TAX COMMISSIONERS, STATE BOARD OF: Intangibles tax—Whether same repeals foreign finance company license tax.

June 20, 1936.

State Board of Tax Commissioners,
Philip Zoercher, Chairman,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion in answer to the following questions:

“1. Did the enactment of the Stamp Tax Act have the effect of repealing by implication, Acts of 1929, Chapter 79, which imposes an annual license tax upon foreign finance companies doing business in Indiana?

“2. If the 1929 Act is not repealed by implication, does the payment of the Stamp Tax upon the intangibles of a foreign finance company doing business in Indiana, exempt such company from payment of the License Tax imposed by the Acts of 1929?”

In my opinion both of the above questions should be answered in the negative. The license fees provided by Chapter 79 of the Acts of 1929 are fees required to be paid by foreign finance companies for the right to transact their business in the State of Indiana. They are not comparable with the intangibles tax or stamp tax as referred to in the above questions. That tax is not an occupation tax levied for the right to carry on a particular business but based upon inherent privileges which attach to intangibles as a class of property. It was evidently enacted as a substitute for property taxation of such intangibles and I think Sections 31 and 32 of the Intangibles Tax Act of 1933 conclusively show that to be true. Chapter 79 of the Acts of 1929 on the other hand is in the nature of a fee required of a foreign corporation for the right to do business in the state. A foreign corporation has no inherent right to enter the state and transact business within the state except upon the terms set out in the law providing for their entrance. That is the character of the statute which Chapter 79 of the Acts of 1929 is and there is evidently nothing inconsistent between it and the provisions of the Intangibles Tax Act of 1933.