is a fortuitous circumstance proceeding from the Department’s general program and I am of the opinion that it does not have the effect of emasculating the statute. Accordingly, it is my opinion that Form 96A prescribed by the State Board of Accounts, should be submitted with all bids, including those costing less than $5000.00 where the total cost of the project is in excess of $5000.00.

Your second question as to whether or not such a bid may be rejected for failure to submit the questionnaire along with the bid, has already been answered in the affirmative by the former opinion of the Attorney General to which I have referred.

TAX COMMISSIONERS, STATE BOARD: Judgments on tax exempt securities are taxable.

Barrett Law Bonds: Judgments on Barrett Law Bonds subject to intangible tax.

Intangible Tax: Must be paid on judgments on tax exempt securities.

Judgments: Judgments on tax exempt securities are taxable.

June 18, 1940.

Hon. Philip Zoercher, Chairman,
State Board of Tax Commissioners,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter requesting an official opinion in answer to the following questions:

"1. Are judgments procured in the enforcement of Barrett Law bonds subject to the intangible tax?

"2. Are judgments procured in the enforcement and collection of any tax exempt intangible deemed new intangibles and taxable as such?"

In the consideration of your questions, I think it is desirable to notice briefly the applicable parts of Section 1 of Chapter 81 of the Acts of 1933, usually referred to as the General Intangible Tax Act.
The above section has for its purpose the definition of the terms "intangible" and "intangibles" as used in the above Act, and in so doing the Legislature has used the method of first setting out specifically the things included in the above terms, thereafter setting out specifically a group of things which are not included in said terms. Included in the above terms are: "promissory notes, stocks in foreign corporations, bonds, debentures, final judgments from their date of finality" and many other things not necessary to mention now. Excluded from the term "intangible" or the term "intangibles," among other things, are the following: "judgments and/or awards for the payment of compensation under any workmen's compensation act," "judgments and/or allowances for support," "judgments for alimony of less amount than one thousand dollars," "obligations of the State of Indiana, or of any county, township, municipality, taxing unit or public improvement assessment district expressly exempted from taxation by the laws of this state" and "obligations exempted from state taxation by any law of the United States."

There are other things which are said to be not included in the terms "intangible" or "intangibles" but judgments obtained on non-taxable securities are not specifically mentioned as within that class. In other words, the Act, in defining the above terms, expressly includes final judgments from their date of finality except judgments and/or awards for the payment of compensation, judgments and/or allowances for support, and judgments for alimony of less amount than one thousand dollars. No other judgments, however, except the three types above mentioned are excluded.

It is true that in defining the terms "intangible" and "intangibles" the above section excludes "obligations of the State of Indiana or of any county, township, municipality, taxing unit or public improvement assessment district expressly exempted from taxation by the laws of this state," but I am persuaded that the expression "expressly exempted from taxation by the laws of this state" is of vital importance in determining what is included in the term "obligations." Referring to the general exemption section of the 1919 Tax Act as subsequently amended, it is found that the following express provisions are made:
1. "All bonds, notes and other evidence of indebtedness hereafter issued by the State of Indiana or by municipal corporations within the State upon which the said state or the said municipal corporations pay interest shall be exempt from taxation." (Our italics.)

2. "All bonds hereafter authorized by any county or township in the State of Indiana for the purpose of building, constructing and paying for the construction of any free gravel, macadamized or other improved roads, shall be exempt from taxation: Provided, Said bonds shall not bear a greater rate of interest than five (5) per cent interest per annum, payable semiannually." (Our italics.)

3. "All bonds and other evidences of indebtedness hereafter issued by or in the name of any municipality or other political or civil subdivision of the State of Indiana, or by or in the name of any taxing district in the State of Indiana, for the purpose of paying the cost of acquisition, construction, improvement or maintenance of streets, highways, drains, levies, parks, docks, waterways, boulevards, playgrounds, bridges, sewage-disposal plants and other improvements of public benefit, and which bonds or other evidences of indebtedness are payable from special assessments or special taxes, shall be exempt from taxation, unless otherwise expressly provided in this section." (Our italics.)

