In answer to your third question, I am of the opinion that the board received by the students could properly be deducted from the money contracted to be paid to the students if this arrangement was entered into with the students previous to their taking the employment. I know of no prohibition for deducting the amount of the board received by the students from the monies contracted to be paid to the students for the work to be performed by them, if that is the understanding.

TAX BOARD: Installment settlements of insurance policies—whether such are taxable when provided for in the policy; whether same are taxable as intangibles where the settlement is not provided for in the original policy.

December 4, 1941.

Hon. Judson H. West, Admr.,
Intangibles Tax Division,
State Tax Board,
Indianapolis, Indiana.

Dear Sir:

I have before me your request for an official opinion in answer to the following questions:

“1. Where a policy of insurance becomes a claim and the beneficiary elects to leave the proceeds with the company under one of the Options of Settlement in the Contract and the beneficiary retains possession of the original policy of insurance, does the law require that this Contract have the Indiana Intangibles Tax Stamps affixed thereto?

“2. Where a policy of insurance becomes a claim and the beneficiary elects to leave the proceeds with the Company under one of the Options of Settlement, and the Company takes up the original Contract of insurance and issues a supplementary Contract to the beneficiary, does the law require that this Contract have the Indiana Intangibles Tax Stamps affixed thereto?”

Section 1 (b) of the General Intangibles Tax Act provides expressly that life insurance policies shall not be considered as intangibles under the Act.

Act of 1933, p. 524.
On the basis of the above provision, I think that when a beneficiary elects an option of settlement provided in the insurance contract itself, his election is necessarily under and according to the terms of the original contract of insurance, and for that reason, the policy would not be taxable. Upon that basis, your first question is answered in the negative.

Your second question is not very clear. It would appear to me that if the election is simply an election of one of the options of settlement provided in the original contract, there would not be very much, if any, difference between that case and the case assumed in your first question. However, I am advised that in making settlements with beneficiaries, especially on contracts which do not provide for an installment payment option, companies sometime contract with beneficiaries to leave the amount of the beneficiary’s payment with the company, agreeing to pay it out in installments, with interest. In such cases, as I understand it, an entirely new contract is made and the original policy is taken up. In such cases, it would appear to me, that the new contract, in the nature of an investment contract, would constitute an intangible taxable under the Act. In other words, the insurance policy, which is non-taxable, has been fully discharged and a new contract has been entered into of a different character from that embodied in the original contract. Assuming that your second question is intended to apply to such cases, the answer—in my opinion—should be to the effect that such contracts are taxable.

HIGHWAY COMMISSION: Whether Commission may make valid rulings governing inspection of entrances from state highways to private property.

December 4, 1941.

Mr. Albert J. Wedeking,
State Highway Commissioner,
State House Annex,
Indianapolis, Indiana.

Re: S. H. C. I. Driveway Permits Opinion

Dear Sir:

Your letter of September 26, 1941, signed by W. Gordon Davis, Attorney, Administrative Section, is as follows: