

1717.

INHERITANCE TAX—ADDITIONAL TAX ASSESSED UNDER SECTIONS 5335-1, ET SEQ., GENERAL CODE—PAID BEFORE ONE YEAR—ESTATE ENTITLED TO DISCOUNT.

SYLLABUS:

In the assessment of an additional tax under the provisions of Sections 5335-1, et seq. of the General Code, the estate is entitled to a discount under the provisions of Section 5338, General Code, if the said tax is paid before the expiration of one year after the date of the accrual thereof.

COLUMBUS, OHIO, February 16, 1928

The Tax Commission of Ohio, Wyandotte Building, Columbus, Ohio.

GENTLEMEN:—This will acknowledge receipt of your recent communication which reads:

“Please advise us if in case of an additional tax assessed under Sections 5335-1, et seq., of the General Code, the estate is entitled to a discount if the same is paid before the expiration of one year after the date of accrual thereof.”

Section 5335-1 of the General Code reads as follows:

“In addition to the tax levied under G. C. Section 5332, there is hereby levied an additional tax upon the transfer at death of the estates of resident decedents of an amount equal to eighty per centum of the tax imposed by title III of the act of congress approved February 26, 1926, known as the ‘Revenue Act of 1926,’ the rates contained in the said act of congress being as follows:

One per centum of the amount of the net estate not in excess of \$50,000; two per centum of the amount by which the net estate exceeds \$50,000 and does not exceed \$100,000; three per centum of the amount by which the net estate exceeds \$100,000 and does not exceed \$200,000; four per centum of the amount by which the net estate exceeds \$200,000 and does not exceed \$400,000; five per centum of the amount by which the net estate exceeds \$400,000 and does not exceed \$600,000; six per centum of the amount by which the net estate exceeds \$600,000 and does not exceed \$800,000; seven per centum of the amount by which the net estate exceeds \$800,000 and does not exceed \$1,000,000; eight per centum of the amount by which the net estate exceeds \$1,000,000 and does not exceed \$1,500,000; nine per centum of the amount by which the net estate exceeds \$1,500,000 and does not exceed \$2,000,000; ten per centum of the amount by which the net estate exceeds \$2,000,000 and does not exceed \$2,500,000; eleven per centum of the amount by which the net estate exceeds \$2,500,000 and does not exceed \$3,000,000; twelve per centum of the amount by which the net estate exceeds \$3,000,000 and does not exceed \$3,500,000; thirteen per centum of the amount by which the net estate exceeds \$3,500,000 and does not exceed \$4,000,000; fourteen per centum of the amount by which the net estate exceeds \$4,000,000 and does not exceed \$5,000,000; fifteen per centum of the amount by which the net estate exceeds \$5,000,000 and does not exceed \$6,000,000; sixteen per centum of the amount by which the net estate exceeds \$6,000,000 and does not exceed \$7,000,000; seventeen per centum of the amount

by which the net estate exceeds \$7,000,000 and does not exceed \$8,000,000; eighteen per centum of the amount by which the net estate exceeds \$8,000,000 and does not exceed \$9,000,000; nineteen per centum of the amount by which the net estate exceeds \$9,000,000 and does not exceed \$10,000,000; twenty per centum of the amount by which the net estate exceeds \$10,000,000."

This supplemental section was enacted by the 87th General Assembly and levies upon the transfer at death of the estate of resident decedents in an amount equal to eighty per centum of the tax imposed by the Federal Government upon estates, under the "Revenue Act of 1926."

Section 8335-4, General Code, reads as follows:

"The additional tax levied under G. C. Section 5335-1 shall be deemed to have originated in the municipal corporation or township in which the decedent resided and shall be disposed of in accordance with the provisions of G. C. Section 5348-11. Said additional tax shall be administered, collected and paid in the same manner as is provided for the administration, collection and payment of the tax levied under G. C. Section 5332."

