has any bearing upon the question of salaries, except as they indirectly affect that subject. Neither the statute nor the regulation could be held to apply to the Minimum Salary Law, passed much later and limited in its scope to the question of salaries of teachers.

Since the Minimum Salary Law provides for an increase of two dollars and fifty cents per month for each additional eighteen weeks of professional training, and two dollars and fifty cents per month for each four years, or major fraction thereof, of experience, it must be assumed that the legislature meant to provide increases, to a certain limited extent, for professional training and for experience. No provision is made for the issuance of regulations by the State Board of Education, and, indeed, in this instance there is no room for such regulation, since the statute is itself specific and complete.

It is my opinion, therefore, that the training so granted may not be used as a basis for the increases provided for professional training.

---

TAX COMMISSIONERS, STATE BOARD OF: Intangibles
Tax—Whether an initial tax is payable by issuer of bonds sold and transferred to non-resident owner.

March 19, 1936.

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

Dear Sir:

I have before me your letter of March 3, 1936, requesting an opinion as to the taxability under the General Intangibles Tax Act of the State of Indiana of certain intangibles hereinafter described and under the conditions hereinafter described, namely:

It is represented that under a loan agreement executed on September 27, 1935, between the United States and the Indianapolis Railways Incorporated the Government has agreed to make a loan to the Railway Corporation of approximately $3,000,000. It is further represented that under the agree-
ment, Collateral Trust Notes in the principal amount of $2,-
000,000 are to be issued under a Collateral Trust Indenture
under which the Union Trust Company of Indianapolis is to
be the trustee. These notes of varying denominations are
to bear four per cent interest from September 1st, 1935, and
payable on June 1st, 1936, and thereafter semi-annually on
June 1st and December 1st of each year. The first of these
notes matures on December 1st, 1939, and the last note ma-
tures on December 1st, 1964. It is further represented that
as security for the Collateral Trust Notes the Government
requires the Railway Corporation to assign to the trustee
First Mortgage Bonds issued by Indianapolis Railways In-
corporated in the principal amount of $1,073,000 and General
Mortgage Bonds issued by Indianapolis Railways Incorporated
in the amount of $1,292,100. Authority for the issuance of
the first described bonds and for the pledge of the first and
second described bonds designated respectively as "senior"
bonds and "junior" bonds was granted by the Public Serv-
ice Commission in an order entered December 6, 1935. The
order of the Public Service Commission in part provides as
follows:

"The 'Senior Bonds' and the said 'Junior Bonds'
herein authorized for the purpose of collateral to said
Collateral Trust Serial Notes shall be used only for
said purpose as provided in said 'Purchase Contract'
and they shall not be sold, used or disposed of for
any purpose other than said authorized purpose and
when released from such pledges said bonds shall not
again be used, sold, or disposed of, or reissued and
used, sold or disposed of for any purpose whatever
without further authority thereunto from the Public
Service Commission of Indiana."

It is represented further that the Collateral Trust Indenture
expressly provides that interest on said bonds is waived un-
til and in the event of a default in the payment of the Col-
lateral Trust Notes.

In addition to the above there is also involved in the ques-
tion submitted by you the taxability of Equipment Trust Cer-
tificates in the principal amount of $557,000 to be issued un-
der an Equipment Trust Agreement under which an Indian-

apolis bank will be the trustee and also the First Mortgage Bonds of Indiana Transit Realty Corporation in the principal amount of $570,000. The Collateral Trust Notes, the Equipment Trust Certificates and the First Mortgage Bonds of Indianapolis Transit Realty Corporation are all to be purchased by the Government at the Federal Reserve Bank of Chicago, it being further represented that the officers of the issuing corporation and of their respective trustees will execute, authenticate and deliver these securities in Chicago at the Federal Reserve Bank of Chicago and that payment therefor will be made by the Government at said bank.

You submit the following questions:

First, whether an initial issuing tax is payable upon the above securities purchased by the Government and second whether an annual tax is payable on the First Mortgage and General Mortgage Bonds to be held by the Union Trust Company as collateral for the benefit of the Government as the holder of the Collateral Trust Notes. In an opinion to the State Board of Tax Commissioners under date of September 12, 1934, I held, referring to Section 2 of the Act, that “It is not the exercise of the enumerated privileges, but the right to exercise such privileges which is taxable.” Further quoting from said opinion,—

“This is the express provision of section 2 which is consistently adhered to throughout the entire Act.

