

tain the proposition that the legal and equitable interest in the same property may both be taxed, at least where trustee and beneficiaries reside in the same state. On the contrary, all theory of this being lawful as to capital stock and shares of stock of a corporation is that they are distinct and independent properties, there being a legal interest in the former, and a legal interest in the latter, that is to say, diverse legal interests in different things. In a trust there is a legal interest and its dependency, an equitable interest. If the latter is destroyed, a beneficiary ceases to be, but the property resumes the status it had before the subsidiary interest began."

It is therefore believed that the holders of the land trust certificates authorized under the aforesaid declaration of trust are not required to list them for taxation.

You further inquire if it would make any difference if the real estate in question was located outside of Ohio, or the trustee was a non-resident of this state; or if the trustee was a non-resident and the land was also without the state.

It is believed that the said statement of changed status would make no difference in our answer as before herein stated.

In *Sears Trust Estates*, page 168, it is stated that:

"Therefore it may be said that in the state where both trustees and *cestui que trust* reside one tax is all that may be imposed; and if they reside in different states, the tax is imposed where the property is held."

I am returning your copy of the declaration of trust.

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

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3641.

APPROVAL, BONDS OF OLMSTED TOWNSHIP RURAL SCHOOL DISTRICT, CUYAHOGA COUNTY, \$75,000.00.

COLUMBUS, OHIO, September 22, 1926.

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

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3642.

APPROVAL, BONDS OF NORWICH TOWNSHIP SPECIAL RURAL SCHOOL DISTRICT NO. 1, FRANKLIN COUNTY, \$650.00.

COLUMBUS, OHIO, September 22, 1926.

*Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.*