

MAINE STATE LEGISLATURE

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November 15, 1929

To Frank H. Sterling, Chairman, Board of State Assessors
Re: First or Current Year of Model (Motor Vehicles)

I have your inquiry of October 23d, forwarding the request of the State Association of Assessors for my interpretation of the expression,-

"Maker's list price for the first or current year of model"

in Section 76 of Chapter 305 of the Public Laws of 1929, which creates an excise tax on motor vehicles.

The expression is certainly ambiguous, but it seems to me that the most practicable interpretation is to give effect to the word "current" in cases where a model is announced and issued at a time other than January 1st.

As I understand manufacturers' customs, the annual dating is given to all cars. With some manufacturers this dating conforms to the calendar year. With other manufacturers it begins at a date other than January 1st; for instance, August 1st. Some manufacturers call this annual dating a model; some do not. Some manufacturers change their models several times within twelve months. The statute was presumably worded in such a way as to apply evidently to this manufacturing custom as it was understood, although it would have been advantageous perhaps if the statute had been somewhat more explicit.

The simplest case would be one where a model is announced on January 1, 1930, and superseded by another model on January 1, 1931. In such a case a car made during the year 1930, of the 1930 model, would be subject to the 23-mill rate, if license should be applied for at any time during the year 1930. As soon as the year 1930 is over, the same car pays an excise tax of but 16½ mills by the person applying for a license. The first year of the model, which is also the current year of the model, has elapsed and a new model is on sale. The new model only is subject after January 1, 1931, to the 23-mill rate. The old model drops down to the second step.

A second case is the situation where no new annual model is announced, but the manufacturer's records are kept by years, so that a given car is known as a 1929 or 1930 car, for instance, although the manufacturer does not change in so many words the "model" for several years. Examples of this are Fords and Franklins. A 1924 Ford and a 1925 Ford are both "Model T", although from the car number it is possible to tell and cars are sold on the basis of one being a 1924 car and one being a 1925 car. Here, it seems to me, that the 1924 car is a "model" within the meaning of the statute, and the 1925 car is a different "model", although both are called by their manufacturer "Model T".

With such a manufacturing custom a car whose car number shows that it was a 1929 car is taxed at the second rate for 1930. A car of exactly the same named "model", but showing by its car number that it was a 1928 car, is taxed for 1930 at the third rate.

A third case is the situation where a manufacturer on August 1, 1930, announces a model which he does not supersede until August 1, 1931. Here we have a case where at any time any person applying for a license on such a car between August 1, 1930, and July 31, 1931, inclusive, must pay the 23-mill rate because he is licensing a car during its first or current year. If he buys one of these cars in July 1931 and applies for license on August 2, 1931, he pays only the 16½ mill rate. The first or current year of model has elapsed, a new model has superseded his car. Owners of the new model pay the 23-mill rate; he pays but 16½ mills.

The second year in this case runs from August 1, 1931, to August 1, 1932, and so on.

A fourth case is illustrated by the Nash situation during 1928 and 1929. A model was announced June 21, 1928, which was not superseded until October 4, 1929, a period of more than twelve months. Here it seems to me that the year of model for this model began June 21, 1928, and ended twelve months later, June 21, 1929. A person buying one of these cars at any time between those two dates and applying to pay an excise tax if the tax had been in effect, would have paid at the highest rate. A person buying one of those same cars and applying for a license during July, 1929, had the excise tax been in effect, would pay at the 16½-mill rate. When the first man comes in to pay his excise tax, he is within the first or current year of the model; viz,- within the period of twelve months from the time when it was announced. When the second man comes in, he is coming in after the lapse of the first or current year; viz,- after the expiration of twelve months from the time that the model was announced.

A fifth case is the situation where the maker announces a model on August 1, 1930, and supersedes it with another model on February 1, 1931. This situation occurred in the case of the Chevrolet in the years 1926 and 1927. The Chevrolet in the year 1927 had two models, - one which they called "Series V" and beginning August 1, 1926, and the other "Series AA" or "Capitol", which began January 1, 1927. Both of these models were called 1927 models. Both of these cars were 1927 cars, and at this time, if licensed for 1930, pay the 9-mill rate, that is, the rate for the fourth year.

