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-
izzer who in turn pays the second year's tax, if and when it becomes due.

"This foreign corporation assigns some of its contracts made out of this State to one of its branches in this State."

You submit the following question:

"* * * If an Indiana branch of a foreign corporation receives an intangible on assignment from out of this State, does the intangibles tax apply and if so, when does same become due?"

I think your question as to whether the intangibles tax is applicable under the circumstances stated should be answered in the affirmative. Under the express terms of the statute the tax is to be measured by intangibles wherever located owned by any taxpayer except his intangibles having an actual business situs outside the State of Indiana. (Burns' Indiana Statutes Annotated, 1933, Sec. 64-902.)

The Supreme Court in construing the language of the statute has held that the Act intended to impose the tax upon the owner of the intangibles and not upon the issuer. (Zoercher v. Indiana Associated Telephone Corp., 211 Ind. 477 at page 459.) At another place in the opinion the Court said, quoting from page 460:

"We think that all of the sections of the act above referred to, excluding sub-division (a) of the first part of said section, clearly show that the intent of the legislature was to place the tax on the owner of the intangibles or the persons who controlled them and whose business situs is within the State of Indiana."

In the case referred to by you the branch of the corporation having a situs in Indiana and holding intangibles there, however acquired, would be liable for the tax on such intangibles. It could not be claimed under the facts stated that such intangibles have a situs outside of the State in view of the fact that they have been assigned to a branch within the State.

On the subject of when the stamps should be affixed, the Act expressly states that on all current intangibles the stamps should be attached within ten days of the time of the execution
of the intangible which, I think in this case, would be from the time they are assigned to the Indiana branch. The same is true of annual intangibles. (Burns' Indiana Statutes Annotated 1933, Secs. 64-909, 64-910.)

STATE DEPARTMENT OF PUBLIC WELFARE: Whether additional allotment must be made by the Budget Committee to enable the department to avail itself of federal benefits.

July 29, 1941.

Hon. T. A. Gottschalk,
State Department of Public Welfare,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Mr. Gottschalk:

I have your request for an official opinion in which you ask for a construction of a proviso of Chapter 204 of the Acts of 1941 which is as follows:

"Provided, That if the appropriations herein made are not sufficient to enable the state, through the above designated agency, to avail itself of all federal funds and services which may be allotted, granted or offered to the state during either fiscal year of the biennial period for the above purposes, there is hereby appropriated such further sum as may be required for such purposes, the amount, however, to be subject to the approval of the budget committee."

You ask if the proviso on page 628, Chapter 204, of the Acts of 1941 is broad enough to permit the state budget committee to make additional appropriations to the State Department of Public Welfare after the appropriations made in Chapter 179 and Chapter 204 of the Acts of 1941 are exhausted, if the same are necessary to carry out the requirements of federal agencies, and particularly with regard to the provisions of Section 6, Chapter 179, of the Acts of 1941.

Section 6 of said Chapter 179 transfers to the State Department of Public Welfare the duties that have theretofore been performed by the Governor's Commission on Unemployment