

"If it be such an interest as can be enforced in a court of law, it is a legal interest or estate. If it be such as can only be enforced in a court of chancery, it is an equitable interest or estate."

See *In re Folwell's Estate*, 68 N. J. Eq., 728, 731.

Certainly the rights that may arise between the buyer and seller of investment trust certificates and the shares represented thereby are such as are cognizable in courts of law, as would likewise be the right of the owner and holder of an investment trust certificate to dividend payments represented by the coupons attached to such certificates. *Gunsaulus vs. Pettit*, 46 O. S. 27.

In the consideration of the immediate question, it is significant that during the life of the trust agreement the holder of an investment trust certificate cannot by an action in equity or otherwise assert any right to the corpus of the trust unless he gets into his ownership and possession the certificates representing all of the shares issued against the securities unit. In this case he is entitled to receive all of the shares of stock deposited with the trustee constituting such securities unit. However, this is a right which is given him by contract; and inasmuch as in this situation the trust is closed and liquidated as to the shares of stock constituting such unit, the holder of the outstanding trust certificates can enforce his rights by an action at law. *Johnson vs. Johnson*, 120 Mass., 465, 466.

By way of specific answer to the question here presented, I am of the opinion that although the laws of this state are not effective to tax the corpus of an investment trust fund owned and held by a trustee in another state or any proportionate part thereof, such laws do effectively provide for the taxation of investment trust shares represented by investment trust certificates owned and held by residents of this state and that the same should be listed for taxation at the domicile of such owner in this state.

Respectfully,

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1653.

APPROVAL, BONDS OF VILLAGE OF NORTH OLMSTED, CUYAHOGA COUNTY—\$2,188.49.

COLUMBUS, OHIO, March 24, 1930.

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

1654.

APPROVAL, BONDS OF VILLAGE OF NORTH OLMSTED, CUYAHOGA COUNTY—\$1,496.70.

COLUMBUS, OHIO, March 24, 1930.

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