

at their true value in money as securities, without deduction of his general debts therefrom."

It is believed that the authorities herein cited and the former opinion of this department just quoted justify the conclusion that said bonds held by said creditor corporation should be classed for taxation purposes as "investments in bonds" and it necessarily follows that debts of said corporation may not legally be deducted therefrom. When the creditor corporation surrendered its claim, which consisted of a book account which is classed as "credits" and took in exchange therefore, bonds of said debtor corporation, its claim necessarily became vested in the new securities, and for taxation purposes, must be classed as "investments in bonds." You are advised that such is the opinion of this department.

Respectfully,

C. C. CRABBE,
Attorney-General.

909.

TAXATION—SUCCESSION TO REGISTERED BONDS ISSUED BY JOINT STOCK LAND BANK LOCATED IN OHIO IS TAXABLE IN THIS STATE—SECTION 5348-2 G. C. CONSTRUED.

SYLLABUS:

The succession to registered bonds issued by a Joint Stock Land Bank located in Ohio, and belonging to the estate of a non-resident decedent, is subject to the inheritance tax in this state.

The bank should require the consent of the Tax Commission of Ohio, under section 5348-2 G. C. before making transfer of such bonds from the name of the decedent.

COLUMBUS, OHIO, November 19, 1923

The Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Acknowledgment is hereby made of the receipt of the commission's letter of recent date requesting the opinion of this department as follows:

"A died a nonresident of Ohio owning registered bonds issued by a Joint Stock Land Bank located in this state.

Question 1. Is the succession to such bonds subject to inheritance tax in Ohio?

Question 2. Should the bank require the consent of this commission under section 5348-2 before making transfer of such bonds from the name of the decedent?"

Joint Stock Land Banks are corporations formed under authority of section 9324, United States Statutes, for the purpose of carrying on the business of lending on farm mortgage security and issuing farm loan bonds.

In an opinion rendered by this department to your commission on October 21, 1919, found in Opinions of Attorney General, Volume II, p. 1332, it was held that registered bonds issued by Ohio corporations belonging to estates of non-resident decedents and held outside of the state are taxable under the inheritance tax law of Ohio.

This opinion states that:

"The legal effect of the registration of a bond is to destroy its negotiability in that the obligor is not liable to any holder of the instrument in due course, but may discharge its obligation by paying it to the registered owner. It is obvious that where the bonds are registered, * * * the transfer can only be effected at an office designated by the corporation. * * * It would be necessary, upon this assumption, for the person entitled to succession to these bonds to come into the state * * * directly or indirectly, to complete his title. The transaction, by virtue of the contract itself, would become localized, for the transfer would require a corporate act in this state."

In an opinion to the Commission rendered by this department March 26, 1921, Opinions of Attorney General, p. 277, the following language is used, quoting from *re Cushing's Estate*, 82 N. Y. Supp. 795.

"The court also refers to the Federal Statute, constituting national banking associations citizens of the state in which they are respectively located, and on it bases an argument to the effect that such associations should be treated as domestic corporations of the states in which they do business."

In conformity with these former holdings of this department you are advised that the succession to registered bonds owned by a non-resident decedent issued by a Joint Stock Land Bank located in this state is taxable in this state.

You also ask:

"Should the bank require the consent of this commission under section 5348-2 before making transfer of such bonds from the name of the decedent?"

Section 5348-2 G. C. provides in part as follows:

" * * * no safe deposit company, trust company, corporation, bank or other institution, * * * having in possession or control or custody, * * * securities, * * * belonging to or standing in the name of the decedent, * * * shall deliver or transfer the same to any person whatsoever * * * unless notice of the time and place of such delivery or transfer be served upon the tax commission of Ohio. * * * ; but the tax commission of Ohio may consent in writing to such * * * transfer."

Under date of October 20, 1919, an opinion was rendered to your department, found in Opinions of Attorney General, Vol. II p. 1335, in which it was held that:

"It is the opinion of this department that section 5348-2 applies to the transfer of registered bonds and their registration in the name of the transferee in case of the accrual of the inheritance tax on account thereof, * * *."

It was also held in an opinion of this department found in Volume I, page 277, Opinions of the Attorney General, 1921, that:

"A national bank is liable to the same extent and under the same circumstances that a corporation organized under the laws of Ohio would be for failing to comply with section 5348-2 of the General Code."

I find nothing in the legislation pertaining to Joint Stock Land Banks in conflict with these opinions.

It is therefore the opinion of this department that your second question also should be answered in the affirmative.

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

910.

APPROVAL, BONDS OF WHETSTONE TOWNSHIP RURAL SCHOOL DISTRICT, CRAWFORD COUNTY, \$6,121.25, TO FUND CERTAIN INDEBTEDNESS.

COLUMBUS, OHIO, November 19, 1923

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

911.

BOARD OF EDUCATION—HAS AUTHORITY UNDER SECTION 7777 G. C. TO FURNISH CARE AND PERSONAL NECESSITIES FOR INVALID MOTHER TO ENABLE CHILD TO ATTEND SCHOOL—SECTIONS 4752 AND 7705 G. C. CONSTRUED.

SYLLABUS:

1. *Under the provisions of section 7777 General Code, where the mother is an invalid, the family without property and no means of support other than the earnings of the father and husband, which earnings are inadequate to support the family and provide the proper care for the invalid mother, and when because of the above circumstances the services of a child (a daughter) are absolutely required to care for the mother, it is believed upon satisfactory proof of such state*