

2449.

BONDS—ISSUED BY INCORPORATED COMPANY FOR CONSTRUCTING CHURCH—NOT EXEMPT FROM TAXATION WHILE IN HANDS OF HOLDERS.

SYLLABUS:

Bonds issued by an incorporated company for the purpose of constructing a house of public worship, are not exempt from taxation in the hands of the bond holders.

COLUMBUS, OHIO, August 17, 1928.

HON. OSCAR A. HUNSICKER, *Prosecuting Attorney, Akron, Ohio.*

DEAR SIR:—This will acknowledge receipt of your recent communication which reads:

“We respectfully request from your office an opinion on the following question, to-wit:

The McKinley Church of God, Akron, Ohio, and an incorporated company, is constructing a house of worship and is issuing bonds in conjunction with a motion of the trustees, and which bonds are redeemable twenty years from date of issuance, at five per cent, with proper sinking funds being established, and they are desirous to know whether said funds are taxable in the hands of members of its congregation and also in the hands of individuals not members of the congregation.

The money from the sale of these bonds is to be used exclusively in the construction of the building on land owned by said corporation.”

The bonds in question are issued by the incorporated company for the purpose of constructing a house of public worship. The money from the sale of these bonds is to be used exclusively in the construction of said building, and your inquiry is as to whether said bonds are taxable in the hands of the bond holders.

Section 2 of Article XII of the Constitution of Ohio provides 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, excepting all bonds outstanding on the first day of January, 1913, of the state of Ohio or of any city, village, hamlet, county, or township in this state or which have been issued in behalf of the public schools in Ohio and by the means of instruction in connection therewith, which bonds outstanding on the first day of January, 1913, shall be exempt from taxation but burying grounds, public school houses, houses used exclusively for public worship; institutions used exclusively for charitable purposes, public property used exclusively for any public purpose, and personal property, to an amount not exceeding in value five hundred dollars, for each individual, may, by general laws, be exempted from taxation; * * *”

All investments in bonds except those herein indicated are taxable under this provision of the Constitution, and all personal property is taxable unless within the provisions of the Constitution the same has been exempted by statute. The constitutional exemption is as to “houses used exclusively for public worship,” and there

is no provision for exempting the bonds issued by an incorporated church society in the hands of bond holders.

Therefore, it seems clear under this constitutional provision that the bonds in question should be listed for taxation and are taxable as not coming within the constitutional exemption of bonds. The fact that the proceeds from the sale of said bonds are to be used in the construction of a house for public worship would not make said bonds exempt or absolve the holders of the bonds from listing the same for taxation, and this would be true whether the bonds were in the hands of members of the congregation or in the hands of individuals not members of the congregation.

It is therefore my opinion that bonds issued by an incorporated company for the purpose of constructing a house of public worship, are not exempt from taxation in the hands of the bond holders.

Respectfully

EDWARD C. TURNER,

Attorney General.

2450.

SECURITIES—STATE TREASURER LIABLE FOR DEPOSITS—COUNTY OFFICERS LIABLE—INSURANCE AGAINST LOSS DISCUSSED.

SYLLABUS:

1. *Where securities deposited with the state treasurer under Section 710-150 of the General Code and Section 330-3 of the Code are lost through burglary, holdup, theft or otherwise, the state is not liable, but such liability will extend against the treasurer personally and the sureties on his official bond irrespective of any question of negligence in connection with such loss.*

2. *Where securities deposited with county, township, village, city or school district treasurers to secure the deposit of the funds of such subdivision are lost through burglary, holdup, embezzlement or other wrongful conversion the treasurers of such subdivisions and their sureties are liable irrespective of negligence in connection with such loss. In such cases the subdivisions themselves would only be liable in the event of negligence in the custody of such securities.*

3. *There exists no statutory authority to expend public funds for the insurance of either the public or the treasurers personally against liability for the loss of securities deposited with such officers, but such officers may personally from private funds effect such insurance.*

4. *The treasurer of state has no statutory authority officially to set up an insurance fund to provide burglary, robbery and embezzlement insurance, the cost of which is to be divided pro rata among the institutions depositing securities with such treasurer; but such an arrangement may be effected by voluntary arrangement between such institutions and the treasurer acting as an individual.*

COLUMBUS, OHIO, August 17, 1928.

HON. E. H. BLAIR, *Superintendent of Banks, Columbus, Ohio.*

DEAR SIR:—This will acknowledge your recent communication, as follows:

“My attention has been indirectly called to an opinion rendered by you to the Treasurer of State under date of February 13, 1928, the number of which opinion I am advised, being 1705 and in which you state in part as follows: