

that the "motor vehicle license tax" is an excise or privilege tax. When the tax is paid on a motor vehicle for the privilege of operating it on the highways of Pennsylvania no privilege would thereby be purchased for its operation on the highways in Ohio. The elements of double taxation are therefore not present. Even if such elements were present, the law is specific, and there is no constitutional inhibition either state or federal, against double taxation.

Specifically answering your inquiry it is my opinion that all motor vehicles operated on the highways of Ohio are subject to the "motor vehicle license tax" imposed by Sections 6291 et seq., subject to such reciprocal agreements as might be legally entered into by "the commission" with states other than Ohio, pursuant to the provisions of Section 6306-1, General Code.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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1826.

APPROVAL, BONDS OF LIVERPOOL TOWNSHIP RURAL SCHOOL DISTRICT, MEDINA COUNTY, OHIO, \$11,303.43.

COLUMBUS, OHIO, November 4, 1933.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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1827.

APPROVAL, LEASE TO CANAL LAND IN THE CITY OF DELPHOS, ALLEN COUNTY, OHIO.

COLUMBUS, OHIO, November 4, 1933.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—This is to acknowledge the receipt of your recent communication submitting for my examination and approval a certain canal land lease in triplicate, executed by you to one C. J. Winston of Delphos, Ohio. By this lease, which is one for a term of fifteen years and which provides for an annual rental of eighteen dollars, payable semi-annually, there is leased and demised to the lessee above named the right to occupy and use for lawn and business purposes that portion of the berm embankment of the abandoned Miami and Erie Canal which is located in the city of Delphos, Allen County, Ohio, and which is more particularly described as follows:

Beginning at the point of intersection of the easterly line of said canal land and the northerly line of Fifth street in said city and being the southwest corner of Lot No. 28, in said city, and running thence westerly with the northerly line of Fifth Street twenty (20') feet, more or less, to the top water line of said canal; thence northerly parallel

with the said easterly line of said canal property sixty (60') feet, more or less, to the northerly line produced of the said Lot No. 28, and the easterly line of said canal property; thence southerly with the said easterly line of said canal property sixty (60') feet, more or less, to the place of beginning and containing twelve hundred (1200) square feet, more or less.

There is no statement in the lease with respect to the statutory authority under which the same is executed, other than the general provisions of section 13965, et seq., General Code, therein referred to. However, I assume that this lease is one executed by you under the more particular authority of section 19 of Amended Substitute Senate Bill No. 194, known as the DeArmond Act, enacted by the 89th General Assembly under date of April 29, 1931. In this view and giving effect to this section of the DeArmond Act, I am required to further assume that no part of the canal lands covered by this lease have been designated by the Director of Highways as necessary for state highway construction or improvement and that no application has been made by the city of Delphos for the lease of this property or any part thereof for public park purposes under the provisions of this act or of the Farnsworth Act, 114 O. L. 518.

Under these assumptions, which I think I can fairly make under rules of law applicable to the construction of the acts of a public officer, no reason is seen why this lease should not be approved. And finding that the same has been properly executed by you and by the lessee therein named, and finding further that the provisions of the lease and the conditions and restrictions therein contained are in conformity with the applicable provisions of the DeArmond Act and with those of other statutory enactments relating to the execution of leases of this kind, this lease is hereby approved as is evidenced by my approval endorsed upon the lease and upon the duplicate and triplicate copies thereof, all of which are herewith returned.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

1828.

APPROVAL, LEASE TO LAND AT BARBERTON, OHIO, FOR RIGHT  
TO INSERT PIPE INTO LEVEL OF OHIO CANAL.

COLUMBUS, OHIO, November 4, 1933.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval a certain water lease in triplicate, which is executed by you to The Akron and Barberton Belt Railroad Company of Barberton, Ohio. By this lease, which is one for a term of five years and which provides for an annual rental of two hundred and sixteen dollars, payable in semi-annual installments of one hundred and eight dollars each, there is leased and granted to the railroad company above named the right to insert a three-inch pipe into the level of the Ohio Canal at Barberton, Ohio, and by this means during the term of the lease to take from the canal at this point such water as may be necessary for the purpose of supplying the locomotives of the company.