Putting for purposes of illustration a hypothetical case of this sort, suppose a case where the maker announces a model on August 1, 1930, and supersedes it with another model on February 1, 1931. Here it seems to me that the first of these two models, which we will call A, has a year of model running to August 1, 1931, and the second, which we will call "Model B", has a year of model running to February 1, 1932. The maker would probably call "Model A" a 1931 model. He might call the "Model B" a 1931-B model; or he might not name either model by a calendar year, but the fact is that "Model A" is a 1931 model. "Model B" may be called a 1931 model, or it may be called a

1932 model, but in any case the year of model "A" runs for twelve months from the time when the model is announced, and of "Model B" runs also for twelve months from the time when it was announced.

A person buying one of these "Model A" cars on January 1, 1931, and applying for license thereon the next day pays the 23-mill rate. So does a person buying this same car in June, and applying for a license on it at the time of purchase. In other words, he is applying for license on a car during its current model year. A person applying on February 2d for license on one of the February 1st models pays the 23-mill rate, and so does a person applying for license on that car the next January 1st. He is applying for license on a car during its current model year. The fact that the manufacturer has superseded the August 1st model with a February 1st model does not cut short the twelve months of high rate tax imposed on the August 1st model. With such a manufacturer two models are in existence at once, on which the highest rate must be paid. A year, however, must be at least twelve months, three hundred sixty-five days, although it may, and in some cases does, begin on some date other than January 1st. A calendar year, a fiscal year, a model year, are all years of twelve months and three hundred sixty-five days, beginning on different dates.

I trust that this outlines in a workable manner my interpretation of this section. Other queries of fact may well arise where special circumstances appear, but I have tried to cover my understanding of the principal problems.

It does not seem to me that the statute contemplated using more than one list price as a basis for the tax; that is, the original list price is to be taken as the figure on which the tax is figured; the amount of the tax decreasing with the rate, but the base on which the rate is figured remaining unchanged.

You will see that the important dates, according to my view, are,-

First: The date when the model was announced;

Second: The date when the car itself was made, where a "model" isn't changed for several years, but annual manufacture dates are recorded and known.

Third: The date when license is requested.

At the time the license is requested, the licensing officer should ascertain when the model was announced, when the car was made, and he is then able to determine whether the particular car, at the time the tax is to be paid, is in its first, or current, year of model, subjecting it to the 23-mill tax, or has slipped down a step to a lower rate. The year when the car was made is important when the year of model cannot be definitely established.

Of course, all rulings of law make hard cases where the facts are close to the line. This is well known to all lawyers, and is

expressed by the saying, "Hard cases make poor law." Law cannot be changed to ease up on borderlin cases. This consideration answers many of the suggestions which have been made against the interpretation of the tax. Of course, hardships are bound to occur in any tax system, and particularly so between two tax payers who are taxed under circumstances varying but slightly, yet varying sufficiently so that the line falls between them.

I wish exceedingly that I could have had the benefit of listening to the discussion at the Convention of Assessors, but I was out of the State at that time and so am deprived of the very real benefit of that discussion in working out an interpretation of the section in question.

I have been greatly assisted in arriving at an interpretation of this difficult point by the careful memorandum which you prepared embodying the request of the Association of Assessors. I also have been assisted by several memoranda which have been furnished by various persons interested, none of whom, however, agree in the interpretation which should be given. The suggestion was made in one of these memoranda that we should interpret our Act to conform to the New Hampshire law which uses the expression "year of manufacture" instead of "year of model". The trouble is that our statute apparently deliberately avoids using those words, but adopts different words, and we must interpret the wording as we find it, and the best clue that I could follow is to ascertain the manufacturer's practice, which was presumably in the minds of the Legislature in adopting the expression "year of model".

I am informed by those in charge of the administration of the tax in our largest city that out of hundreds of cases where they have assessed the tax in anticipation of the year 1930, for the benefit of persons who wish to apply early for their 1930 licenses, they have had but a handful of serious complaints. It is of some practical encouragement to know that in practice the tax seems to be working out satisfactorily in at least this conspicuous instance.

Automobiles manufactured within recent yers have been classified by serial numbers and years of model, their several list prices being also collated in several publications readily accessible to those who have occasion to compute the tax. The State of New Hampshire has adopted the Automobile Reference Manual published by the Automotive Service Bureau of Baltimore, Maryland. Other similar books by Ben P. Branham Company. . and by National Used Car Market Report. . . Similar data on obsolete cars can be obtained from publications now out of print. The City Treasurer of Portland has one such manual which carries data back to the year 1902, and he tells me that he is very willing to assist any collectors with data from this book on cars of antiquated model. . .

The City Collector's office in Portland have worked out the procedure and the forms with great care, and I am sure would be very glad to give any assistance that they can to those from other towns and cities who have the same procedure to work out.

Clement F. Robinson
Attorney General