

Owing to the fact, however, that the sale of the real estate obtained, as above described, is simply a final step in the collection of the original obligation by reducing it to cash, I do not think the board would be precluded or prohibited from the sale of such real estate. In accordance with a previous opinion, however, the details should be submitted for approval to the department in which the board now functions.

---

**INHERITANCE TAX DIVISION: Right of tenant in common, upon inheriting interest of co-tenant, to deduct taxes which are a lien on the entire property in arriving at value for inheritance tax purposes of interest inherited.**

September 29, 1937.

Hon. Isaac Kane Parks,  
Inheritance Tax Administrator,  
231 State House,  
Indianapolis, Indiana.

Dear Mr. Parks:

I have before me your letter dated September 23, 1937, in the matter of the estate of Harriet G. Conklin of Wayne County, in which you state that the decedent departed this life July 25, 1936, the owner of an undivided one-half interest in and to certain real estate which she devised to her sister who was the owner of the other undivided one-half interest in said real estate. You state further that the surviving sister in presenting the schedule for inheritance tax determination included under the item of deduction several hundred dollars in taxes that had been imposed against the entire tract and the whole of the respective interests, claiming the right to do so under literary paragraph 3 of section 4 of the Inheritance Tax Act of 1931. You submit the following question:

“Is the survivor entitled as a deduction to the entire taxes against the property; or, entitled only to a deduction of one-half thereof?”

Section 4 of the Inheritance Tax Act of 1931 provides in part as follows:

“In determining the value of property transferred by will or interstate laws the following deductions and no others shall be allowed from the full fair cash value of the property to which the transfer relates:

\* \* \* \* \*

*"Taxes on real property within this state which were a lien at the death of the transferor."* (Our italics.)

Acts of 1931, pp. 195-196.

(Note: The italicized portion is literary paragraph number three.)

The above language of the Act should be construed with reference to the underlying basis for the deduction. It will be noted that in the opening sentence above quoted, it is stated that "In determining the value of property transferred" certain deductions are to be allowed, among which is the deduction of taxes on the real property within the state which were a lien on the property transferred at the death of the transferor. The total taxes in this case were a lien on the entire property consisting of the undivided interest transferred and the undivided interest which already belonged to the beneficiary. They were no more a lien upon the undivided one-half of the decedent than they were a lien upon the undivided one-half already belonging to the beneficiary. The value of the one-half transferred would not be diminished by the total taxes except upon the theory of the owner of the undivided one-half transferred paying the taxes which really should be paid by the beneficiary on account of her one-half owned before the transfer.

I do not think the statute should be so construed and in my opinion when the real basis for the deduction is considered, it must be held that the beneficiary would not be entitled to a deduction of the entire taxes against the property, but would be entitled to a deduction of one-half thereof.

---

**FINANCIAL INSTITUTIONS, DEPARTMENT OF: Retail  
Installment Sales Act—whether licensees may purchase  
contracts at less than unpaid balance.**

October 2, 1937.

Hon. R. A. McKinley,  
Director, Department of Financial Institutions,  
State House,  
Indianapolis, Indiana.

Dear Mr. McKinley:

I have before me your letter of September 28, 1937, requesting an official opinion interpreting sections 10 and 15 (d) of