

Note from the Attorney General's Office:

1935 Op. Att'y Gen. No. 35-4759 was overruled
in part by 1980 Op. Att'y Gen. No. 80-003.

4757.

APPROVAL, BONDS OF LOST CREEK TOWNSHIP RURAL
SCHOOL DISTRICT, MIAMI COUNTY, OHIO, \$18,000.00.

COLUMBUS, OHIO, October 4, 1935.

Industrial Commission of Ohio, Columbus, Ohio.

4758.

APPROVAL, BONDS OF VILLAGE OF ADDYSTON, HAMIL-
TON COUNTY, OHIO, \$3,500.00.

COLUMBUS, OHIO, October 4, 1935.

Industrial Commission of Ohio, Columbus, Ohio.

4759.

INTEREST—DEPOSIT OF FUNDS OF POLITICAL SUBDIVI-
SIONS—INTEREST CREDITED TO CERTAIN FUNDS.

SYLLABUS:

Interest earned on deposits of funds of the subdivisions of Ohio should be credited to the general fund of such subdivisions except where statutory provisions prescribe the use of such interest for a particular purpose, as provided by Section 5625-10, General Code.

COLUMBUS, OHIO, October 5, 1935.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—I acknowledge receipt of your communication which reads as follows:

“In opinion A-284, page 281, Vol. I of the 1911-12 *Opinions of the Attorney General*, it was held as follows:

‘As the statutes contain no reasonable ground from which to deduce an intent to the contrary, the general law that interest follows

the fund will be allowed to govern, so that interest from the proceeds of bonds sold for the purpose of meeting the expense of a particular improvement will not be turned over to the sinking fund trustees but will be credited with the special fund created by the bond issue, and expended for the purpose of the fund, after the accomplishment of which purpose all balance of said fund will go to the sinking fund as provided in section 3804 G. C.'

We have been following this opinion for years, holding that interest earned on deposits shall follow the fund and be credited to the fund earning the interest.

However, since this opinion was rendered, the Uniform Tax Levy Act has been passed, and our attention has been called recently to certain provisions of that act which, to our thought, warrant a review of this old opinion.

The only reference to the deposit of depository interest is found in the sixth paragraph of section 5625-10 G. C., which paragraph reads as follows:

'All proceeds from the sale of a bond, note or certificate of indebtedness issued except premium and accrued interest shall be paid into a separate fund for the purpose of such issue. The premium and accrued interest received on such sale and *interest earned on such special fund* shall be paid into the sinking fund, or the bond retirement fund of the subdivision.'

The first paragraph of the same section reads as follows:

'All revenue derived from the general levy for current expenses within the ten mill limitation; from any general levy for current purposes authorized but voted outside of the ten mill limitation; and from sources other than the general property tax, unless the law prescribes its use for a particular purpose, shall be paid into the general fund.'

There can be no question but that the interest earned on bond funds shall be paid into the sinking fund, but in view of the wording in the last quotation, we should appreciate being advised whether all other depository interest earned could be legally paid into the general fund, with or without action of the legislative authority of the subdivision."

I assume that your question does not refer to county deposits of undistributed taxes belonging to other subdivisions.

The general rule of law is that in the absence of statute interest follows the fund which has earned it.

Under Section 5625-10, General Code, the applicable portion of which is quoted in your letter, all revenue derived from sources other than the general

property tax is to be paid into the general fund unless there is statutory provision to the contrary. Interest being compensation for the use of money, would be revenue derived from sources other than the general property tax and in my opinion should be paid into the general fund except where other provision is made therefor.

Section 2737, General Code, provides as to county funds as follows:

“* * * All interest apportioned as the county’s share together with all interest arising from the deposit of funds belonging specifically to the county shall be credited to the general fund of the county by the county treasurer. * * * ”

It is clear under this statute, as well as under Section 5625-10, General Code, that all interest earned by deposits of county funds should be credited to the general fund of the county.

On the other hand, Section 4294, General Code, which relates to the deposit of money belonging to a municipality, reads in part as follows:

“* * * All profits arising from such deposit or deposits shall inure to the benefit of the funds. * * * ”

This seems to follow the common law rule that interest should be credited to the fund which has earned it.

I know of no statute which provides how interest on moneys of school districts and townships should be credited. Consequently, I am of the view that as to such subdivisions Section 5625-10, General Code, would control.

Specifically answering your inquiry, I am of the opinion that interest earned on deposits of funds of the subdivisions of Ohio should be credited to the general fund of such subdivisions except where statutory provisions prescribe the use of such interest for a particular purpose.

Respectfully,

JOHN W. BRICKER,
Attorney General.