

1946.

INHERITANCE TAX LAW—ROADS AND HIGHWAYS—WHEN ASSESSMENTS FOR ROAD IMPROVEMENT SHOULD BE TAKEN INTO CONSIDERATION IN FIXING VALUE OF SUCCESSIONS TO LAND FOR INHERITANCE TAX PURPOSES—SEE ALSO OPINION NO. 1863, DATED FEBRUARY 21, 1921.

*Assessments for road improvements which are a charge upon the property of a decedent, but not a personal liability of his estate, are to be taken into consideration as encumbrances upon the land in valuing such land for inheritance tax purposes, in so far as they may affect the actual market value of the land itself.*

COLUMBUS, OHIO, March 26, 1921.

*Tax Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—This department is in receipt of the commission's recent letter acknowledging our opinion No. 1863, which holds that unpaid installments of county and state road assessments are not obligations of the general personal estate of a decedent who was the owner of the property assessed at the time the assessments were made, and requesting the further opinion of this department as to whether, and to what extent, such assessments should be taken into consideration in fixing the value for inheritance tax purposes of the successions to the land.

It was held in the opinion referred to that the assessments were a charge upon the land and would only become collectible from a person at the time the assessments were due and payable, in which event the person from whom collection should be made would be the person then the owner of the land.

In the opinion of this department, therefore, it follows that the lien of each assessment constitutes an encumbrance upon the property assessed, and, in so far as this encumbrance, in the judgment of the appraiser, will affect the actual market value of the land so encumbered, its existence must be taken into consideration in determining that value. The assessments, however, do not represent estates in or immediately enforceable charges against the land, and therefore are not to be treated as formal deductions at their present worth, except to the extent of the installments actually on the duplicate and in process of collection at the time of the decedent's death, yet not so far payable as to constitute a personal debt of his estate. In other words, it is for the appraiser to determine to what extent the assessment lien affects the actual market value of the land, and he is to do this by appraising the land as it is, rather than by appraising it, so to speak, without the assessments and then proceeding to deduct the present worth of the assessments as liens.

Respectfully,

JOHN G. PRICE,

*Attorney-General.*

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STATE CIVIL SERVICE COMMISSION—CONTRACT SURVEYOR IN MEDICAL DEPARTMENT OF UNITED STATES ARMY ENTITLED TO EXEMPTION FROM PROVISIONS OF CIVIL SERVICE LAW (SECTION 486-10 G. C.).

*One duly appointed as contract surgeon in the medical department of the United States Army and having rendered active service as such comes within the legal definition of a United States soldier, and upon filing a certificate of service and*