

2779.

APPROVAL, REFUNDING BONDS OF SALEM CITY SCHOOL DISTRICT
IN AMOUNT OF \$45,000.

COLUMBUS, OHIO, January 11, 1922.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

2780.

INHERITANCE TAX LAW—WHERE TESTATOR DIRECTS HIS EXECUTOR TO HAVE MASSES READ FOR REPOSE OF TESTATOR'S SOUL—WHEN SUCH EXPENSE IS PERMISSIBLE DEDUCTION FROM PERSONAL ESTATE FOR INHERITANCE TAX PURPOSES.

Where a testator directs his executor to have masses read for the repose of the testator's soul, the expenditures of the executor under such a request, if not extravagant, are a permissible deduction from the personal estate for inheritance tax purposes; the quantity of service specified by the testator is prima facie reasonable.

COLUMBUS, OHIO, January 11, 1922.

Tax Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—Receipt is acknowledged of the Commission's letter of recent date requesting the opinion of this department, as follows:

"Under date of April 3, 1920, in opinion No. 1126 to be found on page 388 of Volume I of your printed opinions for the year 1920, you advised us that a bequest for masses is subject to inheritance tax. This morning a will has been submitted to the commission for its consideration which contains the following item:

'I desire that my executor, hereinafter named, shall have two hundred masses read for the repose of my soul.'

Inasmuch as this item is merely a direction to the executor to incur a liability after death, should not the court distinguish between such a form of will and that in which a certain specified amount is bequeathed to a priest or other ecclesiastical dignitary directly for a similar object?"

It is not necessary to refer to the previous opinion mentioned in the Commission's request. It is well settled in this state and elsewhere that a bequest to a particular ecclesiastical dignitary as consideration for the service of saying masses for the repose of the testator's soul is a taxable succession. The question presented in the Commission's letter is new, however, and is by no means dependent upon the same principle as that upon which the answer to the former question was based. The direction to the executor to have a designated number of masses read may be likened to a similar direction to have a certain form of funeral ceremony performed, a certain kind of lot in a cemetery purchased, or a certain tombstone or mausoleum erected at a given expense. Directions of this sort have been the subject of other opinions of this department to the Commission, and the general principle which runs through the cases in the several states has been laid down to the effect that reasonable expenditures of this kind are proper charges against the per-