

to collect an excise tax even though a portion of their sales may involve shipments from another state, was established in the case of *Monomotor Oil Company vs. Johnson*, (1934) 292 U. S., 86. However, in the present case, the vendors apparently do not maintain their places of business within the State of Ohio and therefore cannot be forced to collect the tax. Enforcement, then, must be directed against the consumers.

According to the provisions of Section 5546-29, General Code, it is the duty of consumers of subject goods on which the use tax has not been prepaid to file returns with the Tax Commission. Failure or refusal to make a return according to law entitles the Tax Commission to make an assessment based upon any information within its possession. The collection of this assessment, together with a penalty, is provided for in Sections 5546-37 and 5546-38, General Code. Such an assessment and penalty, when established in accordance with the provisions of this act, may be collected by a levy on the personal property of the violator.

In addition to these provisions enabling the Tax Commission to collect the tax by levying on the property of the violator, Section 5546-43, General Code, provides a penalty for failure to make a return to the Commission. Failure to file such a return constitutes a misdemeanor, and upon conviction thereof the violator may be fined not more than five hundred dollars for each offense. There is no apparent reason why the full effect of these enforcement provisions of the Use Tax Law cannot be brought to bear against the consumers who do not file returns and pay the tax on the cigarettes in question.

Respectfully,

HERBERT S. DUFFY,

Attorney General.

2323.

APPROVAL.—BONDS, EUCLID VILLAGE SCHOOL DISTRICT, CUYAHOGA COUNTY, OHIO, \$5,000.00, PART OF ISSUE DATED JANUARY 1, 1930.

COLUMBUS, OHIO, April 18, 1938.

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

RE: Bonds of Euclid Village School Dist., Cuyahoga County, Ohio, \$5,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above school district dated January 1, 1930. The transcript relative to this issue was approved by this office in an opinion rendered to your board under date of March 19, 1930, being Opinion No. 1638.

It is accordingly my opinion that these bonds constitute valid and legal obligations of said school district.

Respectfully,

HERBERT S. DUFFY,
Attorney General.

2324.

APPROVAL—BONDS, CITY OF TOLEDO, LUCAS COUNTY,
OHIO, \$10,000.00, PART OF ISSUE DATED MARCH 1, 1923

COLUMBUS, OHIO, April 18, 1938.

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

RE: Bonds of City of Toledo, Lucas County, Ohio,
\$10,000.00.

The above purchase of bonds appears to be part of an issue of bonds of the above city dated March 1, 1923. The transcript relative to this issue was approved by this office in an opinion rendered to your board under date of July 25, 1936, being Opinion No. 5897.

It is accordingly my opinion that these bonds constitute valid and legal obligations of said city.

Respectfully,

HERBERT S. DUFFY,
Attorney General.