

is not required to list any property on the average basis as such merchant or manufacturer on listing day.

It is obvious, of course, that the result of this conclusion is that the property formerly belonging to the individual or partnership will escape taxation for the year 1920. This would be inevitable had the individual or partnership not been engaged in manufacturing or mercantile business. In that event the transfer of any personal property of an individual to a corporation at the time named in your inquiry would clearly have the effect of avoiding taxation for the year. The conclusion is that sections 5381, 5382 and 5385 G. C. are not strong enough to change the result when the business of the individual is that of a merchant or manufacturer.

The conclusion therefore is that the property in question is not subject to be listed for taxation in the year 1920; unless perchance the individual who has incorporated his business has converted what formerly was his ownership of the property and assets pertaining to the business into shares of stock in the corporation, which are non-taxable, or having received cash has converted the cash into other non-taxable securities, in either of which events, of course, under the statute it will be his duty to list on the average basis the effects by him so converted into non-taxables for the period of time which he held them in taxable form. Inasmuch as one would naturally expect to find the individual in the situation of a stockholder after incorporating his business on tax listing day, 1920, section 5376 G. C. (107 O. L. 32) would probably apply and produce the above described result by requiring him to list

“the monthly average amount or value, for the time he held or controlled them within the preceding year, of all moneys, credits, or other effects, within that time invested in, or converted into bonds or other securities not taxed, to the extent he may hold or control such bonds or securities on tax listing day.”

No direct opinion is expressed on this point because it rests in inference rather than on the statement of facts submitted by you.

Respectfully,  
JOHN G. PRICE,  
*Attorney-General.*

1298.

APPROVAL, FINAL RESOLUTIONS FOR ROAD IMPROVEMENTS IN WAYNE COUNTY, OHIO.

HON. A. R. TAYLOR, *State Highway Commissioner, Columbus, Ohio.*

COLUMBUS, OHIO, May 29, 1920.

1299.

APPROVAL, BONDS OF TRUMBULL COUNTY, OHIO, IN AMOUNT OF \$12,000 FOR COUNTY BUILDINGS.

*Industrial Commission of Ohio, Columbus, Ohio.*

COLUMBUS, OHIO, May 29, 1920.