It is noted that under the provisions of this section the additional tax shall be administered, collected and paid in the same manner as is provided for the administration, collection and payment of the tax levied under Section 5332, General Code. Said Section 5332 defines what property is subject to the said inheritance tax.

Section 5338 of the General Code reads as follows:

"Taxes levied by this subdivision of this chapter shall be paid to the treasurer of the county in which the court having jurisdiction of proceedings under this subdivision of this chapter is held by the person or persons charged with the payment thereof. If such taxes are not paid within one year after the accrual thereof, interest at the rate of eight per centum per annum shall thereafter be charged and collected thereon; unless by reason of claims made upon the estate, necessary litigation, or other unavoidable causes of delay, such taxes cannot be determined and paid as hereinbefore provided, in which case interest at the rate of five per centum per annum shall be charged upon such taxes from the expiration of one year after the accrual thereof until the cause of such delay is removed, after which eight per centum shall be charged. If such taxes are paid before the expiration of one year after the accrual thereof, a discount of one per centum per month for each full month that payment has been made prior to the expiration of the year, shall be allowed on the amount of such taxes."

The provisions of this section relate to taxes levied by this subdivision of this chapter and provide that if *such* taxes are not paid within one year after the accrual thereof, interest at the rate of eight per centum per annum shall thereafter be charged and collected unless said rate is reduced to five per centum for the reasons therein named. It is also provided that if *such* taxes are paid before the expiration of one year after the accrual thereof a discount of one per centum per month may be allowed on the amount of *such* taxes. It is evident that the word, *such*, refers to all the taxes levied by this subdivision of this chapter.

Supplemental Sections 5335-1 and 5335-4 are a part of this subdivision of this chapter and under the provisions of Section 5335-4, the additional tax is to be administered,

collected and paid in the same manner as is provided for the administration, collection and payment of the taxes levied under G. C. Section 5332.

The administration, collection and payment of the said tax levied under G. C. Section 5332 is regulated by the provisions of Section 5338, General Code, which provides the rates of interest that may be imposed and the rate of discount allowed in the payment of said taxes.

It is therefore my opinion that in the assessment of an additional tax under the provisions of Sections 5335-1, et seq., of the General Code, the estate is entitled to a discount under the provisions of Section 5338, General Code, if the said tax is paid before the expiration of one year after the date of the accrual thereof.

Respectfully,

EDWARD C. TURNER,

Attorney General.

1718.

BUCKEYE LAKE—LEASES—NO REDUCTION IN RENTALS.

SYLLABUS:

There being no statutory provision authorizing the Department of Public Works to reduce the annual rentals to be paid by lessees on outstanding leases of state property at Buckeye Lake, no reduction in such rentals can be made.

COLUMBUS, OHIO, February 16, 1928

HON. RICHARD T. WISDA, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication reading as follows:

“We have a number of lessees at Buckeye Lake Park who allege that they are paying an exorbitant rental for State property covered by lease held by them and are therefore requesting a material reduction by reason of their inability to produce sufficient revenue to justify the payment of the rent stipulated.

Will you kindly advise this Department as to whether or not there is a statute enabling this Department to make such reductions, and if so, kindly cite the Sections of the General Code under which we may act.”

Under the provisions of Section 469, General Code, the body of water and adjacent state lands in Licking, Fairfield and Perry counties, known as the Licking reservoir or Buckeye Lake is dedicated and set apart forever for the use of the public as a public park or pleasure resort.

Sections 471, 473, 477 and 478, General Code, provide as follows:

Section 471. “No state lands in or adjacent to Buckeye Lake, Indian Lake, Lake St. Mary’s, or Portage Lakes, shall ever be sold, but the superintendent of public works may lease such lands, including marginal strips and marsh lands around said lakes, the outer slopes of artificial embankments, islands, borrow pits and state lands adjacent thereto as he deems proper under the laws governing the leasing of canal lands.”