Mr. T. M. Hindman  
State Examiner  
Indiana State Board of Accounts  
304 State House  
Indianapolis 4, Indiana  

Dear Mr. Hindman:

This is in reply to your recent letter requesting an Official Opinion and reading as follows:

"The State Board of Accounts has always furnished such advisory and consultation services to the State Department of Revenue and its several divisions as have been requested, but has taken the position that the statutes intended that this department be responsible for its forms and departmental collecting, refunding and accounting procedures.

"Although the Department of Revenue has on several occasions asked the Board of Accounts to approve departmental forms, it has concurred in the position of the Board of Accounts that the primary responsibility for prescribing its forms, and collecting, refunding and accounting procedures rests with the department and that the approval of the Board of Accounts is not contemplated by the statutes.

"Will you please give us your opinion as to whether or not the position taken by the Department of Revenue and the Board of Accounts in connection with the responsibility for the prescribing of forms, and collecting, refunding and accounting procedures is correct?"

To paraphrase your question, you ask whether or not departmental forms and procedures used by the Department of State Revenue in its functions of collecting, refunding and accounting are subject to the approval of the State Board of Accounts.

The two aforesaid organizations are administrative bodies created by statute so that any power or duty conferred upon either body is statutory, and limited to the provisions of the
specific statute conferring it. Our Appellate Court discussed the powers of governmental agencies, and particularly the Board of Accounts in the case of State ex rel. Licking Township v. Clamme et al. (1923), 80 Ind. App. 147, 164, 134 N. E. 676, 682, and concluded that:

"Each of the above-named governmental agencies is an administrative body and has no power except that which is expressly granted, plus whatever further power, if any, which is granted by necessary implication. The powers and duties of the state board of accounts are so clearly defined by the express provisions of the statute that there is no occasion for a discussion of them. Those duties are of such a character that they may be discharged fully and completely without the aid of any implied power; and there is no intimation or suggestion in the statute that the legislature intended to grant that board any power whatsoever by implication."

The foregoing citation was quoted with approval in 1955 O. A. G., page 55, No. 17; and in 1944 O. A. G., page 35, No. 10, at page 37, it is stated:

"It is fundamental that every administrative agency of the state must find the source of its authority in the statute conferring it, and can only exercise the power conferred in conformity with the statute."

Our question then resolves itself into an examination of statutory powers and duties conferred upon these two bodies by the Legislature.

The Indiana Department of State Revenue was created by Acts of 1947, Ch. 10, as found in Burns' (1951 Repl.), Sections 64-2901 through 64-2916. Section 4 of that act, as found in Burns' (1951 Repl.), Section 64-2904, prescribes in detail the numerous departments and functions transferred to the Department of State Revenue together with the "authority, powers, duties, jurisdictions, officers, employees, books, papers, records, supplies, equipment and appropriations" thereof. The subsequent two sections relate to organization and salaries of the Revenue Department and Sec. 7, as found in Burns' (1951 Repl.), Section 64-2907, reads as follows:
"The board is hereby authorized to prepare, prescribe, obtain and furnish all necessary forms. In the preparation of such forms the board may consolidate one [1] or more taxes upon the same form and shall, so far as possible, avoid repetition of information, filing and execution."

The forms to which this section refers are all forms necessary to the proper administration of the powers and the duties created by Acts 1947, Ch. 10, supra. They concern only the functional operation of the Department of State Revenue and do not relate to the State Board of Accounts.

The State Board of Accounts, on the other hand, was created by Acts of 1909, Ch. 55, as found in Burns' (1951 Repl.), Sections 60-201 through 60-225. Section 2 of that act, as found in Burns' (1951 Repl.), Section 60-202, prescribes the duties and the powers of the Board, all of which relate to the creation and operation of an accounting system. Section 6, as found in Burns' (1951 Repl.), Section 60-206, reads in part as follows:

"The governor, auditor of state and state examiner shall formulate, prescribe and approve the forms for reports herein required to be made * * *.”

and Sec. 55, as found in Burns' (1951 Repl.), Section 60-224, provides that:

"It is hereby made the duty of the various officers of the state and its institutions and municipalities to adopt and use the books, forms, records and systems of accounting and reporting that shall be adopted by the board of accounts, when directed so to do by said board, and all forms, books and records necessary thereto shall be purchased by said officers and in the manner now provided by law. * * *”

It is, therefore, my opinion that:

1. It is the duty of the Department of State Revenue to prescribe the forms to be used in the operational functions of its department.

166
2. It is the duty of the Department of State Revenue to adopt and use accounting forms which may be adopted and directed by the State Board of Accounts with respect to its accounting system.

In addition to the prescribed duties listed above, it is my further opinion that consultation between the State Board of Accounts and the Indiana Department of State Revenue is not only proper but desirable from a standpoint of good business practice and the safeguarding of interests of the State of Indiana.

OFFICIAL OPINION NO. 37
June 23, 1958

Hon. Wilbur Young, Superintendent
Department of Public Instruction
227 State House
Indianapolis 4, Indiana

Dear Mr. Young:

Your letter of June 12, 1958, has been received and reads as follows:

"The Commission on General Education has received the following resolution from the Hearing Commission for consideration in the joint operation of Special Oral Training Center Classes by these commissions:

"RESOLUTION CONCERNING ADMISSION OF CHILDREN LESS THAN THREE YEARS OLD TO THE SPECIAL CLASSES ESTABLISHED UNDER CHAPTER 166, ACTS OF 1955.

"Be it resolved that any child whose third birthday falls on or before December 31 of a given year may be considered to have reached the educational age of three and may be admitted to these special classes beginning in the fall of the year in which he will be three years old. Provided, however, that the child meets the other necessary qualifications for admission to this program."