

1663.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN
CUYAHOGA AND FAYETTE COUNTIES.

COLUMBUS, OHIO, February 2, 1928.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works,*
Columbus, Ohio.

1664.

TAX AND TAXATION—DELINQUENT REAL ESTATE—ACCRUAL DATE
OF 10% PENALTY UNDER SECTION 5678, GENERAL CODE.

SYLLABUS:

Under the provisions of Section 5678, General Code, the ten per cent penalty upon delinquent real estate taxes does not accrue until the February settlement between the county auditor and county treasurer.

COLUMBUS, OHIO, February 3, 1928.

HON. CHARLES P. TAFT, *2nd, Prosecuting Attorney, Cincinnati, Ohio.*

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

“The question has arisen in this county as to the penalty for delinquent real estate taxes. Your predecessor, Mr. Price, in interpreting an earlier statute (Op. Atty. Gen. 1920, Vol. 2, p. 1269) held that while the statute fixed the time by which real estate taxes must be paid, the penalty did not accrue until the February settlement. We have serious doubts as to the soundness of this opinion and logically there seems no basis at all for saying that taxes must be paid by a certain date, but that no penalty accrues until a month or more later. The holding in this opinion was obiter dicta.

In view of this situation, your opinion is requested as to whether under the amendment of Section 5678, General Code, to be found in 110 O. L. at page 152, the 10 per cent penalty upon delinquent real estate taxes accrues upon the last date for payment fixed by the county commissioners, or upon the completion of the February settlement.”

The syllabus of the former opinion of this department to which you refer (Op. Atty. Gen., 1920, Vol. II, p. 1269) reads as follows:

“1. The fifteen per cent penalty on delinquent real estate taxes does not attach as to the first half tax until after the February settlement.