

537.

PAYMENT OF TAXES—REAL ESTATE VALUATION OR ASSESSMENT COMPLAINT MAY BE FILED AT ANY TIME BEFORE EXTENDED PERIOD OF PAYMENT HAS EXPIRED.

SYLLABUS:

When, pursuant to the provisions of Section 2657, General Code, the Tax Commission extends the time for the payment of taxes for the first half year, a taxpayer may file a complaint against the valuation or assessment of a parcel of real estate pursuant to the provisions of Section 5609, General Code, at any time before such extended period has expired.

COLUMBUS, OHIO, April 11, 1933.

HON. EDWIN S. DEAL, *Prosecuting Attorney, Defiance, Ohio.*

DEAR SIR:—Your recent request for opinion reads:

"The Tax Commission of Ohio, under the authority of Section 2657, General Code, extended time for payment of taxes to April 15, 1933. Several parties have attempted to file complaints as to the valuation of property and the Auditor has refused to accept these complaints.

Section 5609 of the General Code, has been interpreted by the County Auditor as not giving any authority to accept these complaints after December 20, 1932. The Board of County Commissioners have requested your opinion as to whether or not complaints may be filed as late as April 15, 1933.

Under date of March 26, 1932, an opinion was rendered by the Attorney General, being opinion No. 4186 which syllabus reads as follows:

"Where the board of county commissioners of a county acting under the authority of section 2657, General Code, extended the time for the payment of taxes for the first half of 1931 taxes from December 20, 1931 to January 20, 1932, the county auditor is not authorized to accept and file complaints as to the assessment or valuation of property, after January 20, 1932, notwithstanding the fact that the county treasurer accepts the payment of taxes after said date.

This opinion however, does not state whether complaints may be filed after the 30 day extension granted by the Board of County Commissioners. The question asked by the Board of County Commissioners, is as follows:

"Shall the County Auditor be compelled to accept complaints as to valuation of property as of the last day granted for the payment of taxes which is, in the case of our county, April 15, 1933, or does the authority under Section 2657, General Code, limit the filing of such complaints only during the 30 day extension allowed by the county commissioners?"

Section 5609, General Code, which fixes the time during which complaints as to the valuation or assessment of property may be filed, in so far as is material to your inquiry, reads:

"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 year. * *"

Since the statute fixes the time for filing such complaints at "the time limited for the payment of taxes for the first half year" it is necessary to examine other provisions of the statute to determine what such limit is.

Section 2653, General Code, if standing alone, limits the time for the payment of taxes for the first half year to the twentieth day of December, however, Section 2657, General Code, authorizes the county commissioners to extend such time of payment for a period of thirty days, by the following language:

"The county commissioners of any county by resolution spread upon their journal may extend the time of payment of taxes for not more than thirty days after the time fixed by law."

This sentence was also contained in former Section 2657, General Code. In construing the effect of such former section, it was held by my predecessor that when, in the manner prescribed by the statute, the county commissioners had extended the time for the payment of taxes from December 20th to January 20th, such time as extended not only for the purpose of the receipt of taxes but also for the determination of the limit of time for filing complaints as to valuation and that if a complaint was then filed before January 20th it was within the time limit. Believing that the conclusion and reasoning in such opinion of my predecessor is sound, I see no reason to depart therefrom.

The 89th General Assembly authorized the Tax Commission of Ohio to further extend the time for the payment of taxes by the following language:

"* * The tax commission of Ohio may further extend the time of payment of taxes in any county in case of an emergency unavoidably delaying the delivery of duplicates for the collection of taxes. Such extension shall be for such time as the commission may fix in its order. * *"

It should be noted that amended Section 2657, General Code, from which I have quoted above did not become effective until January 1, 1933 and was therefore not in effect at the time my predecessor in office rendered his opinion No. 4186 referred to in your request. (See 114 O. L., page 5, §6.) My predecessor in office, in opinion No. 4186, found in Opinions of the Attorney General for 1932, gave as his reason for holding January 20th to be the time limit for the payment of taxes the fact that amended Section 2657, General Code, was not then effective.

Your letter states that the time for the payment of taxes for the first half year has been extended in your county until April 15th, 1933.

The language delegating to the Tax Commission such authority is of equal definiteness to that granting the authority to extend the time of payment to January 20th. I am therefore constrained to hold that when, pursuant to the authority granted to it by Section 2657, General Code, the Tax Commission extends the time for the payment of taxes for the first half year, such extension likewise extends the time for the filing of complaints pursuant to Section 5609, General Code.

Specifically answering your inquiry it is my opinion that when, pursuant

to the provisions of Section 2657, General Code, the Tax Commission extends the time for the payment of taxes for the first half year, a taxpayer may file a complaint against the valuation or assessment of a parcel of real estate pursuant to the provisions of Section 5609, General Code, at any time before such extended period has expired.

Respectfully,
 JOHN W. BRICKER,
Attorney General.

538.

APPROVAL, NOTES OF PENFIELD RURAL SCHOOL DISTRICT,
 LORAIN COUNTY, OHIO—\$2,525.00.

COLUMBUS, OHIO, April 11, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

539.

APPROVAL, NOTES OF LAWRENCE RURAL SCHOOL DISTRICT, LAW-
 RENCE COUNTY, OHIO—\$6,194.00.

COLUMBUS, OHIO, April 11, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

540.

APPROVAL, NOTES OF PERRY RURAL SCHOOL DISTRICT, LAWRENCE
 COUNTY, OHIO—\$7,032.00.

COLUMBUS, OHIO, April 11, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.

541.

APPROVAL, NOTES OF COAL GROVE VILLAGE SCHOOL DISTRICT,
 LAWRENCE COUNTY, OHIO—\$9,177.00.

COLUMBUS, OHIO, April 11, 1933.

Retirement Board, State Teachers Retirement System, Columbus, Ohio.