

This position in regard to the valuation on the duplicate is sustained in the recent case of *Commissioners vs. Bank*, 113 O. S., page 43, where the court say:

"Section 5412, General Code, provides that from the aggregate sum constituting the value of the shares 'the value of the real estate included in the statement of resources as it stands on the duplicate' should be deducted. This clause is somewhat confusing since the value as it stands on the tax duplicate may or may not be included in the statement of resources. Since we cannot believe that it was the legislative purpose to attach various values upon assessed real estate, we are of the opinion that, in fixing the value of bank shares under the provisions of section 5412, General Code, the county auditor should disregard the value of real estate appearing on the books of the bank and fix the value thereof as assessed on the tax duplicate. From the aggregate sum thus obtained the value of the real estate as it stands on the duplicate should be deducted. The purpose of said section is the ascertainment of the value of the shares without regard to book value of real estate, which has been made a separate subject for taxation under our tax laws."

And after further discussing the authorities, the court at page 45, concludes that:

"It is impossible to escape the conclusion that under the act as originally passed, which is substantially the same as that found in our present law, the county auditor is required to regard the duplicate value only in ascertaining the value of bank shares."

It may reasonably be assumed that these certificates will be issued frequently by trustees holding the legal title to land situated outside this state, and it is certain that such certificates could not be deducted. *Cooley on Taxation*, Vol. 3, Sec. 988, states that:

"Many statutes provide that in valuing shares of stock or of the shares of stock in banks, including national banks, there shall be deducted the value of real property of the corporation already taxed within the state \* \* \*; but there can be no deduction for real estate situated outside the state."

In view of the foregoing discussion and consideration of authorities, it is the opinion of this department that in assessing the shares of a bank for taxation, county auditors may not include in the deduction for real estate, under section 5412 General Code, land trust certificates.

Respectfully,

C. C. CRABBE,

*Attorney-General.*

3913:

REAL ESTATE—NOTICE REQUIRED TO BE GIVEN BY COUNTY AUDITOR  
IN THE YEAR OF A GENERAL REAPPRAISEMENT IS THE ONE PROVIDED FOR IN SECTION 5606 G. C.

SYLLABUS:

*The only notice required to be given by the County Auditor of the County Board of Revision in the year of a general reappraisal as provided in section 5548 of the General Code, is the notice required by section 5606, unless the Board of Revision shall increase the valuation on complaint.*

COLUMBUS, OHIO, December 24, 1926.

*The Tax Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—I am in receipt of your communication as follows:

"Is a County Auditor or a County Board of Revision required to give

any notice to owners of property in his county after a general re-appraisal as provided in section 5548 G. C., other than the notice required in section 5606 G. C.?"

Section 5548 of the General Code, as amended in 111 Ohio Laws, page 418, in part provides:

"Each county is made the unit for assessing real estate for taxation purposes. The county auditor, in addition to his other duties, shall be the assessor for all the real estate in his county for purposes of taxation, provided that nothing herein shall affect the power conferred upon the tax commission of Ohio in the matter of the valuation and assessment of the property of any public utility.

In the year 1925, and in every sixth year thereafter, it shall be the duty of the county auditor to assess all the real estate situate in the county; provided, that if the real property in any county or subdivision thereof has been reappraised in the years 1922, 1923, or 1924, and upon the application of the county auditor of said county the tax commission of Ohio finds that the real property in said county or subdivision thereof is appraised at its true value in money, then there shall be no general re-assessment of property in said county or subdivision in the year 1925."

By this section the county is made the unit for assessing real estate and the county auditor is made the assessor. In the year 1925 and every sixth year thereafter it is the duty of the county auditor to assess all real estate situated in the county.

Section 5548-1 of the General Code provides:

"In any year after the year in which an assessment has been made by the county auditor of all the real estate in any subdivision as herein provided, it shall be the duty of such county auditor at any time to revalue and assess any part of the real estate contained in such subdivision where he finds that the same has changed in value, or is not on the duplicate at its true value in money, and in such case he shall determine the true value thereof in money, as herein provided for assessing the entire property in any such subdivision. In such case the county auditor shall notify the owner of such real estate, or the person in whose name the same stands charged on the duplicate of his intention to reassess such real estate and of the change in valuation thereof in such reassessment, and in case the owner of such real estate is not satisfied with such reassessment, the same shall be heard at the next ensuing session of the county board of revision, and such owner shall have the right to appeal therefrom to the tax commission of Ohio, as provided in other cases."

By this section in any year other than the year in which an assessment has been made by the county auditor of all the real estate in any subdivision, it is his duty to revalue and assess any part of the real estate contained in said subdivision where he finds that the value has changed or is not on the duplicate at its true value in money. In such cases he shall notify the owner of such real estate of his intention to reassess such real estate and of the change in valuation thereof and in case such owner is not satisfied with the reassessment a hearing shall be granted him by the county board of revision with the right to appeal to the Tax Commission of Ohio.

