makes special provision with respect to the information that must be furnished when the securities are those of a taxing subdivision of any other state. This latter information so called for is materially different in some respects from that called for regarding other issues. The two sections just referred to, and in the particulars mentioned, to my mind manifest the legislative intent to draw a distinction between taxing subdivisions of other states or municipal corporations on the one hand, and the classes of corporations referred to in the act as private and quasi-public corporations.

The definition of the word "company" hereinabove referred to, does not expressly include taxing subdivisions of other states or municipal corporations, and, as above indicated, it seems that in cases where the legislature intended to make the act applicable to taxing subdivisions of other states, it has so provided in clear language, such, for example, as in section 6373-1 G. C. where the requirement is made that dealers in securities issued or executed by any taxing subdivision of any other state shall first secure a license before disposing or offering to dispose thereof, and in section 6373-9 G. C. which requires such license to furnish certain information peculiar to the securities and taxing subdivision involved.

You are therefore advised that while the act (section 6373-1 G. C.) requires a dealer to secure a license before disposing or offering to dispose of the securities of a taxing subdivision of any other state, and such licensee in certain cases (including the one mentioned in your letter) is required to furnish the information called for by the last paragraph of section 6373-9 G. C. before disposing of such securities, the provisions of section 6373-14 G. C. relating to the certification of the securities of "any company" do not apply to the securities mentioned in your letter.

Respectfully,

JOHN G. PRICE,

Attorney-General.

1701.

MUNICIPAL CORPORATION—WHERE WATER MAINS AND WATER PIPES ARE LAID ON ASSESSMENT PLAN—WITHOUT AUTHORITY TO CONTRACT TO REIMBURSE LAND OWNERS TO BE ASSESSED WHEN HOUSES BUILT ON LANDS.

A municipality, if it undertakes the laying of water mains and water pipes on the assessment plan (Sec. 3812 G. C.), is without authority to incorporate into such plan a contract with the owners of lands to be assessed, whereby such owners will be reimbursed to the extent of their respective assessments when houses are built on the lands and connections made with the water mains.

COLUMBUS, OHIO, December 11, 1920.

The Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—You have made request for a statement of the views of this department as to a matter submitted by Hon. Alton H. Etling, solicitor for the village of Orrville, in a letter reading as follows:

"A petition has been presented to the council of the village of Orrville to improve certain lots by laying of water mains and water pipes in the streets upon which these lots front, asking that the improvement be made and the cost thereof assessed against the abutting lots according to feet frontage.

This improvement is asked for an allotment which has been recently

opened and upon which no houses are yet built. Prior to this time the waterworks department has laid water mains and pipes at its own expense, the lot owner paying for connection and paying his water rent, that is, extensions were made by the waterworks department in accordance with the needs of a particular locality. The improvement contemplated in the petition is more extensive than ordinary and it might be some time until the village would get any revenue from the laying of these mains; for that reason the petition has been presented to make the improvement and assessments above mentioned.

The last paragraph of the petition reads as follows: 'This petition is presented on the condition and with the understanding that when a house is built upon any one of the lots improved as above, and connection with the water mains made, that the village will refund to the lot owner the original cost as assessed per foot front against that lot.'

The village council is willing to make the improvement on the condition stipulated in the petition and willing to make the refund for the value of the improvement to each lot owner on connection with the mains. The question has been raised by some of the taxpayers of the village as to the legality of this procedure.

The writer sees no objection whatever to making the improvement as petitioned for so far as the village is concerned, but thinks possibly there may be some difficulty in compelling the refund of the money to the lot owner. Is there any other legal objection to making the improvement under the conditions named?

I might add that the village council, upon acceptance of the petition, will pass a resolution agreeing to refund the money under the conditions mentioned above."

Section 3812 G. C., the opening section of the chapter relating to "assessments," provides among other things that the council of a municipal corporation

"may assess upon * * * specially benefited lots or lands in the corporation, any part of the entire cost of an expense connected with the improvement of any street, alley, * * * public road, or place, * * * by * * * constructing water mains or laying of water pipe * * *."

Hence, by appropriate proceedings under said section and related sections, the contemplated improvement mentioned by the solicitor may be undertaken by the village on the assessment plan.

However, if the village proceeds under such plan, it may not, in the opinion of this department, resort to the proposed "reimbursement contract." In the first place, such a contract is not expressly authorized by statute; and in the second place, such contract would be inconsistent with the theory of the assessment plan, and in practical effect would be doing away with the assessment altogether. If, as against the statement just made, it be urged that the reimbursement contract merely affords a method whereby, in effect, the village may construct the pipe lines at its own expense at the present time, instead of at a later date, the answer suggests itself that the very consideration of the assessment would be a conferring of benefit on the affected lots and lands *at the present time,* instead of at a later date when the village would in ordinary course construct the lines at its own expense without an assessment.

If we were to assume that the village had authority to enter into the reimbursement contract, the question would arise whether the contract is subject to the provisions of section 3806, et seq.,—that is, would it be necessary before the con-

tract is signed, that funds be made available and be appropriated and certified to, for the purpose of taking care of the refunds as they became due? This question, while suggested need not be discussed here, in view of the conclusion already stated that the village is without authority to enter into the contract.

Respectfully,
JOHN G. PRICE,
Attorney-General.

1702.

TAX LISTING DAY—WHERE CORPORATION ACTS AS AGENT FOR ANOTHER CORPORATION—WHERE CORPORATION ACTS AS AGENT OF INDIVIDUAL—WHERE INDIVIDUAL IS AGENT OF CORPORATION.

1. *If an incorporated company has in its possession or under its control as agent property belonging to another corporation, such property should be listed as of the first day of January rather than as of the day preceding the second Monday of April. Under section* 5370 *the listing should be made not by the agent corporation but by the owner corporation.*

2. *If an incorporated company has property in its possession or under its control as agent belonging to an individual, such property should be listed by the agent company as of the day preceding the second Monday of April, and not as of the first day of January.*

3. *If an individual has in his possession or under his control as agent property belonging to an incorporated company, such property should be listed as of the first day of January rather than as of the day preceding the second Monday of April. Return should be made by the principal officer of the corporation rather than by the agent; with possible exceptions in the cases of agents having control of investments and of receivers, which are not considered.*

COLUMBUS, OHIO, December 11, 1920.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—The commission requests the opinion of this department upon the following questions, all based upon the provisions of sections 5366-1, 5372-1 and 5404-1 of the General Code:

> "1. If an incorporated company has in its possession or under its control as agent property belonging to another corporation, should the corporation having the property in its possession or under its control list the same as of the first day of January or as of the day preceding the second Monday of April?
>
> 2. If an incorporated company has property in its possession or under its control as agent belonging to an individual, should it list such property as of the first day of January or as of the day preceding the second Monday of April?
>
> 3. If an individual has in his possession or under his control as agent property belonging to an incorporated company should he list such property as of the day preceding the second Monday of April or as of the first day of January?"

The sections referred to by the commission are as follows: