

2215.

INHERITANCE TAX LAW—WHETHER OR NOT BEQUESTS TO SALVATION ARMY ARE TAXABLE.

The Salvation Army as an organization exists for religious and charitable purposes, being specifically authorized to conduct activities which are publicly charitable in their nature. A general bequest to the Army is subject to the inheritance tax law of this state. A specific bequest to the Army for the purpose of supporting charitable activities carried on outside of the state is also taxable under the inheritance tax law of the state; but a general bequest directed to be applied to a particular class of charitable activities carried on in substantial part in this state, or a specific bequest for the support of one or more of the activities of the Army carried on wholly within this state is exempt from inheritance taxation in Ohio.

COLUMBUS, OHIO, June 30, 1921.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—The commission has submitted to this department a copy of the act of incorporation of the Salvation Army passed by the senate and assembly of the state of New York, with the information that all branches of the organization, wheresoever located in the United States, belong to and are a part of this corporation. The commission requests the advice of this department as to whether or not a bequest to this institution is subject to inheritance tax under the present law of this state.

Without quoting at large from the act of incorporation, it sufficiently appears therefrom that many publicly charitable activities are authorized by the charter of the Salvation Army, and that its activities are not conducted for private pecuniary profit. It also appears, however, that the primary purpose of the organization is religious.

Consistent with the principles laid down in a recent opinion of this department, therefore, the commission is advised that a general bequest to the Salvation Army would be taxable under the inheritance tax law, inasmuch as such bequest would not be exclusively dedicated or directed to publicly charitable purposes but could be lawfully used for religious purposes.

However, the Salvation Army is specially authorized by its act of incorporation to provide

“lodging shelters for the poor, * * * places of rest and recuperation for the sick and convalescent, homes for the rescue of fallen women, hospitals, children’s homes, and homes for the aged poor of its membership or congregation or of the public generally” and to “take and hold by conveyance, donation, bequest or devise, real and personal property for such purposes.”

Other activities are mentioned which deserve special treatment, but of those last above enumerated it may be said that they constitute such objects as if specifically pointed out as the beneficiaries of a bequest, would make such bequest exempt from the inheritance tax law. It is well known, and I take it the commission assumes, that the Salvation Army conducts these and similar activities “in substantial part within this state” within the meaning of section 5334 of the General Code. This, however, is not enough inasmuch as the Salvation Army as an organization is not an institution which exists “for purposes only of public charity.” A bequest to that organization for the purpose of establishing or maintaining a children’s home or other

similar institution located outside of the state of Ohio would not be exempt from the inheritance tax.

The whole matter is summed up by saying that a bequest to the Salvation Army for the specific purpose of contributing to one or more of the activities last above enumerated, conducted in the state of Ohio, or a general bequest to the organization for the purpose of conducting such activities wherever they exist, if any of such activities are in the state of Ohio, would be exempt from inheritance tax in Ohio; but a general bequest to the Salvation Army, as such, without specific designation of object, or a bequest to the Salvation Army for the purpose of contributing to a specific institution outside of this state, or to a class of such institutions maintained by the Salvation Army of which there are no representatives in this state, would be subject to inheritance tax.

The copy of the charter is enclosed herewith.

Respectfully,
 JOHN G. PRICE,
Attorney-General.

2216.

APPROVAL, CONTRACT BETWEEN BOARD OF TRUSTEES, BOWLING GREEN STATE NORMAL COLLEGE, AND H. T. CLAGUE OF BOWLING GREEN, OHIO, FOR IMPROVEMENT OF WAYNE STREET.

COLUMBUS, OHIO, June 30, 1921.

Board of Trustees, Bowling Green State Normal School, Bowling Green, Ohio.

GENTLEMEN:—You have submitted for my approval, in accordance with the provision of section 2319 G. C., a contract between H. T. Clague, of Bowling Green, Ohio, and your board, dated June 8, 1921, which relates to the improvement of Wayne street at Bowling Green State Normal College. Said contract calls for payment to the contractor of the sum of \$4,341.80. You have also submitted a bond given by the American Surety Company of New York covering said contract, accompanied by a certified copy of a power of attorney disclosing the authority of the officials of said company to execute said bond.

The proposal of the contractor relating to this contract is before me, the same having been approved by the state building commission. I also have before me the certificate of the auditor of state in compliance with the provisions of section 2288-2 G. C., to the effect that there is a balance in the proper appropriation fund sufficient to cover the amount payable under said contract.

Therefore, I am certifying my approval as to form upon said contract and bond. However, in section 2319 G. C. it is provided that no contract shall be entered into until the Industrial Commission of Ohio has certified that the person awarded the contract has complied with the workmen's compensation law, etc. There is no evidence before me relating to this matter. It may be that this provision has been complied with, or it may be that the contractor has not employed a sufficient number of men in the past to subject him to the provisions of the compensation law. However, it is suggested that you should be satisfied that the law is complied with in this respect.