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DEPARTMENT OF TAXATION—DUTY TO CERTIFY TO
STATE BOARD OF EDUCATION—TAX DUPLICATES OF EACH
SCHOOL DISTRICT FOR COMPUTING SUBSIDY—SECTION
3317.10 R. C. (OPINION NO. 6883, 1956, MODIFIED)

SYLLABUS:

Under the provisions of Section 3317.10, Revised Code, it is the duty of the department of taxation in October, 1956, to certify to the state board of education, as to each school district of the state, both the 1954 and 1955 tax duplicates, the former to be used as provided in Section 3317.02, Revised Code, in computing the state's school subsidy for the fourth quarter of 1956, and the latter in computing such subsidy for the calendar year 1957. (Opinion No. 6683, dated June 11, 1956, modified).

Columbus, Ohio, October 25, 1956

Hon. C. Watson Hover, Prosecuting Attorney
Hamilton County, Cincinnati, Ohio

Dear Sir:

I have for consideration your request for a review and reconsideration of my opinion No. 6683, addressed to the state board of education,

under date of June 11, 1956. In that opinion I held that the deduction set forth in paragraph (E) of Section 3317.02 Revised Code, should be based on the latest tax duplicate which has been certified by the department of taxation under Section 3317.10 Revised Code, which on October 1, 1956, would "presumably" be the 1955 duplicate.

My understanding is that some confusion arises from the fact that when the distribution of the foundation fund was made for the first half of 1956, the latest available duplicate in most cases was that for 1954, and that that was accordingly used as a basis of computation, which computation was anticipated in the 1955 budget estimates of the several school districts.

Inasmuch as it is recognized that there is frequently a long delay in determining and certifying the tax duplicate for a given year I was careful to say in the opinion referred to, that on October 1, 1956 the last available duplicate would be "presumably" the 1955 duplicate.

The manifest intention of the legislature in the enactment of Amended Substitute Senate Bill No. 321, which provided for these changes, was to set up a new system for the years following, and that the effort to adjust this new system to the last quarter of 1956 resulted in considerable obscurity.

It is clear that on October 1, 1956 the duplicate last certified was that which was *theoretically* made up by October 1, 1955, and that it was the basis of taxes collected in December 1955 and June 1956, the proceeds of which were for expenditures by the schools in the calendar year 1956. That duplicate will become the basis for computing the deduction provided in division (E) of said Section 3317.02 and for computing the state's subsidy to a district which will be available for expenditure in the calendar year 1957.

Thus, there is a "lag" of one year between (1) the duplicate which is the basis of the currently expended state subsidy and (2) the duplicate which is the basis of currently expended local tax proceeds. That is to say in 1957 a district will spend state funds computed as to division (E) on the basis of the 1955 duplicate, and local tax funds collected on the basis of the 1956 duplicate.

I consider that the provision in Section 3317.02 Revised Code, for the last quarter of 1956, constituted a sort of bridge over into the regular

yearly periods that would follow, and it appears to me a proper assumption that the legislature intended that for the last quarter of 1956, the same formula be employed in the apportionment of the foundation fund that was used in the first half of the year, at least so far as concerns the deduction provided for in division (E) of the statute above referred to.

This assumption appears to me to be justified in view of evident legislative intent that the state's subsidy to schools, so far as the deduction provided in division (E) is concerned, should be computed in each succeeding year by reference to different successive tax duplicates. Thus, as pointed out above, the state's subsidy actually paid out in 1957, will be computed with reference to the 1955 duplicate, the 1958 subsidy with reference to the 1956 duplicate, and so on.

To be considered, also, is the fact that the state subsidy made available in a particular calendar year is designed by the law to supplement funds derived from local taxation, which became available for expenditure in such year. The funds so available from local taxation in the calendar year 1956, for example, are collected on the basis of the 1955 tax list and duplicate, the rates applicable to which were determined as the result of the work of the county budget commission procedures, the initial steps in which began in July, 1955, with the preparation by the several local subdivisions, including school districts, of budgets. One item in such budget in the case of a school district is the amount of the expected state subsidy to be received in the calendar year 1956.

It is obvious that in July, 1955, the several boards of education concerned, could not have estimated the amount of such state subsidy to be received in 1956, otherwise than by the use of the 1954 tax list and duplicate in computing the amount of the deduction which would be made as provided in division (E) of Section 3317.02, Revised Code. This is true for the reason that the 1955 tax list and duplicate was not then made up, and would not become available, even in theory, until October 1, 1955.

Accordingly, if such state subsidy is designed to supplement the local tax proceeds in a particular year it must be computed with reference to a tax list and duplicate which was in existence at the time of initiation of the local budget procedures which eventually resulted in the collection of such local tax proceeds.

I find nothing in the statute which indicates that an exception to this general scheme was intended with reference to the final quarter of 1956,

nor any indication that the 1955 duplicate was to be the basis for computing the deduction under division (E) as to both years 1956 and 1957.

I conclude, therefore, that under the provisions of Section 3317.10, Revised Code, it is the duty of the department of taxation in October, 1956, to certify to the state board of education, as to each school district of the state, both the 1954 and 1955 tax duplicates, the former to be used as provided in Section 3317.02, Revised Code, in computing the state's school subsidy for the fourth quarter of 1956, and the latter in computing such subsidy for the calendar year 1957. (Opinion No. 6683, dated June 11, 1956, modified).

Respectfully,

C. WILLIAM O'NEILL

Attorney General