There are other exemptions which we need not notice in this connection.

Section 48-2722 of Burns’ Indiana Statutes Annotated, 1933, in providing for the issuance of bonds to pay for street and other improvements expressly provides that “improvement bonds hereafter issued pursuant to the provisions of this Act, shall be exempt from taxation for all state, county, township, road, city, school and other purposes. * * *” (Our italics.)

I think when the Legislature in passing the General Intangibles Tax Act, supra, provided for the exemption from that tax of obligations of the State of Indiana, of counties,
townships, municipalities, taxing units and public improvement assessment districts “expressly exempted from taxation by the laws of this State” it did not have in mind obligations evidenced by judgments generally, but rather had in mind obligations in the nature of bonds and other evidences of indebtedness “issued” by the State or such political or civic subdivisions. A judgment obtained against a city upon a general obligation bond issued by the city or against real estate as in the case of a Barrett Law bond cannot be classed as a bond or other evidence of indebtedness “issued” by such municipality. Upon that basis I do not think the term “obligations” as used in Section 1 (b) of the General Intangibles Tax Act of 1933 refers to judgments obtained on tax exempt securities.

In addition to what has already been said, it perhaps should be added that “it is elementary that the effect of a judgment is to merge a cause of action on which it is based. It is recognized generally that the judgment is a higher order of security than the ordinary cause of action, and for this reason the latter is merged in the former. * * * In a judgment the original cause of action is gone forever.”

Mutual Benefit Life Ins. Co. v. Bachtenkircher, Recvr., 209 Ind. 106, at p. 111;

See also: Vol. 15 Ruling Case Law, Sec. 242.

It should be noted also that the Legislature in attempting to specify what the terms “intangible” and “intangibles” did not include, actually had under consideration certain types of judgments which should not be included within said terms, and expressly excluded judgments or allowances for support, judgments for alimony of less than one thousand dollars and judgments and/or awards for the payment of compensation under the workmen’s compensation act, but there is no express exclusion of judgments obtained upon tax exempt securities. The principle of statutory construction that the expression of one excludes all others would give a sufficient basis for holding that the Legislature did not intend to exclude any other type of judgment from the terms “intangible” or “intangibles”.

There is yet another ground which may be stated in support of the taxability of the judgments referred to in your question, and that is the rule that exemption statutes are
strictly construed against the exemption. I think if that rule is applied to the present questions there is very little, if any, doubt as to what the answer should be. Instead of a strict construction, it seems to me that it would require a very liberal construction to enable me to say that the judgments referred to in your questions are not subject to the intangibles tax. For the reasons herein given it is my opinion that such judgments are subject to the tax.

Both questions are answered in the affirmative.

ANATOMICAL BOARD: Dead bodies claimed by anatomical Board.

June 24, 1940.

Dr. Burton D. Myers,
Secretary State Anatomical Board,
Bloomington, Indiana.

Dear Sir:

I have before me your letter of June 20, 1940, wherein you request an interpretation of the provisions of Section 2, Chapter 31, Acts of 1903, a copy of which act, with certain underlinings, you have enclosed with your request.

As previously stated in official opinions upon this act, the authority of the Anatomical Board to obtain unclaimed bodies was not repealed or altered by the passage of Section 17, Chapter 59, Acts of 1927. See Opinions of the Attorney General, 1933, at pages 521 and 587; and Opinions of the Attorney General, 1934, page 110. However, the general limitations, as imposed by the 1903 act, still must govern the claiming of bodies by your board.

The general language of Section 2, granting the authority to obtain bodies from state and municipal institutions, reads as follows:

"It shall be the duty of every public officer, agent and servant, and every officer, agent and servant of any and every county, township, city, town, village, or other municipality, and of any and every almshouse, poorhouse, prison, morgue, hospital, asylum, jail, lock-up, stationhouse, workhouse or other public institution and of any and every charitable or benevolent institu-