

to incorporate savings societies', passed April 16, 1867" elects, by virtue of the provisions of Section 710-145 of the General Code, to continue its business under the provisions of the general banking law of Ohio, it may thereafter engage in business as a savings bank, subject to the provisions of law applicable thereto, but this authority does not extend to such society the right to engage in commercial banking.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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1966.

APPROVAL, BONDS OF LIVERPOOL TOWNSHIP, MEDINA COUNTY,  
OHIO—\$5,100.00.

COLUMBUS, OHIO, April 13, 1928.

*Industrial Commission of Ohio, Columbus, Ohio.*

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1967.

TAXATION—EXEMPTION OF PROPERTY BELONGING TO MISSIONS  
—CHURCH SCHOOLS—ORPHANS' AND OLD PEOPLE'S HOMES.

*SYLLABUS:*

*Property belonging to missions, church extension work, orphans' and old people's homes and church schools used exclusively for charitable purposes is exempt from taxation in Ohio.*

*The Tax Commission of Ohio, Columbus, Ohio.*

GENTLEMEN:—This will acknowledge receipt of your recent communication, which reads:

"Enclosed you will find a letter our office has received from Reverend R. A. S. In this letter he has asked us a question concerning the taxability of certain annuities here in Ohio.

The question 'Are Annuities to Missions, Church Extension Work, Orphans' and Old People's Homes, and Church Schools taxable in Ohio?' We would like an official opinion from your office covering this question and would indeed be pleased if your office perhaps can give special attention to this matter."

The letter referred to asks, in substance, the same question contained in your letter just quoted.

Section 2 of Article XII of the Constitution of Ohio reads, in part, as follows:

"Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, and also all real and personal property according to its true value in money, \* \* \* but \* \* \* public school houses, houses used exclusively for public worship; institutions used exclusively for charitable purposes, \* \* \* may, by general laws, be exempted from taxation; \* \* \* "

Under this section the General Assembly has enacted our tax laws and has made a general provision in Section 5328, General Code, that:

"All real or personal property in this state, belonging to individuals or corporations, and all moneys, credits, investments in bonds, stocks, or otherwise, of persons residing in this state, shall be subject to taxation, except only such property as may be expressly exempted therefrom. \* \* \* "

Any exemption must be clear and expressly stated in the statute and must be such only as the above section of the Constitution authorizes to be exempted. This was the holding in *Wilson vs. Licking Aerie*, 104 O. S. 137.

Annuities are specifically mentioned as taxable. Section 5375-4, General Code, provides the form for listing and requires that questions shall be asked which will elicit information in regard to "all annuities owned by such person, and the amount of annual payments thereon."

Section 5376, General Code, prescribes what shall be stated in listing property for taxation and requires a statement of "all annuities."

Section 5388, General Code, prescribes the rules for valuing personal property generally and provides that "annuities, or moneys receivable at stated periods, shall be valued at the sum which the person listing them believes them to be worth in money at the time of listing."

It was held in the case of *Shields vs. Matthews*, 22 O. C. C. (n. s.) 398, that an annuity is subject to taxation under the laws of Ohio.

Cooley on Taxation, in Section 571, states: "Annuities are taxable as personal property."

Your question is as to whether or not annuities to missions, church extension work, orphans' and old people's homes and church schools, are taxable.

It is evident that said annuities are taxable unless they are expressly exempted from taxation.

Section 5353 of the General Code, reads, in part, as follows:

"\* \* \* Property belonging to institutions used exclusively for charitable purposes, shall be exempt from taxation."

Whether annuities to said associations named by you are exempt from taxation depends upon whether or not said annuities come within the class described in Section 5353, General Code. If the property of said annuitants is used exclusively for charitable purposes then such property belonging to said institutions is exempt from taxation. This will depend upon the facts in each particular case.

Generally, the property of institutions such as those enumerated in your letter is used exclusively for charitable purposes; but if not so used, their property does not come within the exemption defined in Section 5353 of the General Code.

Section 5349, General Code, provides that public schoolhouses and houses used exclusively for public worship, the books and furniture therein and the ground attached to such building necessary for the proper occupancy, use and enjoyment thereof, and not leased or otherwise used with a view to profit, public colleges and academies and all buildings connected therewith, and all land connected with public institutions of learning not used with a view to profit, shall be exempt from taxation.

It is clear that annuities, as such, do not come within the provisions of Section 5349, General Code, and therefore church schools are taxable unless they are institutions used exclusively for charitable purposes and come within the provisions of Section 5353, General Code. The same may be said in regard to missions and church extension work. It is evident that orphans' homes and homes for old people are not taxable if said homes come within the definition of institutions used exclusively for charitable purposes.

Specific facts in regard to the various associations and activities referred to in your communication are not stated and I am therefore unable specifically to answer your question in regard to the various associations and activities named in your letter; although ordinarily such associations are institutions owning property used exclusively for charitable purposes, and if so used such property is exempt from taxation. If upon ascertaining all the facts in connection with the annuities in question further advice from this department is desired, consideration will be given to such questions as you desire to submit.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

1968.

BOARD OF EDUCATION—NO AUTHORITY TO ARBITRARILY DISMISS  
COUNTY SUPERINTENDENT—MUST FOLLOW SECTION 7701, GEN-  
ERAL CODE.

**SYLLABUS:**

*A county board of education does not have the power at its discretion or arbitrarily to dismiss a county superintendent of schools before the expiration of his term of appointment, but must proceed in the dismissal of such superintendent in accordance with the provisions of Section 7701, General Code.*

COLUMBUS, OHIO, April 14, 1928.

HON. HOWARD J. SEYMOUR, *Prosecuting Attorney, Ravenna, Ohio.*

DEAR SIR:—This will acknowledge receipt of your communication as follows:

“On June 29th, 1927, you rendered at our request your opinion No. 675, covering the legality of the election of a county superintendent by a county