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TAXING AUTHORITY OF SUBDIVISION—MAY NOT BORROW MONEY UNDER SECTION 2293-4, PARAGRAPH 1, G. C. BEFORE JANUARY 1, 1947, TO ANTICIPATE COLLECTION AND RECEIPT OF TAXES AFTER THAT DATE.

## SYLLABUS:

The taxing authority of a subdivision may not borrow money under authority of the first paragraph of Section 2293-4, General Code, before January 1, 1947, in anticipation of the collection and receipt of taxes after that date.

Columbus, Ohio, December 6, 1946

Hon. Russell G. Price, Prosecuting Attorney  
Upper Sandusky, Ohio

Dear Sir:

This will acknowledge receipt of your letter from which it appears that at the recent November election the electors of one of the school districts in your county voted an additional tax to be levied outside of the ten mill tax limitation for current operating expenses, effective for the current year, and requesting my opinion on the question whether or not the board of education may borrow money under authority of the first paragraph of Section 2293-4, General Code, prior to January 1, 1947, in anticipation of the collection and receipt of such taxes.

Your letter also discloses that owing to the lateness in opening the tax books in your county, the funds will not be received by the school district before April, 1947, and, further, that the district will be unable to receive any advances from the county auditor before next February.

The authority of boards of education and other taxing authorities to borrow money in anticipation of the collection of current revenue which is the proceeds of taxes levied upon the tax duplicate, is contained in the first paragraph of Section 2293-4, General Code, which reads as follows:

“In anticipation of the collection of current revenues in and for any fiscal year, the taxing authority of any subdivision may borrow money and issue notes therefor, but the aggregate of such loans shall not exceed one-half of the amount estimated to be

received from the next ensuing settlement of taxes for such fiscal year as estimated by the budget commission, other than taxes to be received for the payment of debt charges, and all advances, but whenever a partial, semi-annual or final tax settlement is delayed, such borrowing authority may be exceeded and money borrowed in anticipation of the receipt of taxes for debt charges to the extent necessary to meet such debt charges but not in excess of such estimated receipts, less all advances. The sums so anticipated shall be deemed appropriated for the payment of such notes at maturity. The notes shall not run for a longer period than six months and the proceeds therefrom shall be used only for the purposes for which the anticipated taxes were levied, collected and appropriated. No subdivision shall borrow money or issue certificates in anticipation of such taxes before January first of the year of such tax receipts."

It will be noted that it is expressly provided in the above quoted paragraph that the amount that may be borrowed under its authority shall not exceed one-half of the amount estimated to be received by the subdivision from the "next ensuing settlement of taxes," and that no subdivision shall borrow money in anticipation of such taxes "before January first of the year of such tax receipts." These provisions, when applied to your case, in my opinion refer to the proceeds of the tax levy which will be received by the school district from the tax settlements in 1947, and that being the case the board of education is without authority to borrow money under the first paragraph of Section 2293-4 before January 1, 1947.

Respectfully,

HUGH S. JENKINS  
Attorney General