

It is my opinion, therefore, that a school-bus as defined in the 1941 Act, must be registered and a ten dollar fee collected before such bus can be legally operated or driven on any public highway of the State of Indiana, and, that this registration fee of ten dollars is all the registration fee that is required to be paid so long as the particular bus is continued in service as a school-bus.

STATE TAX BOARD: Intangibles, whether judgment fixing the value of real estate in condemnation proceedings is a taxable intangible.

September 17, 1941.

Mr. Judson H. West,
Intangibles Tax Administrator,
Indiana Tax Board,
Indianapolis, Indiana.

Dear Mr. West:

I have before me your request that an official opinion issue in response to the following inquiry:

"The City of Boonville, Indiana, filed a condemnation proceeding against the Electric Utility property serving that city November 18, 1938, and subsequently received judgment setting up the value of said property. The property was then later acquired by the city.

Our question is, whether a judgment rendered in a condemnation proceeding comes within the Intangibles Tax Act of 1933 or is such judgment excluded therefrom for the reason that it is not really a judgment for the recovery of money, but merely one fixing and establishing, in the manner provided by law, the value of the property sought to be acquired by the city?"

A judgment rendered in a condemnation proceedings, (Burns' Indiana Statutes Annotated, 54-612, Baldwin's Indiana Statutes 14029) is not such a judgment as is referred to in the Indiana Intangibles Tax Act. (11 Burns' Indiana Statutes Annotated 64-901 to 64-940, Baldwin's Indiana Statutes) Section 1 of the Indiana Intangibles Tax Act defines the term "intangibles" as follows:

“As used in this act, and unless a different meaning appears from the context:

“(a) Property Covered. The term ‘intangible’ and/or ‘intangibles’ shall apply to, mean, and include promissory notes, stocks in foreign corporations, bonds, debentures, final judgments from their date of finality, postal savings certificates, excepting postal savings bonds, certificates and/or other evidences of indebtedness issued to any person other than certificates of deposit in any bank or trust company in this state; brokerage and/or other trading accounts with brokers and all accounts arising out of transactions involving deposits or loans of money, excepting deposits in any bank or trust company with its place of business in the state of Indiana; all instruments, however, termed with interest coupons or in registered form, known generally as corporate securities, and evidencing a debt; written instruments evidencing and/or securing a debt not otherwise evidenced, including mortgages, chattel mortgages, bills of sale, conditional sales contracts; written instruments evidencing an exchange of goods or property where the intent of the parties is the ultimate transfer of title excepting contracts for the sale of real estate or leases or real estate with option to purchase; written contracts for the payment of money, excepting contracts for personal services and/or for manufacturing or processing merchandise; certificates or other instruments evidencing an interest in property and/or rights whether held in trust or otherwise, for the benefit of the holders of such certificates or other instruments.”

11 Burns' Indiana Statutes, June, 1941, Cumulative Supplement, 64-901.

The maxim that words used in a statute must be construed in conformity with the words with which it is associated,

United States v. Baumgartner, 259 Fed. 722;
McCaffin v. Cahoes, 74 N. Y. 387, 30 Am. Rep.
307;
State v. Western Union Telegraph Co., 196 Ala.
570, 72 So. 99;

when applied to the term "final judgments" contained in the foregoing statutory definition results in restricting that term to those final judgments which entitle the holder thereof to an ascertained and expressed amount of money or to designated property. The associated words from which the term "final judgment" must take color in the present definition are "promissory notes," "stocks," "bonds," "debentures," "postal savings certificates," and "certificates of indebtedness." These associated terms all refer to instruments vesting the holder with a presently existing right to money or property or to an interest therein or to the repayment thereof. All refer to rights which are assignable.

The nature of the final judgment in *Southern Indiana Gas Co. v. City of Boonville*, is in the nature of a judicial ascertainment of the value of utility property which valuation is available to the municipality if action is taken within the period specifically designated by the statute. It is not a judgment against the City for money. It does not obligate the City to purchase the property so valued.

"It is likewise true that after final judgment, the City may abandon the proceedings and relinquish the possession of the property."

Southern Indiana Gas and Electric Co. v. City of Boonville, (1939), 215 Ind. 552, at 561.

Further, by virtue of the very nature of such valuation proceedings, the final judgments rendered therein are not assignable.

I am, therefore, of the opinion that the judgment rendered against the City of Boonville in the condemnation proceedings referred to is not a "final judgment" within the purview of the Indiana Intangibles Tax Act. (See Sec. 1 (a), Chapter 81, Indiana Acts of 1933, p. 523, as amended by Chapter 294, Indiana Acts of 1935, p. 1452; 11 Burns' Indiana Statutes, June 1941 Cum. Supp. 64-901.)