

OPINION NO. 65-134**Syllabus:**

Interest earned on funds in a municipal treasury designated for the operation of a municipal hospital which municipality by agreement with a joint township hospital district has joint participation in the operation of the hospital, should be paid into the general fund of the municipality.

To: James K. Leedy, Wayne County Pros. Atty., Wooster, Ohio
By: William B. Saxbe, Attorney General, July 28, 1965

Your request for my opinion reads as follows:

"I have been requested by the Board of Governors of Wooster Community Hospital who represent the joint township district as well as the City of Wooster to obtain from you an opinion concerning funds of the hospital. Specifically, the question is as follows:

"Does the interest received on funds designated for the operation of Wooster Community Hospital and invested by the City Treasurer become the sole property of the City of Wooster, Ohio, or is it additional income for the hospital?

"You might be interested to know that the City of Wooster, Ohio, manages and handles all of the funds of the hospital, the relationship between the City and Hospital District being defined in Ohio Attorney-General Opinions, 1951, No. 341."

A review of Opinion No. 341, Opinions of the Attorney General for 1951, page 139, which you mention in your letter, reveals that the hospital is a municipal hospital, and that there is an agreement between the City of Wooster and a joint township hospital district for joint participation in the management and operation of the hospital. Under the provisions of Section 513.08, Revised Code, a joint township hospital district is to be represented on the board of hospital commissioners or board of a municipal hospital.

Opinion No. 341, supra, refers to Section 3414-1C, General Code, which is for the purpose herein the same as Section 513.10, Revised Code. Opinion No. 341, supra, states on page 145:

"* * *It was plainly the intention of the legislature that the hospital should be and remain a municipal hospital, the county or the joint township hospital trustees, as the case may be, being merely entitled to receive the benefit of the hospital in return for their contributions, * * *

"* * * * * * *"

The first paragraph of the syllabus of Opinion No. 341, supra, page 139, states:

"1. Where an agreement has been made, pursuant to Sections 4035-3 and 3414-1c of the General Code, whereby a county or a joint township hospital district, and its inhabitants, in consideration of certain contributions made to the cost of main-

tenance and operation of a hospital belonging to a municipality, are to enjoy the rights and privileges of such hospital, such contributions shall be paid into the treasury of the municipality and be in the custody of the treasurer subject to appropriation and disbursement in the same manner as other funds provided for the maintenance and operation of such municipal hospital."

I concur in the logic of the conclusion reached in Opinion No. 341, supra; it is proper that the hospital funds, which funds are public money, be paid into the treasury of the municipality. Section 731.56, Revised Code, provides in part as follows:

"The legislative authority of a municipal corporation may, by ordinance, provide that whenever there are moneys in the treasury of such municipal corporation which will not be required to be used by such municipal corporation for a period of six months or more, such moneys may, in lieu of being deposited in a bank, be invested * * *"

This statute provides ample authority for the investment of the funds about which you inquire. Section 5705.10, Revised Code, is to be considered in respect to the instant question. This section provides in part as follows:

"All revenue derived from the general levy for current expense within the ten-mill limitation, from any general levy for current expense authorized by vote in excess of the ten-mill limitation, and from sources other than the general property tax, unless its use for a particular purpose is prescribed by law, shall be paid into the general fund.

" * * * * * * * * * * * * * * *"

"All revenue derived from a special levy shall be credited to a special fund for the purpose for which the levy was made.

"All revenue derived from a special levy shall be credited to a special fund for the purpose for which the levy was made.

"All revenue derived from a source other than the general property tax and which the law prescribes shall be used for a particular purpose, shall be paid into a special fund for such purpose.

"All proceeds from the sale of a bond, note, or certificate of indebtedness issue, except premium and accrued interest, shall be paid into a special fund for the purpose of such issue, and any interest earned on

money in such special fund shall be used for the purposes for which the indebtedness was authorized. The premium and accrued interest received from such sale shall be paid into the sinking fund or the bond retirement fund of the subdivision."

In Opinion No. 4897, Opinions of the Attorney General for 1942, page 168, one of my predecessors interpreted Section 5625-10, General Code, which is substantially the same as Section 5705.10, supra. He stated in the syllabus as follows:

"1. Interest earned on investments of money in a city treasury made pursuant to Section 4296-1, et seq., General Code, should be paid into the general fund, except that where part of the money so invested is taken from the special fund or funds derived from the sale of bonds, notes or certificates of indebtedness, the interest so earned by such investments should be paid into the sinking fund or bond retirement fund of such city and the general fund. The amount to be paid into the sinking fund or the bond retirement fund should be in the ratio which the money invested derived from the special fund or funds bears to the entire amount invested and the remainder of such interest should be paid into the general fund.

"2. The council of a city may not prescribe by ordinance, resolution or otherwise for any other disposition of interest earned on treasury investments."

It is stated at page 171, as follows:

"In Webster's New International Dictionary the term 'revenue' is defined inter alia as 'public income of whatever kind.' This definition is sufficiently broad to include the interest earned on treasury investments of a municipality. The portion of Section 5625-10, General Code /Section 5705.10, Revised Code/, last above quoted, requires all proceeds from the sale of bonds, notes or certificates of indebtedness, except premiums and accrued interest, to be paid into a special fund for the purpose of the issue of such bonds, notes or certificates. It is further required by this same provision that the premium and accrued interest received from such sale and interest earned on such special fund shall be paid into the sinking fund or the bond retirement fund of the subdivision. I find no other provision of law requiring interest earned on any of the funds belonging to a subdivision to be used for a particular purpose. All interest, therefore, earned by treasury investments derived from

a source other than the special fund into which the proceeds from the sale of bonds, notes and certificates of indebtedness have been paid, should be paid into the general fund, and all interest earned on treasury investments derived from such special fund should be paid into the sinking fund or the bond retirement fund.

"Interest, therefore, earned by treasury investments should be paid into the bond retirement fund or the sinking fund if the money used to make such treasury investments was derived from the special fund into which the proceeds from the sale of bonds, notes or certificates of indebtedness were paid. If the money used to make such investments is derived from any other fund, the interest earned on such investment should be paid into the general fund.* * *"

The funds in the municipal treasury, I assume, were designated for hospital operations by regular procedures, and only that amount and not the interest gained by the investment of such funds was designated. The money which has been designated for hospital operations remains under the control of the municipality and in the city treasury; therefore, any interest earned thereon goes into the general fund of the municipality.

Accordingly, it is my opinion and you are advised that interest earned on funds in a municipal treasury designated for the operation of a municipal hospital which municipality by agreement with a joint township hospital district has joint participation in the operation of the hospital, should be paid into the general fund of the municipality.