

File No. 25351 Continued.

when the title to it passes from the vendor to the purchaser, pursuant to a previous contract of sale, or for a sale without a previous contract."

According to the ruling of the Treasury Department the sale to the City was not consummated until the purchase was delivered at Milwaukee, March 31st, 1919, and therefore the sale is subject to the tax. The contract of sale was made with the City for \$22,602.00, the manufacturer to pay the war tax, but Mr. Larkin deducted the war tax from the above amount and paid the Sterling Motor Truck Company the net amount, holding the amount of the war tax until the matter could be finally determined.

While there is much to be said in favor of the theory that the sale was actually consummated prior to February 25th, 1919, and therefore the tax did not attach, still I am rather of the opinion that the ruling of the Treasury Department is correct, i. e. that the sale must be considered as consummated when title to the trucks actually passed, that is, when delivery was made, under which circumstances the tax is payable by the Sterling Motor Truck Company, and under our contract the City should pay the amount of the tax to the Sterling Motor Truck Company.

Respectfully submitted,
(Signed) Benjamin H. McKindless,
Assistant City Solicitor.

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