

5381 cases in which the property had been consigned to a person from a place within this state was that in that event the owner would be within this state and subject to the taxing power of the state. In other words, section 5381 is so broad as that if the consignor and the consignee are both in this state it is not necessary to require the consignee to list the property, as the consignor, being the "owner," would have to list it. This is the controlling idea of the sections, and it is consistent with everything in section 5383 except the words "any profit to be derived from its sale." The fact that a consignee might have an interest in any profit derived from the sale of the property does not make him its owner, and unless there is some statute requiring such consignee to list such property, the mere fact that no statute says that he shall not list it is not sufficient from which to construct a duty to list.

Accordingly, the conclusions first above expressed are adhered to and it is the opinion of this department that the consignee in Cleveland is under no duty to list the property, either on his own behalf or on behalf of the consignor, but that it is the duty of the officers of the consignor corporation to make return of the property in Cleveland.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

2502.

TAXES AND TAXATION—COUNTY BOARD OF REVISION—UPON GENERAL COMPLAINT FILED BY PUBLIC OFFICER BOARD MAY NOT MAKE HORIZONTAL INCREASE OR REDUCTION IN ASSESSED VALUATION OF ALL PROPERTY IN TAXING SUBDIVISION—COMPLAINTS MUST BE SPECIFIC.

A county board of revision, acting upon general complaint filed by a public officer under section 5609 G. C. may not make a horizontal increase or reduction in the assessed valuation of all the property in the taxing subdivision. If complaints are so filed covering specifically each tract of real property or article or kind of personal property, and proper action is taken upon each specific complaint, the board of revision may lawfully conclude that the increase or reduction as to each shall be made by a uniform rate, but such complaints must be specific and must be supported or followed by notice under section 5599 G. C. in case of increase, or affidavit of facts made by the owner in case of reduction as required by section 5601 G. C.

COLUMBUS, OHIO, October 24, 1921.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—The commission recently requested the opinion of this department as follows:

"May a county board of revision, acting upon complaints filed under the provisions of section 5609 G. C. by any officers named in said section, make a horizontal increase or reduction in the assessed valuation of all of the property in any taxing subdivision in any year after the year in which a reappraisal was made under the provisions of section 5548?"

Section 5609 of the General Code provides as follows:

“Complaint against any valuation or assessment as the same appears upon the tax duplicate of the then current year, may be filed on or before the time limited for payment of taxes for the first half. Any taxpayer may file such complaint as to the valuation or assessment of *his own or another's property*, and the county commissioners, the prosecuting attorney, county treasurer, or any board of township trustees, any board of education, mayor or council of any municipal corporation, in the county shall have the right to file such complaint. The county auditor shall lay before the county board of revision all complaints filed with him. The determination of any such complaint shall relate back to the date when the lien for taxes for the current year attached, or as of which liability for such year was determined, and liability for taxes, and for any penalty for non-payment thereof within the time required by law, shall be based upon the valuation or assessment as finally determined. Each complaint shall state the amount of over-valuation, under-valuation, or illegal valuation, complained of; and the treasurer may accept any amount tendered as taxes upon property concerning which a complaint is then pending, and if such tender is not accepted no penalty shall be assessed because of the non-payment thereof. The acceptance of such tender, however, shall be without prejudice to the claim for taxes upon the balance of the valuation or assessment. A like tender may be made, with like effect, in case of the pendency of any proceeding in court based upon an illegal excessive or illegal valuation.”

This section seems to carry the answer to the commission's inquiry on its face. All complaints must be specific, and must relate to particular valuations or assessments. The board of revision has no authority, acting upon complaint, to make horizontal increases or reductions in the assessed valuation of all the property in any taxing subdivision under section 5609. If such a result could be arrived at at all, there would have to be a separate proceeding and a separate finding as to each and every tract of real estate. A “blanket” complaint cannot lawfully be entertained, and a “blanket” hearing cannot lawfully be had. Possibly, however, if the board of complaints actually has before it specific complaints covering every tract of real estate or article of personal property in a taxing district and, after hearing evidence applicable to all, concludes that a standard of value too high or too low, as the case may be, has been chosen by the assessor or the auditor, it might reduce or increase each separate assessment by the same rate and thus arrive at the result described by the commission. But in order that this might be done all the conditions implied by the above statement would have to exist, and a mere complaint filed by any of the officers named in the section, to the effect that all the property of a given class is assessed too high or too low, as the case might be, would not, in the opinion of this department, properly invoke the authority of the board.

The fact that a reappraisal of the real estate has been made in a given year under the authority of section 5548 and succeeding sections does not change the situation. Section 5548-1 of the General Code provides as follows:

“In any year after the year in which an assessment has been made by the county auditor of all the real estate in any subdivision as herein provided, it shall be the duty of such county auditor at any time to revalue and assess any part of the real estate contained in such sub-

division where he finds that the same has changed in value, or is not on the duplicate at its true value in money, and in such case he shall determine the true value thereof in money, as herein provided for assessing the entire property in any such subdivision. In such case the county auditor shall notify the owner of such real estate, or the person in whose name the same stands charged on the duplicate of his intention to reassess such real estate and of the change in valuation thereof in such reassessment, and in case the owner of such real estate is not satisfied with such reassessment, the same shall be heard at the next ensuing session of the county board of revision, and such owner shall have the right to appeal therefrom to the tax commission of Ohio as provided in other cases."

This section contains a reference to a complaint filed with the board of revision, but in view of the broad language of section 5609 this provision of section 5548-1 is merely cumulative. That is to say, under section 5609 the complaint may be filed against any valuation appearing on the tax duplicate of the then current year, whether that valuation is the product of a reassessment of the real estate under section 5548 or under section 5548-1 or not. The only effect of the making of an initial reappraisal under section 5548 of the General Code is to authorize the auditor, without the intervention of the county commissioners or the tax commission, to revalue and reassess the real property in any subdivision covered by the previous reappraisal whenever he is of the opinion that such a reassessment is necessary. The procedure in respect of complaints is in nowise affected by such a reappraisal.

In addition to all these considerations, it must be pointed out that in case the board of revision increases the valuations complained of, section 5599 of the General Code must be complied with by notifying the owner as therein prescribed; while the board is positively prohibited from decreasing valuations "unless the party affected thereby, or his agent, makes and files with the board a written application therefor, verified by oath showing the facts" (Section 5601 G. C.). In case complaint is made by a public officer, therefore, looking toward a decrease in valuation which is to be more or less uniform throughout the district, no action could be taken by the board unless the complaint so filed by the public officer, or officers, were supported, before action by the board, by affidavits of each owner. In the opinion of this department, it is the owner who is "the party affected" within the meaning of section 5601.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

2503.

COUNTY COMMISSIONERS—AUTHORITY OF BOARD OF COUNTY COMMISSIONERS TO ELECT ONE OF THEIR MEMBERS AS PRESIDENT—LIMITED TO CERTAIN YEARS—SEE SECTION 2400 G. C.

If on the third Monday of September of any year, when the board of county commissioners organizes under section 2400 G. C., there is then on such board a commissioner whose term first expires, such commissioner shall be president of the