehicular portable structure built on a chassis and not exceeding a gross weight of four thousand five hundred pounds when factory equipped for the road or an overall length of thirty feet and used as a temporary dwelling for travel, recreational, and vacation use.

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

Under the prior law, my predecessor in office ruled that a house trailer was not subject to the house trailer tax if it were used in this state exclusively for camping or any other recreational purpose. The use of the house trailer determined the taxable or tax-exempt character of the house trailer and that was a question of fact. See Opinion No. 2693, Opinions of the Attorney General for 1961, page 708. Now, however, in the light of the 1963 amendments, a "house trailer" cannot, as a matter of law, qualify for the exemption from the house trailer tax provided in Section 4503.06 (F) (2), supra, unless it comes within the definition of a travel trailer.

Consideration must be directed to rather significant differences in the language of the two above quoted statutes which refer to the concept, travel trailers i.e., Sections 4501.01 (K) and 4503.06 (F) (2), supra.

Section 4501.01 (K), supra, provides in part:

"(K) 'Travel trailer' means a vehicular portable structure \* \* \* designed to be used as a temporary dwelling for travel, recreational, and vacation uses.

" \* \* \* \* \*"  
(Emphasis added)

Section 4503.06 (F) (2), supra, reads in part as follows:

"(2) It is a travel trailer, meaning a vehicular portable structure \* \* \* used as a temporary dwelling for travel, recreational, and vacation use.

" \* \* \* \* \*"  
(Emphasis added)

I submit that the effect of the use of the language of these statutes brings about two quite different standards for a travel trailer. In the first instance of primary import is the design of the vehicle; the latter statute keys on the use of the vehicle.

Your letter of request concerns the matter of a tax exemption under Section 4503.06, Revised Code. I must eliminate the possibility that both Sections 4501.01 (K) and 4503.06 (F) (2), supra, are applicable. Their inconsistency defies any simultaneous utilization. Further eliminating possibilities, it would be difficult to conclude that the legislature in enacting Section 4503.06 (F) (2), supra, intended to include the matter of design purpose in consideration of whether or not the exemption would be available. If such were the case it would be impossible for a house trailer ever to be considered a travel trailer and thereby exempt. The plain meaning of the language of the statute would make such an interpretation incongruous with the other paragraphs of Section 4503.06, supra. It is significant that Subsection (F) of this statute, states:

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

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

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

Thereafter, in the statute follows mention of a travel trailer.

As previously set forth hereinabove, Section 4503.06 (F) (2), supra, became effective after Section 4501.01, supra; therefore, the legislature was aware of the earlier statute when the latter was enacted. If design of a trailer were to be included in the criteria for the statutory exemption, the legislature could have so provided.

In view of these facts, I reach the conclusion that a house trailer may be exempt from taxation if within the requirements of Section 4503.06 (F) (2), supra, notwithstanding the definition contained in Section 4501.01 (K), supra.

Your letter of request states that the trailer in question is used as a temporary residence during three months of the year when the owner is "traveling around the State of Ohio as a concessionaire at county fairs," and you ask, in effect, whether the requirements of travel use, recreational use and vacation use are cumulative or alternative.

The precise language used in the travel trailer definition, Section 4503.06 (F) (2), supra, is, in part "\* \* \* a temporary dwelling for travel, recreational, and vacation \* \* \*."

Prior to the 1963 amendments, a house trailer could be exempted from the house trailer tax if it were used exclusively for camping or other recreational purposes. See Opinion No. 2693, supra. As can be seen from the above discussion, the legislature further has restricted the class of trailers that could qualify for exemption by granting exemption to those "travel trailers" which are used for the specified purposes.

Section 1.02, Revised Code, provides in part:

"As used in the Revised Code, unless the context otherwise requires:

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

"(H) 'And' may be read 'or,' and 'or' may be read 'and' if the sense requires it.

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

The following statement is found in 50 O. Jur. 2d, Statutes, Section 208, page 184:

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

"The words 'and' or 'or' will not be given their literal meaning where that would do violence to the evident intent and purpose of the lawmakers and the other meaning would give effect to such intent.\* \* \*"

Using the phrase "for travel, recreational, and vacation use" in the conjunctive would require an assemblage of circumstances where all three (uses) necessarily have to congregate at the same time.

The term travel is defined in Webster's New International Dictionary, 3rd Edition, as:

"The act of traveling, going, or journeying: passage."

Recreation is defined, as:

"A means of getting diversion or entertainment."

This volume further defines vacation, as :

"A respite or a time of respite from something: freedom from work or cares."

It is reasonable to foresee that such a trailer could be parked at a particular place and used for recreation; such a use would exclude travel. It also could be used for an abode on vacation, minus recreation. Obviously, it could be used for travel exclusive of recreation or vacation. I conclude that the legislature did not intend to restrict the sphere of the applicability of this exception to such a happenstance when the trailer is used for travel, recreation, and vacation at the same time. Therefore, to give proper sense to the phrase, the word "and" may be read "or," when used in the phrase as a temporary dwelling for travel, recreational, and vacation use.

It is, therefore, my opinion and you are hereby advised that:

1. A "house trailer" within the definition contained in Section 4501.01 (I), Revised Code, may be exempt from taxation as provided for in Section 4503.06, Revised Code, if the trailer comes within the provisions of Section 4503.06 (F) (2), Revised Code.

2. A "house trailer" used as a temporary dwelling by its owner while engaged in an itinerant business is exempt from the tax provided in Section 4503.06, Revised Code, so long as it

comes within the exemption provisions of Section 4503.06 (F) (2),  
Revised Code.