

1871.

APPROVAL, 1 OHIO CANAL LEASE AND 2 MIAMI AND ERIE CANAL  
LEASES.

COLUMBUS, OHIO, October 27, 1924.

*Department of Highways and Public Works, Division of Public Works, Columbus,  
Ohio.*

1872.

TAXES AND TAXATION—FRANCHISE TAX SHOULD BE COMPUTED  
UPON STOCK ISSUED BY CORPORATION.

## SYLLABUS:

*The stock of a corporation once issued remains outstanding within the meaning  
of a tax statute, although returned to the corporation and held by it as treasury  
stock, and the stock so held is to be considered in computing the tax due from the  
corporation.*

COLUMBUS, OHIO, October 27, 1924.

*The Tax Commission of Ohio, Columbus, Ohio.*

Gentlemen:—

I acknowledge receipt of your letter of recent date in which you submit the following state of facts with reference to the G. W. Bobb Company, and inquire whether under these conditions the surrendered stock is subject to franchise tax:

The G. W. Bobb Company, during the year 1923 had issued and outstanding stock to the amount of \$867,000.00. Subsequent to the return to the State Tax Commission for the year, \$127,000.00 of this capital stock was voluntarily surrendered to the company by the stockholders and held in the treasury as treasury stock. This action was taken to make good certain losses incurred during the years 1920 and 1921; the capital stock of this company was not reduced according to the provisions of statute.

In the Opinions of the Attorney General for 1917, Vol. II, page 1543, this matter is discussed at some length, and the conclusion is as follows:

“Upon the considerations and authorities above noted, in the absence of authorities and decisions of our own courts to the contrary, I am constrained to the view that the fee or tax required of a corporation, under Section 5498 General Code, should be computed upon all its subscribed or issued and outstanding stock regardless of the fact that a portion of such stock has been subsequently acquired by the corporation; and with respect to The Carroll Foundry and Machine Company I am of the opinion that until it takes proper steps in accordance with statutory provisions to reduce