It should be observed, too, that ownership or control of the intangible are necessary incidents of tax liability under the Act. Section 2 of the Act provides in part as follows:

‘Such tax at the rate provided in this act shall be measured by intangibles, wherever located:

(a) Owned by any taxpayer except his intangibles having an actual business situs outside the State of Indiana.

(b) Controlled by any person and/or fiduciary and having a business situs in this state and in the possession of or under control and/or management of any such person and/or fiduciary.’ (Our italics).

I think the above provision indicates that it is the owner of the intangible who is liable for the tax where the taxable intangible is owned by a resident of the
state, and that ownership by some person liable for the tax, or, in case the intangible has been placed by the owner in charge of a fiduciary, the fact of business situs in the state is requisite to taxability."

Opinions of Attorney General, 1934, page 422.

My further consideration of the statute confirms me in the belief that the above holding is correct and I therefore adhere to that opinion.

From the foregoing analysis of the representations made by the Railway Corporation it seems to me that the Collateral Trust Notes, the Equipment Trust Certificates, and the First Mortgage Bonds of the Indianapolis Transit Realty Corporation being owned by the Government are not taxable under the General Intangibles Tax Act. This I think is true upon the principles already set out in the previous opinion and for the further reason that the Government of the United States is not included in the definition of a "taxpayer" as that term is defined in the Act. In order to make clear my thought in this connection reference should be had to the definition of "taxpayer" in connection with the definition of "person," which clearly, in my opinion, does not include the United States.

As to your second question the taxability of the First Mortgage and Second Mortgage Bonds which are pledged for the benefit of the Government as the holder of the Collateral Trust Notes, apparently these securities are held solely as security for the Collateral Trust Notes and apparently can not be used for any further or additional purpose without further authorization from the Public Service Commission of Indiana. It is represented that all interest is waived on these securities unless and in the event a default occurs in the payment of the Collateral Trust Notes upon the occurrence of which of course the trustee could sell them and when so sold and coming into the possession of one who is taxable under the Act such securities would be taxable. However, unless such an event occurs they are in a sense dormant securities and under the order of the Public Service Commission above referred to they can not be sold, used or disposed of for any other than the authorized purpose and when released from the pledge they can not be again used, sold or disposed of for any pur-
pose whatever without further authority from the Public Service Commission. Their value except for the purpose of securing the collateral trust notes is contingent, and for the purpose of the pledge appear to be simply a device to secure to the Government a lien interest upon the property of the Railway Corporation to the extent of the value of the Collateral Trust Notes. As matters stand upon the representations made the sole beneficial interest in the pledged securities is in the Government and for the reasons given as applicable to the Collateral Trust Notes, in my opinion, these securities are not taxable under the General Intangibles Tax Act until by sale or otherwise they come into the possession of an owner subject to the tax.

INDUSTRIAL BOARD: Factory Inspection Law—Authority of City Commissioner of Buildings and of State Industrial Board over unsafe buildings.

March 20, 1936.

Ira M. Snouffer, Chairman,
Industrial Board of Indiana,
432 State Capitol,
Indianapolis, Indiana.

Dear Sir:

This is in reply to your letter of March 16, 1936, requesting an opinion as to an apparent inconsistency between a provision in Chapter 142 of the Acts of 1899 (Burns Revised Statutes, 1933, Sec. 40-1009), known as the Factory Inspection Law, and Chapter 196 of the Acts of 1935, a law concerning the wrecking and removal of buildings in cities.

Your questions are as follows:

1. Does Chapter 196 of the Acts of 1935 repeal Section 40-1009, Burns Indiana Statutes Annotated, 1933, so as to affect the right of supervision and condemnation of buildings by the Inspection Bureau of the Industrial Board of Division of the Department of Commerce and Industry of the State of Indiana?

2. Is the authority vested in the building commissioners, and officers in charge of the inspection of