that section, the 5% discount is not authorized with respect to any payment first tendered later than one [1] year after the date of decedent's death, and any payment of tax first tendered later than eighteen [18] months after the date of decedent's death is subject to the interest charges therein prescribed.

OFFICIAL OPINION NO. 25

June 27, 1955

Honorable Harold W. Handley
Lieutenant-Governor
State of Indiana
331 State House
Indianapolis 4, Indiana

Dear Sir:

This is in reply to your request for an Official Opinion on the following questions:

(1) Whether Ch. 203 of the Acts of 1935, as amended, Burns' Indiana Statutes (1952 Repl.), Section 42-901 et seq. is enforceable, and

(2) Whether livestock "Traders," not having an established place of business but who operate directly from their trucks are "buyers" as used and defined in said Act.

First of all, I think the Acts of 1935, Ch. 203, as amended, and as found in Burns' Indiana Statutes (1952 Repl.), Section 42-901 et seq., is in full force and effect and is enforceable in all ways as to matters within its scope.

In regard to your second question, the Acts of 1935, Ch. 203, Sec. 2, as amended, as found in Burns' Indiana Statutes (1952 Repl.), Section 42-911, defines a "buyer" as follows:

"The word 'buyer' whenever used in this act, shall be construed to mean any person, or his employees, agents and/or representatives, who operates or maintains a concentration point as herein defined."
This definition of a "buyer" was originally enacted in 1935 and has not been changed since that time.

In the original 1935 Act a concentration point was defined as follows:

"The words 'concentration point' whenever used in this act, shall be construed to mean any stockyards, place, establishment or facility other than a stockyards which is posted as a stockyards by the secretary of agriculture of the United States of America, where livestock intended for slaughter is bought or sold or assembled wholly or in part, for shipment or reshipment or delivery directly or indirectly to a packing house and/or stockyards, or graded or weighed for the purpose of establishing a basis for sale or reshipment." Acts of 1935, Ch. 203, Sec. 2 (c).

In 1937 the Legislature changed the definition of a "concentration point" by amending the foregoing subsection to read as follows:

"The words 'concentration point' whenever used in this act, shall be construed to mean any stockyards, community sale, auction, place, establishment or facility, where any series of sales, exchanges or purchases of any livestock, is made at regular or irregular intervals at an established place or places, in this state, by any person directly or indirectly, for or on account of the producer or consignor thereof, except that this term shall not apply to sales, purchases or exchanges, at a stockyards which is posted as a stockyards by the secretary of agriculture of the United States of America, as defined herein." Acts of 1937, Ch. 179, Sec. 1 (c). (Our emphasis)

In 1943 the Legislature again changed the definition of a "concentration point" and amended the foregoing subsection by deleting therefrom the words which I have emphasized in the quotation immediately above; see Acts of 1943, Ch. 222, Sec. 2 (c), as found in Burns' Indiana Statutes (1952 Repl.), Section 42-911, and this section now reads as follows:

"(c) The words 'concentration point' whenever used in this act, shall be construed to mean any stock-yards,
community sale, auction, place, establishment or facility, where any series of sales, exchanges or purchases of any live stock, is made at regular or irregular intervals in this state, by any person directly or indirectly, for the producer or consignor thereof, except that this term shall not apply to sales, purchases or exchanges, at a stock-yards which is posted as a stock-yards by the secretary of agriculture of the United States of America, as defined herein.”

It can be seen at once that the original 1935 definition of a “concentration point,” supra, was more inclusive than it is now; further that the effect of the 1937 amendment was to restrict the meaning of a “concentration point” to:

(a) any stockyards, community sale, auction, place, establishment or facility, where

(b) any series of sales, exchanges or purchases of any livestock, is made at regular or irregular intervals at an established place or places in this state, by

(c) any person directly or indirectly, for or on account of the producer or consignor thereof, except

(d) sales, purchases or exchanges at stockyards posted by the secretary of agriculture.

It can also be seen that the effect of the 1943 amendment was to broaden the definition of a “concentration point,” as defined in 1937, by deleting the requirement that sales be made at an established place or places.

In view of the foregoing I think the Legislature intended the idea or concept of a “concentration point” as used in this Act generally to mean a place, such as a stockyards, where various livestock owners or consignors may bring their livestock together for the purpose of marketing the same.

It is true that the Legislature used the words “place, establishment or facility,” after the words “stockyards, community sale, auction” in the foregoing statute. However, where words of specific and limited signification in a statute are followed by general words of more comprehensive import, the general words, under the rule of “ejusdem generis”: should be construed
as embracing only such persons, places, or things as are of like kind or class to those designated by the specific words. See Wiggins v. State (1908), 172 Ind. 78, 80, 87 N. E. 718. This rule would seem to be applicable to the foregoing language since in order to be within the definition of a "concentration point" there must be a "series of sales, exchanges or purchases" of livestock.

In view of the foregoing I am of the opinion that livestock "Traders," not having an established place of business, but who operate directly from their trucks, might or might not be operating a "concentration point" and therefore be classified as "buyers" depending entirely upon the facts relating to the method of operation in each case.

For instance, I do not think a person would be classified as a "buyer" if he merely drove his truck upon another person's premises and purchases livestock on said premises. However, if a person were to drive his truck to a certain place or location and then proceed to purchase, in a series of sales or exchanges, livestock which was brought to the location by various persons and then to load such livestock onto his truck and drive away, I would think that such person would be operating a "concentration point" and thus be classified as a "buyer" under said statute. For a somewhat similar construction of a statute pertaining to the sale of certain cattle, see 1952 O. A. G., page 36, No. 6.

I hope that the foregoing has fully answered your question and will enable you to determine what persons who, on account of the method in which they do business, are "buyers" within the meaning of the statute above set out. If you have any questions concerning any particular state of facts under this statute, I would be pleased to consult with you at any time.