

in answer to your particular question, that The International Harvester Co. is required to pay a tax of twenty dollars for each of the different places of business or branch offices.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2650.

INHERITANCE TAX LAW—WHERE D. DIED ON MARCH 23, 1921—OCTOBER 23, 1921, FELL ON SUNDAY—SUCCESSORS OF ESTATE TENDERED PAYMENT OF TAXES ON MONDAY, OCTOBER 24TH—HELD NOT ENTITLED TO ALLOWANCE OF FIVE PER CENT DISCOUNT.

D. died on the twenty-third day of March, 1921; October 23, 1921, fell on Sunday; the successors of the estate of D. tendered payment of the taxes assessed on their respective successions on Monday, October 24th, claiming an allowance of five per cent discount;

HELD:

Such claim is not well founded, as payment was not tendered five full months prior to the expiration of the year. The fact that the last day on which payment entitling them to a discount of five per cent could have been made fell on Sunday is immaterial.

COLUMBUS, OHIO, December 2, 1921.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—The commission has requested the opinion of this department upon the following question:

“John Doe died on the 23rd day of March, 1921, leaving a large estate subject to inheritance tax which was duly assessed. October 23, 1921, fell on Sunday and the successors of said estate sought to pay the taxes so assessed on Monday, October 24th, and claimed an allowance of five per cent discount as provided by law for payment in advance of the expiration of the year. Their claim was based on the ground that the last day for such deduction being Sunday they had the right to get advantage of the discount if payment was made on the day immediately following.”

In the opinion of this department, this claim is not well founded. Section 10216 of the General Code, providing that in the computation of time Sunday, if the last day, shall be excluded, applies only to the code of civil procedure of which it is a part. There is no similar statute of general or universal application. The inheritance tax law is silent on the subject; yet it is a part of a system of law that is entirely statutory, and on which the common law has no influence whatever save to throw light upon doubtful or ambiguous phrases. So far as that is concerned, however, the common law of England with respect to the observance of the Sabbath is no part of the law of this state. (*Bloom vs. Richards*, 2 O. S. 387). It is impossible to impute to the legislature any such intention as that contended for in the absence of an express provision in the inheritance tax law itself. The section under which the claim is made is one which extends to taxpayers certain special

benefits as an inducement to prompt payment. That is to say, a rebate or deduction from the principal sum of the tax assessed is given if the tax is paid a certain number of months prior to the expiration of one year from the date of its accrual. The language is as follows:

"Sec. 5338. * * * If such taxes are paid before the expiration of one year after the accrual thereof, a discount of one per centum per month for each full month that payment has been made prior to the expiration of the year, shall be allowed on the amount of such taxes."

There is no question as to what the words "each full month * * * prior to the expiration of the year" mean. The time is reckoned backward from the expiration of the year; Monday, October 24th, was less than five full months prior to the expiration of the year. The whole provision is for the benefit of the taxpayer; no forfeiture is involved, as in the case of rule days for pleadings, etc., and, in the opinion of this department, the claim is not well founded.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2651.

INHERITANCE TAX LAW—INSURANCE POLICY PAYABLE TO C. BANK, TRUSTEE—SUCCESSION TO PROCEEDS OF POLICY TAXABLE—BANK DESIGNATED AS "TRUSTEE FOR M., N. AND D." IN POLICY—WHERE WILL DEFINES TERMS OF TRUST—SUCCESSION TAXABLE.

1. *A. procures a policy of insurance on his life, the proceeds payable to the "C. bank, trustee" without further specification; he dies leaving a will specifying the terms of the trust and the beneficiaries thereof; the succession to the proceeds of the policy is taxable under the inheritance tax law of this state.*

2. *The same result is reached where the bank is designated as "trustee for M., N. and D." (designated persons) but the will defines the terms of the trust.*

COLUMBUS, OHIO, December 2, 1921.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Recently the commission submitted to this office the following request for opinion:

"Under date of June 29th in Opinion 2204 you advised us as to the exemption from inheritance tax of the proceeds of an insurance policy payable to a trust company as trustee when a trust agreement had been made with such company to pay therefrom any inheritance taxes that might be assessed against the estate and pay over the unconsumed balance to the distributees of the estate in certain proportions. Would any different rule be applicable:

1. If the policy is drawn 'proceeds payable to the C. bank, trustee for M., N. and D.' in a case in which the trust terms are defined in the will of the insured of which such company is the executor?