STATE TAX BOARD: Correction of erroneous assessment, when to be made.  

May 11, 1943.

Hon. Charles H. Bedwell, Chairman,  
State Tax Board,  
Indianapolis, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion construing certain language in Chapter 241 of the Acts of the General Assembly for the year 1943. The language referred to is the underlined portion of part of Section 1 of the above Act, which reads as follows:

"* * * After the adjournment of the County Board of Review no changes except for errors of the kinds above mentioned shall be made without the authorization of the Indiana Tax Board; and said Indiana Tax Board is empowered, at any time prior to the first Monday in November of the year following the assessment, upon a verified application duly filed with it, to review and authorize the correction of any assessment, if such assessment complained of was made by the Assessor or Board of Review, without notice to the taxpayer, and without opportunity for the taxpayer to be heard thereon." (Our emphasis.)

The specific question is as follows:

"Does the phrase, 'at any time prior to the first Monday in November of the year following the assessment' refer to the first Monday in November of the year in which the assessment was made, or does it refer to the first Monday in November of the year subsequent to the year in which the assessment was made?"

I desire to call attention to certain statutory rules for the construction of the language used in statutes as found in Section 1-201 of Burns' Indiana Statutes Annotated, 1933. The above section provides as follows:

"The construction of all statutes of this state shall be by the following rules, unless such construction be
plainly repugnant to the intent of the legislature or of the context of the same statute:

"First: Words and phrases shall be taken in their plain, or ordinary and usual, sense. But technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

"* * *

"Fifth: The word 'month' shall mean a calendar month, and the word 'year' shall mean a calendar year, unless otherwise expressed; and the word 'year' be equivalent to the words 'year of our Lord'."

It seems to me that the answer to your question must be determined from the meaning of the word, "following," and of the word, "year," as to which I am required, under the statute, to give the plain or ordinary and usual meaning unless such word or words have a technical meaning. I do not think it can be said that either of said words have a technical meaning although the statute does declare the meaning to be given to the word "year," which, after all, is the common and usual meaning of such word. An examination of the definition of the word, "following," as set forth in Webster's New International Dictionary, 2d, is: "next after." Of course, there are other meanings, but the above language seems to cover the subject and to express the usual meaning of the word.

Referring next to the statute above quoted, it is found that the word, "year," is to be interpreted as meaning a "calendar year," which, following the definition in Webster's New International Dictionary, 2d, is defined as follows:

"The calendar year is now reckoned as beginning with January 1 and ending with December 31."

When the above definitions are applied to the language under consideration, it seems to me that the interpretation is clear. In other words, substituting the definitions, the statement is that the Board may act at any time prior to the first Monday in November of the calendar year next after the assessment, or the year beginning January 1 and ending with December 31 next after the assessment. Thus, it seems
to me that the literal meaning of the language under consideration is such as to refer to the first Monday in November of the calendar year next after the calendar year in which the assessment was made.

There are other considerations, which, it seems to me, point in the same direction, and that is the fact that the language seeks to give the taxpayer a measure of relief from an assessment which has been made without notice to him and without opportunity for him to be heard. If that is the purpose of the Act, and I think it clearly is, there would be only a very remote chance that such taxpayer would know of his increased assessment until taxpaying time in the year following the assessment. Moreover, it is legitimate to point out that, if the Legislature had had a different intent from that indicated in this opinion, it would have been very easy to remove any doubt upon the question by the omission of the phrase, "of the year," or by changing the word, "following," to the word, "of." The fact that neither one of the above was done seems to indicate clearly that the Legislature did not intend to require that the Board's action should be limited to a period prior to the first Monday in November of the assessment year.

In my opinion the language, "at any time prior to the first Monday in November of the year following the assessment," refers to the first Monday in November of the year subsequent to the year in which the assessment was made.


May 11, 1943.

Mr. C. C. Clifton, Director,
Board of Public Printing,
State House Annex,
Indianapolis, Indiana.

Dear Mr. Clifton:

I have before me your request for an official opinion concerning the authorized use of the appropriation made by the General Assembly by Section 1 of Chapter 119 of the Acts of 1943. You submit the following questions: