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## GASOLINE TAX—MAY NOT BE USED TO PAY BONDS PREVIOUSLY ISSUED FOR CONSTRUCTION OF ROADS.

## SYLLABUS:

*The proceeds of the gasoline tax may not be lawfully used for the payment of bonds previously issued for the construction of roads.*

COLUMBUS, OHIO, February 1, 1932.

HON. GWYNN SANDERS, *Prosecuting Attorney, Marysville, Ohio.*

DEAR SIR:—Acknowledgment is made of your recent communication which reads:

“Several townships in our county have, previous to the present law, permitted the townships to participate in the funds which are derived from the gasoline tax, constructed gravel roads, and bonds have been issued for the payment of these roads.

Under present conditions the townships really have more money in the gasoline fund than they need, and would like to apply some of the money in the gasoline tax fund on the payment of these bonds.

Question: Is it possible for the township trustees to legally apply money in their gasoline tax fund to the payment of bonds previously issued for the construction of gravel roads?”

While a number of opinions have been rendered construing Section 5541-8, General Code, it is believed unnecessary to consider them herein. Said section provides that the funds which are distributed to a township shall be used for the sole purpose of constructing, maintaining, widening and reconstructing the public roads and highways within the township.

Section 5 of Article XII of the Ohio Constitution reads:

“No tax shall be levied, except in pursuance of law; and every law imposing a tax, shall state, distinctly, the object of the same, to which only, it shall be applied.”

From the above it is clear that the proceeds of the gasoline tax may not be expended except for the purposes for which they are levied. It is further evident that bonds that have been issued, even though they were issued for road purposes, are simply obligations of the township, and their status would be no different than any other bonded indebtedness of the township in so far as your question is concerned. It may be noted that under the present budget law it is necessary to maintain said proceeds in a separate fund.

In specific answer to your inquiry, it is my opinion that the proceeds of the gasoline tax may not be lawfully used for the payment of bonds previously issued for the construction of roads.

Respectfully,  
GILBERT BETTMAN,  
*Attorney General.*