INHERITANCE TAX DIVISION: Inheritance tax law—
Brothers and sisters of half blood and their descendants
are in the same class as those of whole blood as concerns
rate of tax and amount of exemption.

August 13, 1936.

Hon. Isaac Kane Parks,
Inheritance Tax Administrator,
Room 231 State House,
Indianapolis, Indiana.

Dear Sir:

I have at hand your letter of July 9, reading as follows:

"The statutes of descent (Burns 3330, Revision
1926 seek to treat kindred of the half blood as inher-
ing equally with those of the whole blood.
"Section 2 of the Inheritance Tax Act places in Class
B (entitling such beneficiaries to a $500.00 exemption,
and assessing a 5% tax)—'Brother, sister, or a descend-
ant of a brother or sister, a wife or widow of a son,
or the husband of a daughter,' all other persons and
 corporations not exempt from taxation are placed in
Class C (exemption $100.00; rate of tax 7%).
"Is it the opinion of the Attorney General that a
half brother or half sister, or lineal descendant of such
half brother or half sister also comes under Class B,
or should they be listed under Class C?"

The particular provision of our statute regulating the
descent of property which you refer to above is Section 6,
Chapter 27, 1 R. S. 1852 (Section 6-2306, Burns Indiana
Statutes, 1933). Said Section provides that kindred of the
half blood shall inherit equally with kindred of the whole
blood, with certain exceptions made where the estate in ques-
tion came to the intestate by gift, devise, or descent from an
ancestor. In citing this Section of the statute, obviously you
have in mind the rule that the provisions of a statute of
descent and distribution have controlling effect in the inter-
pretation of an inheritance tax statute.

61 Corpus Juris, p. 1627, paragraph 2416.

However, there is still better reasoning than the above to
support the proposition that half brothers and half sisters,
or lineal descendants of such half brothers or half sisters should be considered as being in Class B as set out in Section 2 of the Inheritance Tax Act, and as referred to in Section 3 of said Act. (Sections 6-2402 and 6-2403, Burns 1933 Indiana Statutes.)

In the absence of any qualification or limitation in the statute to the contrary, either express or implied, the statutory use of the terms "brother" and "sister" has generally been interpreted by the Courts of this state, as well as by the Courts of other states, as including brothers and sisters of the half blood as well as those of the whole blood.

Clark et al. v. Sprague et al., 3 Black (2d) 413;
Doe, etc., et ux. v. Abernathy, 7 Black (2d) 442;
Anderson et al. v. Bell et al., 140 Ind. 375.

From the foregoing authorities it appears that at the time of the enactment of the present inheritance tax law, (1931) and in fact at the time of the enactment of the original tax statute in 1913, the words "brother" and "sister" had been judicially construed to include within their purview brothers and sisters of the half blood as well as of the whole blood. It is a well recognized rule of construction that the legislature, in using words similar to those used in an earlier statute, will be presumed to have acted with reference to the construction given those words by the Courts, and to have used the words in that sense.

Anderson et al. v. Bell et al., 140 Ind. 375, 383, and cases cited.

In my opinion half brothers and half sisters and their lineal descendants come within the purview of the terms "brother" and "sister" and "descendants of a brother or sister," as used in Section 2 of the Inheritance Tax Act, supra, and thus are among the heirs placed in Class "B" by the provisions of said Section.