

2350.

INHERITANCE TAX LAW—FEES OF PROBATE JUDGES UNDER SECTION 5348-10a G. C. (109 O. L. 531)—PAID OUT OF STATE'S SHARE OF UNDIVIDED INHERITANCE TAX COLLECTIONS.

The fees of the probate judge under section 5348-10a G. C. as enacted in House Bill No. 286 (109 O. L. 531) are to be paid out of the state's share of the undivided inheritance tax collections.

COLUMBUS, OHIO, August 20, 1921.

HON. J. F. HENDERSON, *Prosecuting Attorney, Ashland, Ohio.*

DEAR SIR:—Receipt is acknowledged of your letter of recent date requesting the advice of this department as to the source of payment of the fee authorized by section 5348-10a of the General Code, as enacted by House Bill No. 286, (109 O. L. 531), to be charged, collected and retained by the probate judge for services in inheritance tax cases.

Certain other questions raised by this section were considered in an opinion of this department to Hon. Walter S. Ruff, prosecuting attorney, Canton, Ohio, a copy of which is enclosed herewith.

With respect to the precise question the new section is silent; it merely authorizes the charging and retention of the fees provided for, without designating the source from which they are to be paid. This is, however, supplied, it is believed, by the remaining provisions of the inheritance tax law.

Section 5348-10 of the General Code provides as follows:

“Such fees as are allowed by law to the probate judge for services performed under the provisions of this subdivision of this chapter, shall be fixed in each case and certified by him on the order fixing the taxes, together with the fees of the sheriff or other officers and the expenses of the county auditor. The county auditor shall pay such fees and expenses out of the state's share of the undivided inheritance taxes in the county treasury and draw his warrants on the treasurer in favor of the fee funds or officers personally entitled thereto, payable from such taxes, as the case may require.”

Section 5348-11 of the General Code, as enacted in 108 Ohio Laws, Part I, p. 561, provides for the distribution of the tax and requires that after the full undivided half shall be distributed to the taxing district in which the tax originates,

“the remainder of such taxes, after deducting the fees and costs charged against the proceeds thereof under this subdivision of this chapter, shall be for the use of the state, and shall be paid into the state treasury to the credit of the general revenue fund therein.”

Section 5348-10a is to be interpreted in connection with these sections; in consequence of which it is the opinion of this office that the fees provided for by it, together with other fees and expenses, are to be paid out of the state's share of the undivided inheritance taxes in the county treasury.

Respectfully,

JOHN G. PRICE,
Attorney-General.