BUREAU OF MOTOR VEHICLES: Weight Tax, expense of collecting same paid out of Motor Vehicle Highway Account.

July 23, 1941.

Mr. Edward H. Stein,

Bureau of Motor Vehicles,

Indianapolis, Indiana.

Dear Sir:

You call attention to the repeal of Ch. 255 Acts 1937, p. 1188 (Truck Weight Tax Law) by Sec. 2. Ch. 220, Acts of 1941, the provisions of which shall become effective January 1, 1942. You also point out that Ch. 231, Acts of 1941, (Biennial Appropriation Act) makes no specific appropriation for the administration of the 1937 Truck Weight Tax Law from July 1, 1941, until the effective date of its repeal. You ask whether or not funds are available from any source for the administration of said Truck Weight Tax Law.

Sec. 6 of the 1937 Truck Weight Tax Law contained the following:

“The fees imposed hereby, when collected shall be paid over to the treasurer of state daily for credit to an account of the general fund of the state to be known as the motor vehicle highway account and all expenses incurred in the collection of the fees and all refunds, as herein authorized, shall be paid by the treasurer of state out of said account upon warrants of the auditor of state. The net proceeds or balance in the motor vehicle highway account shall be distributed by the treasurer of state at the time and in the manner provided by law.”

Acts 1937, Ch. 255, p. 1188, Sec. 6.

The foregoing provision remains unrepealed until January 1, 1942.

Sec. 3 of the Motor Vehicle Highway Account Act of 1937 (Ch. 135, Acts 1937, p. 776) also provided as follows:

“The money collected for the motor vehicle highway fund and remaining after the payment of all expenses incurred in the collection thereof, and after the deduction of any amount appropriated by the General As-
sembly for the division of public safety, for policing the highways of the state, is herein referred to as the net amount in the motor vehicle highway account, and shall be allocated to and distributed among the commission and political subdivisions herein designated as follows:"

The 1937 Biennial Appropriation Act (Ch. 114, Acts 1937, p. 547) contained an appropriation to the Department of Treasury for Weight Tax, covering Operating expense and Capital outlays, with the provision that "the amounts expended from appropriations herein made for weight tax shall be deducted from the collections of such department." The 1939 Biennial Appropriation Act (Ch. 47, Acts 1939, p. 247) also contained a similar appropriation for Weight Tax, with a similar provision for the deduction of the amount expended from the collections of the department.

The 1937 Motor Vehicle Highway Account Act was repealed by a new Motor Vehicle Highway Account Act of 1941 (Ch. 168, Acts 1941, p. 517, Sec. 8). By Sec. 1, "motor vehicle highway account" was defined to mean the "account of the general fund of the state known as the 'motor vehicle highway account' to which is credited collections from motor vehicle registration fees; licenses, driver's and chauffeur's license fees, gasoline taxes, auto transfer fees, certificate of title fees, weight taxes or excise taxes and all other similar special taxes, duties or excises of all kinds on motor vehicles, trailers, motor vehicle fuel or motor vehicle owners or operators." To this account would go the weight tax collections made until January 1, 1942, under Ch. 255, Acts 1937. Sec. 3 provided, as did the act which it repealed, as follows:

"The money collected for the motor vehicle highway account fund and remaining after refunds and the payment of all expenses incurred in the collection thereof, and after the deduction of any amount appropriated by the General Assembly for the Division of Public Safety and Policing shall be allocated to and distributed among the commission and subdivisions herein designated as follows:"

Ch. 168, supra, had an emergency clause for its immediate taking effect.
It will be seen that both the 1937 and the 1941 Motor Vehicle Highway Account Acts authorized the payment of expenses incurred in the collection of the moneys belonging to the account from the account itself. Not only was payment authorized, but the fund out of which payment was to be made was specifically designated. This is sufficient to constitute an appropriation.

Carr, Auditor v. State ex rel. Coetlosquet (1891), 127 Ind. 204, 209.

That the 1937 and 1939 Biennial Appropriation Acts included specific sums for such expenses, which were to be deducted from the account, did not lessen the fact that authority had been given, outside such Appropriation Acts, for the payment of all expenses incurred in the collection of the moneys belonging to the Motor Vehicle Highway Account.

In view of the fact that the Weight Taxes imposed by Ch. 255, Acts 1937, will, until January 1, 1942, accrue to the benefit of the Motor Vehicle Highway Account created by Ch. 168, and this Act authorizes the payment of expenses incurred in the collection of moneys belonging to it, the Motor Vehicle Highway Account will provide the source of the funds needed until January 1, 1942, for expenses in collecting such weight taxes.

TAX BOARD: Intangibles Tax on intangibles assigned by foreign corporation to Indiana branch.

July 23, 1941.

Hon. Judson H. West, Administrator,
Intangibles Tax Department,
231 State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter reading, in part, as follows:

“A foreign corporation doing business in several counties of this State finances farm machinery purchases of local farm implement dealers. The contracts and notes made by these local dealers are stamped by them for the first year. These are then assigned to the manufac-