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FRANCHISE TAX OR EXCISE TAX LAW—ENACTMENT OF EITHER WOULD HAVE NO LEGAL EFFECT ON THE QUESTION OF PROPERTY TAXES—NO EFFECT UPON THE EXEMPTION FROM PROPERTY TAXES OF SHARES OF CAPITAL STOCK OF THOSE CORPORATIONS PAYING TAXES IN OHIO ON THEIR ASSETS.

*SYLLABUS:*

*Enactment of a franchise tax law or an excise tax law would have no legal effect on the question of property taxes or upon the exemption from property taxes of shares of capital stock of those corporations paying taxes in Ohio on their assets.*

COLUMBUS, OHIO, March 10, 1927.

HON. ALLAN G. AIGLER, *Chairman, Senate Taxation Committee, Columbus, Ohio.*

MY DEAR SENATOR:—I beg to acknowledge receipt of your letter reading:

“Senate Bill No. 22, which has been referred to the Taxation Committee of the Senate, provides as a base for the calculation of the corporation franchise tax, the book value of the capital, surplus and undivided profits of the corporation less reserve for depreciation, depletion, and accrued taxes.

If the base proposed is adopted, might what has been termed ‘allocation’ as to domestic corporations be accepted without subjecting the capital stock of the domestic corporations (where ‘allocation’ would apply) in the hands of Ohio citizens to the regular personal property tax?

By ‘allocation’ we mean the adoption of the same principle in calculating the tax for domestic corporations, owning property and doing business outside of the State of Ohio, as is used in the Dempsey Corporation Franchise Tax for foreign corporations doing business within the State of Ohio; that is, a tax based on that proportion of the property owned and business done within the state as compared with all of the property owned and business done by the corporation.”

I am unable to see wherein the enactment of either a franchise tax law or an excise tax law would have any legal effect on the question of property tax, real or personal, or upon the exemption from property taxes of the shares of capital stock of those corporations paying taxes in Ohio on their assets. The shares of such corporations are made exempt from property taxes only to prevent double taxation, which would result if both assets and shares were simultaneously taxed.

If “allocation” were attempted in respect of property taxes, then a question as to the taxability of shares of capital stock would be presented.

I have answered your question as asked but there are other features of Senate Bill 22 which I have already discussed with you verbally which I think should be the subject of a further conference.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*