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1. TAX LIST FOR CURRENT YEAR—DEDUCTION FROM VALUATION FOR PROPERTY DESTROYED OR INJURED AFTER JANUARY 1 AND BEFORE JULY 1, ANY YEAR—COUNTY AUDITOR, UPON APPLICATION BY TAXPAYER, MAY MAKE DEDUCTION FROM VALUATION OF PROPERTY ON GENERAL TAX LIST AND DUPLICATE—PREPARED FOR CALENDAR YEAR—SECTIONS 319.38, 319.28 RC.
2. COUNTY AUDITOR—SHALL REVALUE AND ASSESS AT ANY TIME ALL OR ANY PART OF REAL ESTATE IN HIS COUNTY—NOT ON TAX DUPLICATE AT ITS TRUE VALUE—CORRECTION NOT RETROACTIVE—CAN NOT RELATE BACK TO PAST TAX LISTS AND DUPLICATES DELIVERED BY AUDITOR TO COUNTY TREASURER FOR COLLECTION—SECTION 5713.01 RC.

SYLLABUS:

1. As provided in Section 319.38, Revised Code, for the deduction from valuation for property which is destroyed or injured after January 1, and before July 1 of any year, the county auditor may, upon proper application by the taxpayer during the same period, make a deduction from the valuation of the property of the taxpayer, on the general tax list and duplicate then being prepared pursuant to Section 319.28, Revised Code, for that calendar year.

2. As provided in Section 5713.01, Revised Code, the county auditor shall revalue and assess at any time all or any part of the real estate in his county which is not on the tax list and duplicate at its true value. Such a correction cannot relate back to past tax lists and duplicates which the auditor has delivered to the county treasurer for collection. Opinion No. 1411, Opinions of the Attorney General for 1939, Vol. III, page 2091, second branch of syllabus, approved and followed.

Columbus, Ohio, March 22, 1956

Hon. John D. Sears, Jr., Prosecuting Attorney
Crawford County, Bucyrus, Ohio

Dear Sir:

I have before me your request for my opinion in regard to the meaning of the phrase, "tax list for the current year," as used in Section 319.38, Revised Code, which section provides for deductions from valuation of real property for injured or destroyed property. The request also refers to a situation in which a building has been torn down in November, 1955, resulting, I assume, from an injury as described in such section, and the taxpayer has made an application for a deduction from valuation after January 1, 1956, and before July 1, 1956.

The procedure for the valuation and assessment of real property is provided in Chapter 5713., Revised Code. The county auditor is designated by Section 5713.01, Revised Code, as the assessor of real property of his county, and is required to value all the real estate in the county at its true value in money. In making the valuation and assessment of real property, the county auditor is required by Section 319.28, Revised Code, on or before the first Monday of August of each year, to prepare a general tax list and duplicate describing all real property subject to taxation, and its value; and this general tax list and duplicate is thereafter corrected on or before the first Monday of September of that year in accordance with the orders of the department of taxation and the county board of revision. A general tax list and duplicate is made therefore each calendar year, and

is for the purpose of the assessment of real property for the collection of tax levies made for that calendar year.

The question presented by your request is concerned with the construction of Section 319.38, Revised Code, which reads:

“Whenever, after the first day of January, and before the first day of July, in any year, it is made to appear to the county auditor, by the oath of the owner or one of the owners of a building or structure, land, orchard, timber, ornamental trees, or groves, or by the affidavit of two disinterested persons, residents of the township or municipal corporation in which such property is or was situated, that it is *listed for taxation for the current year*, and has been destroyed or injured by fire, flood, tornado, or otherwise, after the first day of January of the current year, the auditor shall investigate the matter and deduct from the valuation of the property of the owner of such destroyed property, *on the tax list for the current year*, an amount which, in his judgment, fairly represents the extent of the injury or destruction. No such deduction shall be made in the case of an injury to or destruction of a building, structure, land, orchard, timber, ornamental trees, or groves, resulting in damage of less than one hundred dollars. The auditor shall certify the deductions made by him under this section to the county treasurer, who shall correct *the tax list and duplicate in accordance with such deductions.*”
(Emphasis added.)

