Hon. Edwin Beaman, Commissioner  
Indiana Department of State Revenue  
141 S. Meridian Street  
Indianapolis, Indiana

Dear Mr. Beaman:

I am in receipt of your request for my Official Opinion in answer to the following question:

"Section 24 of the Indiana Intangibles Tax Law, being the Acts of 1933, Ch. 81, Sec. 24, as found in Burns' (1951 Repl.), Section 64-924, provides as follows:

"'Adhesive stamps for the purpose of paying the tax levied under the provisions of this act shall be prepared by the commission in such form, of such denominations, and in such quantities as the commission may prescribe. The year of the issuance of any stamp provided for herein shall be engraved upon the face thereof, and no such stamp shall be used in any year other than the year of issue. The commission shall make provision for the sale of such stamps in the office of the treasurer of each county in this state, and without expense to the state of Indiana, at such places and at such times as the commission may deem necessary.'

"Your particular attention is directed to the language ' * * * no such stamp shall be used in any year other than the year of issue * * *' as the same appears in the above quoted section of the statute.

"The 1957 session of the General Assembly enacted Acts of 1957, Ch. 348, Secs. 1 & 2, as found in Burns' (1957 Supp.), Sections 64-904 and 64-910, the same being amendatory of Sections 4 and 10 of the Intangibles Tax Act, as amended, which read as follows:

"64-904. 'Except as otherwise provided, for the purpose of measuring and computing the tax imposed by this act in respect of any intangible,
and unless and until such intangible has been otherwise assessed and valued, as authorized by this act, (a) any intangible, having a face value shall, prima facie, continuously have an actual value equal to not less than the full face value thereof; and (b) any intangible, not having a face value shall have an actual value in the amount determined by the assessor or commission and the owner thereof shall cause said amount to be determined.

"'Any annual intangible listed and traded in on any market recognized by the commission shall have an actual value, for the purpose of this act, equal to the value thereof on such market as of the last market day of December following the date on which the intangible is acquired, and thereafter on the last market day of December of each succeeding year: Provided, That where any such annual intangible is sold or otherwise disposed of before the last market day of December, said intangible shall have an actual value, for the purposes of this act, equal to the value thereof on such market as of the day of sale or other disposal. Any current intangible shall have an actual value, for the purpose of this act, equal to the value as of the day such tax accrued.

"'Except where specifically valued by the commission at its instance and upon notice and hearing to the judgment creditor, no judgment or balance due upon a judgment shall be considered to be of any value whatsoever unless and until a payment is received in discharge or partial discharge thereof. Upon each payment of any money in discharge or partial discharge of any judgment, such judgment shall be considered a separate and distinct current intangible created and existing upon such date only and having a value equal to the amount of such payment.'
“64-910. ‘On all annual intangibles, as listed and traded in on any market recognized by the commissioner, the tax shall be paid, as provided by the terms of this act, on or before the thirtieth day of June following, and thereafter on or before the thirtieth day of June of each succeeding year until such annual intangible is paid, retired and/or discharged according to the terms and provisions of such annual intangible, or in some manner provided in this act. On all other annual intangibles susceptible of being stamped, the stamps representing the tax required in respect thereof of one [1] year from the date of the execution of each such intangible, shall be attached within ten [10] days from the date of such execution, and thereafter stamps in the proper amount shall be attached thereto on or before ten [10] days after each annual anniversary of such annual intangible until the same is paid, retired and/or discharged according to the terms and provisions of such annual intangible or in some manner as is provided in this act.’ (Our emphasis)

“You will note that with respect to annual intangibles listed and traded in on any market recognized by the commission the valuation thereof for intangibles tax purposes shall be equal to the value on such market as of the last market day of December following the date on which the intangible is acquired and thereafter on the last market day of December of each succeeding year. Further you will note that the tax on such intangibles shall be paid on or before June 30 following.

“In view of said 1957 amendment and Section 24 of the Act above quoted, which has never been amended, shall the tax liability for a given calendar year be paid and evidenced by affixing stamps issued in and for the year for which tax liability is being paid or by the use of stamps issued in and for the succeeding year?’”

