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PAY ROLL ALLOTMENT SYSTEM—WAR SAVINGS STAFF OF FEDERAL TREASURY—BOARDS OF EDUCATION MAY LAWFULLY INSTALL AND ADMINISTER SUCH SYSTEM—PURCHASE BY TEACHERS—SERIES E UNITED STATES WAR SAVINGS BONDS.

SYLLABUS:

Boards of education may lawfully install and administer the so-called pay roll allotment system as devised and set up by the War Savings Staff of the Federal Treasury for the purchase by teachers under their respective jurisdictions of Series E United States War Savings Bonds.

Columbus, Ohio, February 11, 1943.

Hon. D. Deane McLaughlin, Prosecuting Attorney,
Canton, Ohio.

Dear Sir:

I am in receipt of your request for my opinion which reads as follows:

“The County School Board desires to install a payroll allotment system for the purchase of war bonds by teachers in the County School System. Will you please inform us if it is permissible for the teachers in the County School System to participate in the payroll allotment system for the purchase of war bonds.”

The so-called “Pay Roll Allotment System for the purchase of War Bonds” sometimes referred to as “The Pay Roll War Savings Plan”, consists of a plan devised by the War Savings Staff of the Federal Treasury Department whereby employees in either business or industry as well as public employees, authorize their employers to deduct from their earnings during each pay roll period a portion of those earnings and to purchase with such accumulated deductions for the employees, Series E United States War Savings Bonds of such designated maturity value as the accumulations from time to time warrant.

In the practical operation of this plan an employee by signing what is commonly called an “authorization card” or “deduction card” authorizes the employer to deduct from his earnings for each pay roll period such an amount measured by a stated percentage of the amount earned or a definite fixed amount, as the employee may designate, and when the accumulated deductions amount to enough for the purpose, to purchase and deliver to the employee Series E United States War Savings Bonds in such amounts as the accumulated funds will warrant—the

authorization so made to continue until the termination of the employment, its cancellation by the employee, or the termination of the allotment arrangement by the employer. In short, it is simply a bookkeeping arrangement whereby the employee authorizes the employer to withhold a definite amount regularly from his salary or wages and to loan the same to the United States Government for the prosecution of the war. The plan is not difficult to administer and operates similar to plans for group insurance, for social security in private business or industry or for retirement deductions in the field of public service where applicable retirement systems are in operation.

The purpose of the plan may be regarded as twofold in that it is a convenient and systematic method by which salary earners and wage earners are able to save regularly and at the same time participate in the war effort by the regular purchase of war bonds, thus affording to participants in the plan—both the employees and employers the opportunity to perform a patriotic duty by enhancing the Federal war chest and helping to provide a brake on inflation and a backlog of purchasing power to stimulate private business and employment when the present world conflict is over.

The plan is purely voluntary and when installed may be discontinued at any time by either the employer or the employee. It has been in operation for some time, and is now participated in by millions of employees in a great number of different types of business and industry and in many of the city, county and state administrations throughout the country including the State of Ohio.

Although no express authority will be found in the laws of Ohio relating to the administration of the state, county, municipal or school district governments for making the deductions from employees' salaries or wages and the investments in bonds necessary to carry out the plan, it cannot be said that the operation of the plan if properly set up and administered involves the doing of any acts forbidden by law or unauthorized by law. As the local school districts are the employers of the teachers in the schools of their respective districts, each local district board of education must decide for itself whether or not it desires to participate in the plan, and may lawfully do so in my opinion, to the extent the teachers in each such district authorize the same. A county board of education cannot impose the plan on local boards under its jurisdiction nor may it prevent the local boards from such participation if they see fit to do so.

The right of a teacher to draw his salary or to authorize a third person to draw it, or to authorize his employer to withhold it and to invest

the proceeds thereof in government bonds, or to use such funds for any lawful purpose cannot be questioned. The only legal question involved here is whether or not a board of education being a public agency with limited powers may lawfully, through its duly constituted officers and employees, assume the burden and responsibility at the request of the teacher, of acting as purchasing agent for the teacher for the purpose of buying government bonds and delivering them to the teacher.

No definite express authority for such action will be found, and perhaps if the strict rule of limitation of official power and responsibility were to be applied it would be held that the power reposed in boards of education under our state law would not include the power to act in the premises, even at the request of the employee. There is, however, a responsibility resting upon all individuals and all public officers and agencies alike, to preserve, promote and protect the national security that is not circumscribed by local laws. It clearly is the manifest duty of all persons and agencies, public as well as private, to cooperate in every way possible to win the war, so long as they do not transgress express inhibitions contained in the law. There will be found no provision of law prohibiting, or in any wise limiting or restricting boards of education in any action they may see fit to take to encourage and foster the efforts of their employees to contribute to the effort of winning the war by the purchase of bonds, and if such boards should determine in their discretion that the installation of the payroll allotment system as devised by the Federal authorities for the purchase of war savings bonds does so contribute, they should be upheld and encouraged to do so.

Where the plan is installed and operated, consideration should be given to the provisions of Section 4768, General Code, wherein it is provided that:

“* * * No moneys of a school district shall be paid out except on an order signed by the president, vice-president, or director of schools in school districts having a director of schools and countersigned by the clerk of the board of education. * * *”

It follows that in the administration of a pay roll allotment system such as mentioned, separate orders should be made properly signed as provided by the statute, for the withdrawal of funds for the payment of that portion of the teachers' salaries not within the allotment and for the funds used to purchase bonds.

In specific answer to your inquiry I am of the opinion that boards of education may lawfully install and administer the so-called pay roll allotment system as devised and set up by the War Savings Staff of the

Federal Treasury for the purchase by teachers under their respective jurisdictions of Series E United States War Savings Bonds.

Respectfully,

THOMAS J. HERBERT,
Attorney General.