The construction of any statute requires that the whole statute be considered and given a meaning consistent with all of its provisions. Similarly the rule of construction is that terms or phrases in statutes *in pari materia*, dealing with the same subject matter, must be harmonized and given a meaning which is consistent and in harmony as these phrases pertain to the subject of the statutes. In this respect, the county auditor is required to prepare a tax list for each year, under Section 319.28, Revised Code, and therefore “the tax list for the current year” referred to in Section 319.38, Revised Code, *supra*, must of necessity be that list which is being prepared during that same year by the county auditor. Section 319.38, *supra*, clearly contemplates that the application for deduction from valuation is made for the purposes of causing a deduction from valuation by reason of destruction or injury to the property after January 1 of that year and before July 1, and thus correcting the general tax list and duplicate for that calendar year to reflect the true value of property. There is no authority granted to the county auditor to make this change of valuation on any tax list or duplicate prepared for the collection of taxes during any other year by this or any other section.

It will be observed that the county auditor is required by Section 319.38, supra, to certify any deductions made on the general tax list to the county treasurer, who in turn shall correct the duplicate accordingly. Similarly, the tax list and duplicate, there referred to, must perforce be the current tax list for the calendar year in which the application was made. This provision is made for the single purpose of allowing a deduction from the current duplicate when the revaluation could not be accomplished before the county auditor delivered the duplicate to the county treasurer for collection at the time required by Section 319.38, Revised Code.

In considering the precise factual situation referred to in the request, it is apparent that the taxpayer does not qualify for a deduction from valuation under Section 319.38, supra, for the year 1955, as the injury to the property occurred after the statutory period for making such application. It must also follow that the taxpayer here involved may not properly make application for a deduction from valuation under Section 319.38, supra, for the general tax list and duplicate for the year 1956. This section clearly specifies both the time for application and the time of destruction or injury to the property in the following respect: "that it is listed for taxation for the current year, and has been destroyed or injured by fire, flood, tornado, or otherwise, *after the first day of January of the current year, * * **" Thus, the injury or destruction having occurred in November, 1955, the taxpayer may not utilize this procedure to secure a deduction in valuation from the valuation and assessment made on the general tax list and duplicate to be prepared for the year 1956.

This is not to say, however, that an application for a deduction from valuation should not be made for the year 1956. Referring again to Section 5713.01, it is the duty of the county auditor to "** * * revalue and assess at any time all or any part of the real estate in such county at its true value in money where he finds that the same has changed in value or is not on the tax list at its true value.*" Thus, an application to the county auditor for a reduction from valuation in the situation presented would be notice to the auditor to consider the revaluation and assessment of the real property without the building. The county auditor should thereupon undertake to revalue the property for the purpose of the general tax list which is being compiled, and the revaluation would in this instance appear on the general tax list and duplicate for 1956, *prepared pursuant to Section 319.28, Revised Code.* This conclusion is in accordance with

Opinion No. 1411, Opinions of the Attorney General for 1939, Vol. III, page 2091; and the syllabus reads in pertinent part:

“2. Under section 5548-1, General Code, in any year after the year in which a general appraisalment has been made, if the county auditor finds that any parcel of real estate is not on the tax list and duplicate at its true value in money, it is his duty to revalue such parcel. Such a correction cannot relate back to past tax lists and duplicates which the auditor has delivered to the county treasurer for collections.”

The writer of that opinion also indicated that in view of Section 5548-1, General Code, now found substantially as Section 5713.01, Revised Code, it was immaterial as to how the county auditor learns that lands incorrectly valued appear on the tax list and duplicate. Once the auditor's attention is called to the error, it is his duty to make the necessary correction in valuation in preparing the general tax list and duplicate for the current year.

For these reasons, therefore, and in specific answer to your request, it is my opinion that:

1. As provided in Section 319.38, Revised Code, for the deduction from valuation for property which is destroyed or injured after January 1, and before July 1 of any year, the county auditor may, upon proper application by the taxpayer during the same period, make a deduction from the valuation of the property of the taxpayer, on the general tax list and duplicate then being prepared pursuant to Section 319.28, Revised Code, for that calendar year.

2. As provided in Section 5713.01, Revised Code, the county auditor shall revalue and assess at any time all or any part of the real estate in his county which is not on the tax list and duplicate at its true value. Such a correction cannot relate back to past tax lists and duplicates which the auditor has delivered to the county treasurer for collection. Opinion No. 1411, Opinions of the Attorney General for 1939, Vol. III, page 2091, second branch of syllabus, approved and followed.

Respectfully,

C. WILLIAM O'NEILL
Attorney General