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OFFICIAL OPINION NO. 13

April 30, 1974

Honorable Clifford D. Arnold  
Indiana State Representative  
203 Finch Trail, T.C.  
Michigan City, Indiana 46360

Dear Representative Arnold:

This is in response to your request for my official opinion on the following question:

“Is it legal to collect the excise tax more than once each year even though the automobile may be sold or traded during the calendar year?”

ANALYSIS

The Indiana Code of 1971, Section 6-6-5-6, formerly Burns' Ind. Stat. Ann. (1973 Supp.), Section 47-3606, states:

“Except as otherwise provided herein, the excise tax hereby imposed upon vehicles shall be payable *for each registration year*, by the owners thereof in respect to vehicles required to be registered for such registration year as provided in the motor vehicle laws of the state of Indiana [IC 1971, Section 9-1-4-9, Burns' Ind. Stat. Ann. Section 47-2608a]. *Except* as provided in section 7[6-6-5-7], such excise tax shall be due on or before the *regular annual registration* date in each year on or before which the owner is required under the motor vehicle registration laws of the state of Indiana to register vehicles and such excise tax shall be paid to the bureau *at the time the vehicle is registered* by the owner as provided in the motor vehicle registration laws of the state of Indiana. Each vehicle subject to taxation under this act [6-6-5-1—6-6-5-16] shall be registered by the owner thereof as being taxable in the county of the owner's residence. The payment of the excise tax imposed by this act shall be a condition to the right to register or re-register the vehicle and shall be in addition to all other conditions prescribed

by law.” [Acts 1969, ch. 423, § 6, p. 1805; 1971, P.L. 73, § 3, p. 376.] (My emphasis.)

Indiana Code of 1971, Section 6-6-5-7, formerly Burns’ Ind. Stat. Ann. (1973 Supp.), Section 47-3607, which became effective January 1, 1974, states:

“In respect to a vehicle which has been acquired or brought into the state, or for any other reason becomes subject to registration *after the regular annual registration date* in such year on or before which the owner thereof is required, under the motor vehicle registration laws of the state of Indiana [IC 1971, Section 9-1-4-9, Burns’ Ind. Stat. Ann. Section 47-2608a], to register vehicles, the tax imposed by this chapter [6-6-5-1—6-6-5-16] shall become due and payable *at the time such vehicle is acquired, brought into the state or otherwise becomes subject to registration* and the amount of tax to be paid by the owner for the remainder of the year shall be reduced by ten per cent [10%] for each full calendar month which has elapsed since the regular annual registration date in such year fixed by such motor vehicle registration laws for annual registration by such owner. Such tax shall be paid at the time of the registration of such vehicle. Provided, however, in the case of a vehicle which is acquired, or brought into the state, or for any other reason becomes subject to registration after January 1 of any year, then the owner may pay the applicable registration fee on such vehicle as provided in the motor vehicle registration laws and any excise tax due on such vehicle for the remainder of the annual registration year and simultaneously register such vehicle and pay the applicable registration fee and the excise tax due for the next succeeding annual registration year.

“No reduction in the applicable annual excise tax will be allowed to Indiana resident applicants upon registration of any vehicle which was owned by such applicants on or prior to the registrants annual registration period; excepting that vehicles owned by them

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which vehicles had their situs and were registered for use in other states, during the same calendar year, shall be entitled to the same reduction when registered in this state.

“Every owner of a vehicle who sells such vehicle in a year in which he shall have paid the tax imposed by this chapter, shall receive a credit equal to ten per cent [10%] of the tax paid for each full calendar month remaining in the registrants annual registration year after the date of such sale and such credit shall be applied to the tax due on any vehicle purchased by such owner in the same registrants annual registration year. The credit shall expire at the end of the registrants annual registration year in which it accrued.

“No cash refunds shall be made on a credit issued on the sale of a vehicle: Provided, however, That a tax credit shall be transferable from one member of the same immediate family to another member of the same family with no consideration involved, or received as an outright gift or inheritance.” [Acts 1969, ch. 423, § 7, p. 1805; 1971, P.L. 73, § 4, p. 376; 1973, P.L. 54, § 4, p. 284.] (My emphasis.)

To properly interpret the above statutes and to answer your question and the example therewith, it is necessary to set forth Indiana Code of 1971, Section 9-1-4-9, Burns' Ind. Stat. Ann. (1965 Repl.), Section 47-2608(a), which states:

“Notwithstanding the provisions of section 31 of this act and commencing with the calendar year 1970 and thereafter, owners of passenger motor vehicles as hereafter defined in this section shall be required to register such passenger motor vehicles and receive a registration plate or a renewal tag or other indicia as determined by the department therefor as follows:

“Corporations shall be required to register passenger motor vehicles owned by them on or before the 31st day of January of each calendar year.

