OFFICIAL OPINION NO. 42

December 29, 1970

Hon. John J. Loughlin
Indiana State Representative
1228 East Wayne Street, North
South Bend, Indiana 46615

Dear Representative Loughlin:

This is in response to your request for my Official Opinion on the following question:

"Are motor vehicles which are owned by commercial leasing companies subject to the provisions of the Indiana excise tax on motor vehicles?"

ANALYSIS

An excise tax on motor vehicles is provided for, commencing January 1, 1971, by Acts of 1969, Ch. 423, as found in Burns' (1969 Supp.), Sections 47-3601 to 47-3615.

The scope of the law extends to "any vehicle subject to annual registration as a condition of its operation on the public highways pursuant to the motor vehicles registration laws of the State of Indiana * * *" Burns' 47-3601(a), supra.

No provision is found in the Motor Vehicles Registration Act, Burns' 47-2401 et seq., which would exempt vehicles owned by commercial leasing companies from this law.

The only exemptions to the excise tax are found at Burns' 47-3601(a), and include:

"(1) * * * vehicles owned or leased and operated by the governments of the United States, of the state of Indiana and of its political subdivisions,

(2) mobile homes,

(3) vehicles assessed under The Public Utility Tax Act of 1949 [§§ 64-1801—64-1817], as amended,

(4) antique motor vehicles registered under the provisions of chapter 253, Acts of 1957 [§§ 47-2632—47-2637], and
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(5) vehicles subject, under the motor vehicle registration laws of the state of Indiana, to registration as trucks, trailers, semitrailers, tractors and buses."

and, at Burns' 47-3602, and includes:

"** * * vehicles in the inventory of vehicles held for sale by a manufacturer, distributor or dealer in the course of his business * * *"

Vehicles held for leasing do not come within any of the aforementioned exceptions, and, therefore, must be charged excise tax just like any other vehicle.

CONCLUSION

It is, therefore, my Official Opinion that vehicles owned by commercial leasing companies are subject to the provisions of the Acts of 1969, Ch. 423 (Motor Vehicle Excise Tax) and that such companies are liable for the excise tax imposed by that Act upon each such vehicle owned by them, in the same amount and subject to the same provisions as if such vehicle were both owned and operated by a natural person, partnership, or corporate entity upon the highways of this state.