Before proceeding to the explicit treatment of your problem, your question is one in which the rules of statutory construc-
tion are particularly applicable in order that the true intent of the Legislature be determined. As stated in Zoercher v. Indiana Associated Telephone Corp. (1937), 211 Ind. 447, 453, 7 N. E. (2d) 282:

"* * * It is also a rule of statutory construction that words of a statute will be construed in accord with the apparent legislative intent, even though their exact and literal meaning would not warrant such construction. State ex rel. Devening v. Bartholomew (1911), 176 Ind. 182, 95 N. E. 417. In this case the court quoted with approval the following from Clare v. State (1879), 68 Ind. 17, 25:

"'We do not understand that this court is bound, in the interpretation and construction of a statute, to take the words used therein in their plain, exact and literal sense. On the contrary, the true rule is, and always has been, as recognized in many decisions of this court, to make the legislative intention in the enactment of the particular statute the chief guide of the court in its interpretation and the construction. If the object, purpose and intention of the legislature, in the enactment of the particular statute, can be fairly ascertained and arrived at, then it is the duty of the court to overlook and disregard all apparent inaccuracies and mistakes in the mere verbiage or phraseology of the statute, and, if possible, to give force and effect to the evident reason, spirit and intention of the law. This, we think, is the true and only safe rule for the guidance of the courts in all statutory exposition and construction, and as such it has been recognized and acted upon by this court, in a large number of its reported decisions.'"

There are innumerable other text and case citations to the same effect and I believe that the above rule is peculiarly applicable to the interpretation of Section 24 of the Intangibles Tax Law first above quoted.

The Intangibles Tax Act has from its inception classified intangibles as being either current or annual intangibles. The
payment of the intangibles tax liability on all annual intangibles according to the original act was on an annual anniversary basis. See Acts of 1933, Ch. 81, Sec. 10, as found in Burns' (1951 Repl.), Section 64-910. Further, I am reliably informed that for years our state government has accepted the payment of such tax liability by the use of stamps bearing the year corresponding to the year for which tax liability was paid, except in the case of delinquency. This practice has been acquiesced in by administering officials and by the Legislature for a period of well over 20 years and is entitled to considerable weight, unless the Legislature has enacted specific language which clearly and positively requires a change in the procedure.

As stated in Gross Income Tax Div. v. Colpaert Realty Corp. (1952), 231 Ind. 463, 478, 109 N. E. (2d) 415:

"While not controlling, the contemporaneous construction of a statute by those charged with the administration of it is entitled to great weight, and should not be interfered with unless there are very cogent and persuasive reasons for departing from it. Wysong v. Automobile Underwriters, Inc. (1933), 204 Ind. 493, 184 N. E. 783, 94 A. L. R. 826; United States v. American Trucking Associations (1940), 310 U. S. 534, 84 L. Ed. 1345, 60 S. Ct. 1059; Fawcus Machine Co. v. United States (1931), 282 U. S. 375, 75 L. Ed. 397, 51 S. Ct. 144; 42 Am. Jur., Public Administrative Law 392. Particularly is this true where, as here, the legislature by inaction continuing through several sessions, has indicated satisfaction with that construction. County Department, etc. v. Scott's Estate (1943), 221 Ind. 611, 50 N. E. 2d 913; 50 Am. Jur., Statutes 318."

Prior to the 1957 amendment it is to be noted that the Legislature enacted the Acts of 1955, Ch. 287, Sec. 4, which amended Section 10 of the original act, by which 1955 amendment the tax liability on all intangibles listed or traded in on any market recognized by the Commissioner could be paid as late as the last day of January following the acquisition of such annual intangible and thereafter on the last day of January of each succeeding year. This was for the reason that said 1955 amendment had for its primary purpose that of
establishing one uniform date (December 31) both as the date for valuation and as the annual anniversary date on which the tax accrued, except when the annual intangible had been disposed of prior to said date. Prior thereto the anniversary date depended upon the date upon which the securities were acquired. Following the 1955 amendment, and notwithstanding the language of Section 24, prohibiting the use of stamps in any year other than the year of issue, the state officials administering this act honored (until recently) the use of stamps bearing the issue date corresponding to the year for which liability accrued, when attached to the intangible on or before the last day of January.