Section 5606 of the General Code provides:

"When the board of revision has completed its work of equalization and has transmitted the statements and returns to him, the county auditor

shall give notice, by advertisement in two newspapers, of opposite politics, published in and of general circulation throughout the county, that the tax statements and returns for the current year have been revised and the valuation completed and are open for public inspection in his office, and that complaints against any valuation or assessment, except the valuation fixed and assessments made by the tax commission of Ohio, will be heard by the county board of revision, stating in the notice the time and place of the meeting of such board. Such advertisements shall be inserted in a conspicuous place in each such newspaper and be published daily for ten days unless there be no daily newspaper published in and of general circulation throughout such county, in which event such advertisement shall be so published once each week for two weeks. The county auditor shall, upon request, furnish to any person a certificate setting forth the assessment and valuation of any tract, lot or parcel of real estate or any specific personal property, and mail the same, when requested to do so, upon receipt of sufficient postage."

This section provides for the publication of notice that the tax statements and returns for the current year have been revised and the valuation completed and that they are open for public inspection at the auditor's office and that complaints against valuations may be made to the county board of revision, such notice stating the time and place of the meeting of such board.

The sections quoted above provide a method, first, for a compulsory reappraisal in 1925 and every sixth year thereafter, and, second, for an assessment or revaluation of property in any subdivision in years other than the year of reappraisal.

If a revaluation or assessment is made in years other than that of the year of reappraisal, notice must be given as provided by section 5648-1 of the General Code. After such reappraisal and notice with an opportunity to make complaint and in cases of reappraisal under section 5548 of the General Code, the duplicate is returned to the county auditor and notice as required in section 5606 is made by publication in newspapers.

Section 5599 of the General Code provides:

"The county board of revision shall not increase any valuation, nor increase the listed amount of any taxable property without giving notice to the person in whose name the property affected thereby is listed, and affording an opportunity to be heard. Such notice shall describe the real or personal property the tax value of which is to be acted upon, by the description thereof as carried on the tax list of the current year, and shall state the name in which it is listed; and shall be served by delivering a copy thereof to the person or persons interested, or by leaving a copy at the usual place of residence or business of such person or persons, or by sending the same by registered letter, mailed to the address of such person or persons. If no such place of residence or business is found in the county, then such copy shall be delivered or mailed to the agent in charge of such property. If no such agent is found in the county, such notice shall be served by advertisement thereof inserted once in a newspaper of general circulation in the county in which the property is situated. Notices to the respective persons interested in different properties may be united in one advertisement under the same general heading. Notices served in accordance with any of the above provisions shall be sufficient."

This section relates only to cases in which the Board of Revision increases the valuation of property as assessed by the county auditor and requires the notice as therein set out to be given to the owner of the land. This section has no reference to a general reappraisal as provided for in section 5548 or to the revaluation of

property under section 5548-1, but relates exclusively to the action of the County Board of Revision.

You are therefore advised that the only notice required to be given by the county auditor or the County Board of Revision in the year of a general reappraisal as provided in section 5548 of the General Code, is the notice required by section 5606 of the General Code, unless the Board of Revision shall increase the valuation on complaint.

Respectfully,  
C. C. CRABBE,  
*Attorney-General.*

3914.

APPROVAL, BONDS OF CITY OF EAST LIVERPOOL, COLUMBIANA COUNTY, \$43,590.50.

COLUMBUS, OHIO, December 28, 1926.

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

3915.

APPROVAL, LEASES ON MIAMI & ERIE, AND OHIO CANALS, AND INDIAN LAKE.

COLUMBUS, OHIO, December 29, 1926.

*Department of Highways and Public Works, Division of Public Works, Columbus, Ohio.*

GENTLEMEN:—I have your letter of December 14, 1926, in which you enclose the following leases in triplicate, for my approval:

	<i>Valuation.</i>
MIAMI & ERIE CANAL.	
To Alfred G. Cottel, Cottage site.....	\$150 00
Cincinnati, Hamilton & Dayton Railroad Company, Pole Line.....	15,700 00
Cincinnati, Hamilton & Dayton Railroad Company, Railroad Right of Way.....	11,500 00
S. A. Douglas, Land Lease.....	600 00
Gondert & Lienesch, Land Lease.....	3,666 67
Louise Heerdegen, Land Lease.....	175 00
Hobart Brothers, Land Lease.....	5,000 00
L. P. Krauss, Land Lease.....	250 00
Miller Bros., Land Lease.....	1,000 00
Trostle & Hunt, Land Lease.....	1,000 00
F. W. Uhlman, Land Lease.....	500 00
Y M. C. A., Land Lease.....	800 00