

**OPINION
54-118**

January 25, 1954 (OPINION)

TAXATION

RE: Use Tax on Property Brought into North Dakota

In your letter of January 21st you state:

I have just moved from St. Vincent, Minnesota, across the river to Pembina, North Dakota. I have lived in St. Vincent for the past six years and a little over two years ago I purchased a used House Trailer from a dealer in Kennedy, Minnesota. I have licensed the trailer in Minnesota for the last two years, 1952 and 1953.

"I would like to bring the House trailer to my home in Pembina, North Dakota, where it will be stored until about October of this year when I am retiring from my job in the U. S. Immigration Border Patrol and will take the trailer to a southern state. The trailer will not be used on the roads of North Dakota, but will only be parked until I use it next October."

The sales tax is a tax upon property bought in this state. It was found that residents of this state frequently went out of the state to purchase property on which, if purchased here, they would have to pay a sales tax. To remedy this situation the Legislature passed the use tax act.

This act, Section 57-4003, provides for certain exemptions, among which is:

(2) Tangible personal property brought into the state by a nonresident thereof for his own storage, use or consumption while temporarily within this state.

Section 57-4012 does not apply in this case simply because a house trailer, as this department has repeatedly held, is not a motor vehicle. A house trailer is in the same class as any other vehicle, wagon, carriage, or other property on wheels, which does not move by its own power and is only taxable as such the same as the other classes mentioned.

If the use tax is collectible, then every other article of furniture which you brought into the state when you moved would have to pay the tax. Of course, if you bought furniture or other household articles in Minnesota just before you moved, such property would be subject to the use tax.

It is our opinion that the use tax does not apply on the trailer owned by you long before you moved to North Dakota.

ELMO T. CHRISTIANSON

Attorney General