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“All other owners shall be required to register in the following schedule:

“(a) Owners whose last names commence with the letters A through C, inclusive, shall be required to register on or before the last day of February of each calendar year.

“(b) Owners whose last names commence with the letters D through H, inclusive, shall be required to register on or before the 31st day of March of each calendar year.

“(c) Owners whose last names commence with the letters I through N, inclusive, shall be required to register on or before the 30th day of April of each calendar year.

“(d) Owners whose last names commence with the letters O through S, inclusive, shall be required to register on or before the 31st day of May of each calendar year.

“(e) Owners whose last names commence with the letters T through Z, inclusive, shall be required to register on or before the 30th day of June of each calendar year.

“Any owner of a passenger motor vehicle who desires to register such vehicle for the first time shall apply to the department for a registration application form and the department shall administer such registration application form, issue the registration plate and collect the proper registration and service fees in accordance with such procedure as established by the department.

“The provisions of subsection (d) of section 31 of this act shall apply to determine the registration fee for the registration of a passenger motor vehicle acquired by an owner subsequent to the date required for the annual registration of vehicles by such owners as hereinbefore set forth in this section.

“As used in this section the term “passenger motor vehicle” shall mean, as defined in section 2(x) of

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this act, a motor vehicle designed for carrying passengers except a motorcycle, bus or school bus." [Acts 1945, c. 304, s. 31a, as added by Acts 1969, c. 367, s. 21.]

Therefore, if you purchase an automobile in January, 1974, and your last name begins with "L," you will be required to pay excise tax on a pro-rata basis from the time of your purchase, January, 1974, through March, 1974. However, as noted in the Indiana Code of 1971, Section 6-6-5-7, the amount of the tax to be paid by the owner for the remaining months in his registration year is reduced by ten per cent [10%] for each full calendar month which has elapsed since the last regular annual registration date.

In the example above, eight [8] months had elapsed since the last regular annual registration date; therefore, the purchaser will pay an excise tax amount equivalent to twenty per cent [20%] of the amount due on the previous registration date. During the following April the purchaser/owner will pay the excise tax due for the next annual registration year. However, the purchaser/owner is given the option by the statute [Indiana Code of 1971, Section 6-6-5-7] to pay the remainder due on the present annual registration year and simultaneously register such vehicle and pay the applicable registration fee and excise tax due for the next succeeding annual registration year.

If one sells the automobile he purchased in January, 1974, in August, 1974, the individual who purchases said automobile will pay an excise tax on a pro-rata basis for the remaining months of his annual registration year. The amount of excise tax he will pay will be calculated by the letter in his name. For example, if the subsequent purchaser's name begins with "A," the amount of excise tax payable by such purchaser is reduced by fifty per cent [50%] as five [5] full months had elapsed since the purchaser's annual registration year had begun February through July. As to this subsequent purchaser the automobile represents the purchase of a tangible piece of property now within his control. The tax imposed is not a duplication of tax on the automobile but a tax levied on the purchaser to enable him to register said vehicle and use it upon the roads in Indiana.

The individual who sold the automobile in August, 1974, receives, as allowed by statute [Indiana Code of 1971, Section 6-6-5-7], a credit equal to ten per cent [10%] of the tax paid for each full calendar month *remaining* in the registrant's annual registration year after the date of such sale and such credit is applied only to any excise tax due on the purchase of an automobile by such seller in the seller's same annual registration year. To illustrate, the above example involved an individual with the annual registration year starting in April; therefore, with the sale in August, the seller will receive a credit equal to seventy per cent [70%] [September through March] of the amount of excise tax paid on the previously owned automobile if he purchases another automobile prior to April of the following year. If the annual excise tax on the formerly owned automobile had been \$100.00, then the seller will receive a \$70.00 credit on the excise tax due on the automobile he purchases if said purchase occurs prior to April of the following year. This benefit applies only to the excise tax due and may not be given in the form of a cash refund.

Therefore, each *owner* of an automobile pays a pro-rata share of the excise tax for a vehicle he purchases during his annual registration year. And, the statute provides a credit for the amount of excise tax paid on the previous automobile for the seller if he makes a purchase of another automobile during the same annual registration year.

#### CONCLUSION

It is, therefore, my Official Opinion that the full excise tax on the registration on a motor vehicle owned by an individual is imposed once each registration year. It is incorrect to imply that the *full* excise tax is collected each time when an automobile is sold and resold during the same registration year. Subsequent purchasers of a motor vehicle during the same registration year pay only a tax pro-rated for the period of ownership of the motor vehicle during their annual registration year. The law specifically provides a credit for the amount of excise tax paid on the previous automobile for the seller when he makes a purchase of another automobile during the same annual registration year.