within the State of Indiana, maintains an out-of-state bank deposit. Would this deposit be taxable under the Intangibles Tax Act of 1933?"

Upon the bare statement made in this question, the deposit, in my opinion, would be taxable.

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**TAX BOARD: Duty of Tax Board in connection with exemptions of farm land occupied by highways and ditches, et cetera.**

November 28, 1941.

Mr. Edward D. Koenemann, Secy.,
Indiana State Tax Board,
231 State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion concerning certain provisions of Chapter 91 of the Acts of 1941, which provides as follows:

"Be it enacted by the General Assembly of the State of Indiana, That Section 1 of the above entitled act be amended to read as follows: Section 1. That Sec. 143 of the above entitled act be amended to read as follows: Sec. 143. All officers engaged in the assessment of property for taxation are prohibited from assessing for taxation, as against any adjacent property holder, the real estate occupied by any railroad, interurban or street railway, by any public highway, by any levee which shall have been constructed and maintained by any levee association or constructed and maintained pursuant to and by virtue of the provisions of Chapter 223 of the Acts of the General Assembly of 1907 and all acts amendatory thereof and supplemental thereto, or by any public drainage ditch and no part of the land so belonging to such property holder shall be assessed against him for taxation except that portion beyond the lines of right of way of the railroad, interurban or street railway, or the right of way used and occupied as such public highway, the line of any such levee, or used
and occupied by such public drainage ditch: Provided, That if the assessor and the landowner shall fail to agree on the amount of land contained in such railroad, interurban or street railway rights of way, or in such public highway right of way, such levee, or as used for such public drainage ditch, then such assessor shall cause the county surveyor of such county to determine the amount of land in dispute by actual survey before making any assessment against said disputed land. The reasonable expense of making any such survey shall be certified by the township assessor as having been incurred for said purpose, and shall constitute a claim against the county to be considered and allowed by the board of commissioners and upon warrant of the Auditor to be paid out of the county treasury. Where the right of way of railroads, interurbans or street railways, or the lands occupied by public highways, or the lands occupied by levees have not been transferred by deed, the full acreage of said land shall be assessed to the owner of such adjacent land, and a pro rata deduction given to the owner of such land in land assessment value for so much thereof as may be occupied as aforesaid."


As I understand it, your question is as to whose duty it is to make the deductions of lands occupied by railroads, interurbans, et cetera, set out in detail in the above section. I think the statute is very clear on this, that such duty devolves upon the assessor who shall first attempt an agreement with the land owner, and in case they disagree as to the amount of real estate which should be deducted from the tract through which such right of way is, et cetera, the matter is then to be submitted to the county surveyor who is to determine the amount of the land in dispute by actual survey.