

"General taxes and assessments * * * are allowed as a deduction if they were a debt of the decedent; so, when they are so far complete that the name of the person assessed as the owner cannot be changed or altered by the assessment officers, they are to be deducted. * * *"

"Taxes due at death of decedent are payable out of his personal estate, and taxes accruing subsequently are chargeable to the land. * * *"

It is concluded, therefore, that the commission's questions should be answered as follows:

(1) If a person dies on or after tax listing day and before October 1st in any year, the probate court when determining inheritance tax on the estate should deduct as a general debt the taxes for that year on the personalty of the decedent.

(2) Under the same circumstances, the taxes for that year on the real estate of the decedent should not be deducted as a general debt.

Respectfully,

JOHN G. PRICE,

Attorney-General.

2653.

ANTITOXIN—DISTRICT HEALTH BOARD REQUIRED TO FURNISH SAME WHERE FUND AVAILABLE—SEE SECTION 1261-29 G. C.—WHEN CITY HEALTH DISTRICT WITHOUT FUNDS, COUNTY COMMISSIONERS MAY PROVIDE SAME IN CASES OF INDIGENT PERSONS.

1. *Under General Code section 1261-29 G. C. the district health board is required to furnish antitoxin in all cases where it has a fund available for the providing of same.*

2. *When a city health district is without funds to provide antitoxin, the county commissioners may provide the same in cases of indigent persons.*

COLUMBUS, OHIO, December 2, 1921.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Your request of recent date received in which you ask the opinion of this department as follows:

Free Distribution of Antitoxin.

Section 1239-1 G. C., provides for the production of antitoxin by the state board of health and distribution of same in accordance with the rules and regulations of said board.

Section 1239-2 G. C. provides that any licensed physician or superintendent of any state or county institution shall be entitled to receive such antitoxin without charge for the treatment of indigent persons.

Section 1261-29 G. C. provides that the district board of health shall provide for free distribution of antitoxin.

Senate Bill 203 (109 O. L. 214), amends sections 2500 and 2501 G. C.,

and provides that a physician may make application to any health commissioner within the county for antitoxin for indigent persons and that upon such health commissioner being satisfied of the indigent circumstances of the person to be treated, he may certify the fact to the county commissioners and immediately authorize the attending physician or any druggist to furnish antitoxin when such antitoxin is not available as provided in section 1261-29 of the General Code.

Question: Is it the mandatory duty of a city health district under section 1261-29 G. C., to furnish all antitoxin for treatment of diphtheria or does it become the duty of the state and county under the provisions of sections 1239-1 and 1239-2 and sections 2500 and 2501 of the General Code, as amended, to furnish such antitoxin to indigent parties, leaving the city health district bound to furnish antitoxin to all parties other than indigents?"

General Code sections 1239-1 and 1239-2 will not be considered in this opinion for they are not operative in that there is no legislation providing money for their operation.

General Code section 1261-29 is as follows:

"Each district board of health shall provide for the free distribution of antitoxin for the treatment of cases of diphtheria and shall establish sufficient distributing stations to render such antitoxin readily available in all parts of the district."

It is apparent on the face of the statute that each district shall provide free antitoxin in all cases of diphtheria. It is impossible for the state to be responsible under sections 1239-1 and 1239-2 G. C. for the reason above stated. Sections 2500 and 2501 G. C. are as follows:

"Sec. 2500. When a physician, regularly authorized to practice medicine under the laws of this state, is called upon to treat a person suffering from diphtheria who is in indigent circumstances, or a child suffering from diphtheria whose parents are in indigent circumstances, and he is of the opinion that antitoxin should be administered to such person or child or to others who may have been exposed to the contagion of such disease, he may make application to any health commissioner within the county therefor."

"Sec. 2501. When satisfied of the indigent circumstances of the persons to be treated, such health commissioner may certify the fact to the county commissioners and immediately authorize the attending physician or any druggist to furnish such antitoxin for the persons so to be treated when such antitoxin is not available, as provided in section 1261-29 of the General Code. The antitoxin so furnished shall be paid for upon the allowance of the county commissioners from the general fund of the county."

These sections provide for antitoxin for indigent persons when such antitoxin is not provided for as in General Code section 1261-29. It is very apparent from the reading of these sections, and you are therefore advised, that the city health district is bound to furnish antitoxin to all persons so long as it has the funds so to provide the same, and that when the city health

district has no funds, then such antitoxin may be paid for by the county commissioners in cases of indigency.

Respectfully,
JOHN G. PRICE,
Attorney-General.

2654.

MUNICIPAL HOSPITAL—PARTIAL—COMPENSATION OF SUCH EMPLOYEES IN WAY OF MAINTENANCE, ETC., SUBJECT TO APPROVAL OF COUNCIL—WHAT ORDINANCE OR RESOLUTION FIXING SALARIES AND COMPENSATION OF EMPLOYEES OF SAID HOSPITAL SHOULD CONTAIN.

1. *Partial compensation in the way of maintenance, board, lodging, laundering, etc., allowed employes of a municipal hospital in addition to their salaries under the provisions of section 4035, is subject to the approval of council.*

2. *The ordinance or resolution of council under the provisions of section 4214 G. C. fixing the salaries and compensation of the employes of a municipal hospital or approving such salaries and compensation as fixed by the Director of Public Safety under section 4035 G. C. should include the items of maintenance, board, lodging, laundering, etc., allowed such employes as partial compensation for their services.*

COLUMBUS, OHIO, December 2, 1921.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—Receipt is acknowledged of your letter of recent date reading as follows:

“We respectfully request your written opinion upon the following matter:

In an ordinance fixing compensation of the employes of a municipal hospital, must the provisions that maintenance, i. e., board, lodging, laundering, etc., be made a part of such ordinance to entitle such employes to both salary and maintenance, or could the ordinance stipulate the salaries and the director of public safety by an adopted rule provide for the maintenance of such employes?”

The question submitted by your inquiry, involves, it is thought, the construction of sections 4035 and 4214 G. C.

Section 4035 G. C. provides as follows:

“The director of public safety shall have the entire management and control of such hospital, when completed and ready for use, and subject to the ordinances of council, shall establish such rules for its government, and the admission of persons to its privileges, as he deems expedient. Such director may also employ a superintendent, steward, physicians, nurses, and such other employes as he deems necessary, and fix the compensation of all persons so employed, which compensation shall be subject to the approval of the council.”

It is observed that this section of the General Code, by its express terms,