

In the consideration of the question presented in your communication I assume that by the "sale of ice to retailers," as stated in your communication, you refer to the sale of ice, not to retail ice dealers, but to meat dealers, grocers and others who sell food supplies and other like articles at retail, and who purchase ice from the manufacturer for the purpose of using and consuming the same in the refrigeration and preservation of such food supplies so that the same will be in condition for sale to the consumer.

It is quite clear that the sale of ice by a manufacturer for the purposes above stated is a sale of such commodity within the meaning of the term "sale" as that term is defined in section 1 of the Sales Tax Act. However, the taxes provided for in this act are levied on retail sales as defined in the act. So far as the same are pertinent in the consideration of the question here presented the terms "retail sale" and "sale at retail" are defined in said act as follows:

" 'Retail sale' and 'sale at retail' include all sales excepting those in which the purpose of the consumer (in this case the retail dealer) is \* \* \* to use or consume the thing transferred in \* \* \* retailing."

Inasmuch as under the facts here presented the business of the retail dealer is to sell the food supplies preserved by the use of ice which he purchases and since the only purpose of such dealer in purchasing the ice is to preserve the food supplies for sale at retail, I have no difficulty in reaching the conclusion that under the definitive provisions of section 1 of the Sales Tax Act the sale of ice by a manufacturer to a retail dealer for the purposes above stated is excepted from the class of "retail sales" or "sales at retail" which are made taxable by the provisions of this act. I am therefore of the opinion, by way of specific answer to your question, that the sales of ice referred to in your communication are not taxable.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

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3862.

APPROVAL, PAPERS RELATING TO CONVERSION OF THE CITIZENS SAVINGS ASSOCIATION OF CLEVELAND, OHIO, INTO CITIZENS FEDERAL SAVINGS AND LOAN ASSOCIATION OF CLEVELAND, OHIO.

COLUMBUS, OHIO, January 25, 1935.

HON. W. PAUL WAGNER, *Superintendent of Building and Loan Associations of Ohio, Columbus, Ohio.*

DEAR SIR:—I have examined the various papers submitted by you in connection with the conversion of The Citizens Savings Association of Cleveland, Ohio, into Citizens Federal Savings and Loan Association of Cleveland, and find the papers submitted and the proceedings of said The Citizens Savings Association, as disclosed thereby, to be regular and in conformity with the provisions of section 9660-2 of the General Code of Ohio.

All papers, including two copies of the charter issued to the said Citizens Federal Savings and Loan Association, are returned herewith to be filed by you as a part of the permanent records of your department, except one copy of the charter which the

law provides shall be filed by you with the Secretary of State. The law further provides that such filing with the Secretary of State shall be within ten days after the requirements of said section 9660-2 have been complied with by The Citizens Savings Association, and that your approval shall be endorsed on the copy so filed. You will find on the copies of the charter, form of approval for your signature.

Respectfully,

JOHN W. BRICKER,  
*Attorney General.*

3863.

APPROVAL, CANAL LAND LEASE TO LAND IN DELPHOS, VAN WERT COUNTY, OHIO—GULF REFINING COMPANY OF TOLEDO, OHIO.

COLUMBUS, OHIO, January 26, 1935.

HON. T. S. BRINDLE, *Superintendent of Public Works, Columbus, Ohio.*

DEAR SIR:—You have submitted for my examination and approval a canal land lease in triplicate, executed by you to the Gulf Refining Company of Toledo, Ohio. By this lease, which is one for a term of fifteen years, you have leased and demised to the lessee above named, in consideration of the annual rentals therein provided for, the following described parcels of abandoned Miami and Erie Canal lands located in the city of Delphos, Van Wert County, Ohio, and which, under the provisions of the lease, are to be used for parking, oil and gasoline filling station purposes, to wit:

TRACT NO. 1—Beginning at the northwest corner of Lot 59 in said city, and running thence northerly with the easterly line of Canal Street sixty (60') feet to the southerly line of Fifth Street, being U. S. Route 30, thence easterly with the southerly line of Fifth Street, ninety (90') feet, more or less, to the foot of the outer slope of the towing-path embankment of the abandoned Miami and Erie Canal, thence southerly parallel with Canal Street sixty (60') feet to the northerly line of Lot No. 59; thence westerly ninety (90') feet, more or less, to the place of beginning and containing fifty-four (5400) hundred square feet, more or less.

TRACT NO. 2—Beginning at the point of intersection of the easterly line of Canal Street and the northerly line of Fifth Street, and running thence northerly with the easterly line of Canal Street, sixty (60') feet to the south line of Lot No. 60; thence easterly with the south line of Lot No. 60, ninety (90') feet, more or less, to the foot of the outer slope of the towing-path embankment; thence southerly sixty (60') feet to the north line of Fifth Street; thence westerly ninety (90') feet, more or less, to the place of beginning and containing fifty-four hundred (5400) square feet, as shown by Plat 85, of the S. A. Buchanan survey of said canal property through the city of Delphos, said plat being on file at the office of the Department of Public Works, at Columbus, Ohio.

The lease here in question is one executed by you under authority of the DeArmond Act, 114 O. L., 546; and assuming, as I do, that no part of the above described parcels of land has been designated for highway purposes under the provisions of this act, and