At the time of enactment of the Acts of 1957, Ch. 348, I issued an opinion to the Governor respecting the question of constitutionality of said act and containing a brief synopsis as to the effect of said amendment which said synopsis reads as follows:

“This Act amends the Indiana Intangibles Act as follows:

1. It changes the date for valuation of any annual intangible listed and traded in on any recognized market or any annual intangible not susceptible of being stamped from December 31st to the last market day of December.

2. On all annual intangibles as listed and traded in on any market recognized by the commissioner the tax shall be paid on or before June 30th. On all other annual intangibles susceptible of being stamped, the stamp shall be attached within 10 days from the date of execution.

3. It requires that the report of all such intangibles owned, controlled, sold or disposed of before the last market day of December be filed and the tax paid on or before June 30.

4. It permits any person or officer to authenticate, witness or guarantee any signature to any assignment or transfer of a taxable intangible if the stamps or receipt appear upon or accompany the intangible or if the owner signs a certificate.
in a form approved by the commission to the effect that the most recent tax has been paid.

“5. It provides for an effective date of December 31, 1957.”

You will note that nothing was said concerning any change in the procedure by which the intangibles tax liability was to be paid—said synopsis referring generally to the fact that annual intangibles listed and traded in on any market recognized by the Commission were to be valued as of the last market day of December of every year and that said Act provided a moratorium for the payment thereof to and including June 30, of the year following. There is nothing in the 1957 amendment to justify any change in the procedure by which intangible tax liability is paid other than above stated.

No amendment has ever been made to Section 24 of the act, being the Acts of 1933, Ch. 81, Sec. 24, as found in Burns’ (1951 Repl.), Section 64-924, and I find nothing in the 1957 amendment which would indicate an intent to amend such section by implication.

As heretofore stated, the intangibles tax liability for any calendar year has regularly and consistently been recognized as payable and evidenced by the affixing of stamps bearing the year corresponding to the year for which tax liability was paid. In my opinion this is clearly justified by a reading of the entire act and I believe it clear that, when the statute says “no such stamp shall be used in any year other than the year of issue,” the intent of the Legislature was that such language be construed to mean “no such stamp shall be used for any year other than the year of issue.” There are authorities to the effect that, in certain instances, the words “in” and “for” may be considered as synonymous. See City of Jackson v. Nims (1947), 316 Mich. 694, 26 N. W. (2d) 569, 580, in which it was held that a constitutional amendment providing for the continuance of annual school grants in referring to legislative grants “in” a fiscal year shall be interpreted as meaning “for” the fiscal year, rather than meaning an appropriation actually made in or during such year.

I am satisfied that neither the 1955 nor the 1957 Legislature intended to create the upheaval which would result if stamps
barring the same year as that corresponding to the tax liability involved were not to be honored. Clearly the 1957 amendment basically intended only an extension of the time in which the tax could be paid. It is, therefore, my opinion that when Section 24 of the Intangibles Tax Law prohibits the use of stamps "in any year other than the year of issue" it means and has always been interpreted to mean that no such stamp shall be used for any year's tax liability except that corresponding to the year of issue—the exception thereto being only in the case of delinquency. Under the present situation there is, of course, no delinquency with respect to the securities here in question until after June 30, 1958, for it is so provided. This opinion is not to alter the requirement of the Acts of 1957, Ch. 79, Sec. 1, as found in Burns' (1957 Supp.), Section 64-927, requiring County Treasurers to return all stamps in their possession within 30 days after the end of each calendar year. However, it is my further opinion that the tax liability for 1957 on the type of intangibles here in question is fully paid when evidenced by the affixing of 1957 stamps to said intangibles and your department should continue to supply such stamps from its office to and including June 30, 1958, to those having such 1957 liability.

In conclusion, it should be stated that the Intangibles Tax Act is of such a nature as not to be easily understood by the taxpaying public and is difficult to administer even by qualified and experienced taxing officials. Its complication has been increased by the amendment of individual sections of the law, apparently without taking into consideration the possible effect upon the balance of the act and its administration.

However, the affixing of stamps to the intangible is, after all, only evidentiary of the fact of payment of the tax. The important thing is that the tax be actually paid for the year in question. In my opinion, affixing stamps bearing the date of such year fully satisfies the provisions of the law, even though such stamps were purchased on or after the last day of that calendar year, so long as payment is timely made and the stamp is used to evidence the payment of tax liability for the year corresponding to the date of issuance of the stamp.