REBATE GASOLINE FUNDS: Affidavit and bill must be filed with Auditor not over ninety days after purchase of gasoline. Fed. Act, Par. (b), Sec. 207, Title 11, not sufficiently broad to suspend operation of State Act.

November 5, 1936.

Hon. Laurence F. Sullivan,
Auditor of State of Indiana,
238 State House,
Indianapolis, Indiana.

Dear Sir:

Receipt is acknowledged of your letter dated October 6, 1936, together with the file pertaining to the refund of gasoline tax filed under the name of Fred Hummell, Trustee of the Columbia Air Lines, Inc.

Sub-section (c), Section 47-1505 Burns Indiana Statutes Annotated of 1933, reads as follows:

“(c) All applications for refunds or reimbursements as provided for in this Section shall be filed with the Auditor of State within ninety (90) days after the date on which such motor-vehicle fuel shall have been purchased, as shown by the invoice.”

From your files it appears that claims have been filed for rebate by Leo J. Sherman, Agent of Fred Hummell, Trustee and Auditor of Columbia Air Lines, Inc., in the sum of $444.86. The file further reveals as follows:

1. That the claims were filed beyond the ninety (90) day period prescribed by the Section of our statutes above quoted.

2. That the claims were filed by the Agent of the Trustee of Columbia Air Lines, Inc., and that at the time of filing the claims the Columbia Air Lines, Inc., was in the hands of a trustee, being liquidated under the United States Bankruptcy Law.

Paragraph (b), Section 207, Title 11, U. S. C. A., pertaining to bankruptcy matters, reads in part as follows:

“The running of all periods of time prescribed by any other provisions of this title, and by all statutes of limitations, shall be suspended during the pendency of a proceeding under this Section.”
Close attention has been given to the Bankruptcy Act pertaining to statutes of limitations and their suspension pending proceedings under the Act and nowhere in the Act can be found a specific provision which covers or pertains to Acts other than those enumerated in the Federal Statutes. That is to say that the language of the Federal Act above quoted is not sufficiently broad nor specific to stop or suspend the ninety (90) day period as provided by the Indiana State Legislature hereinabove quoted in Burns Indiana Annotated Statutes; that the Federal Act, a portion of which is last quoted above, has to do with the running of periods of time prescribed and specifically mentioned in the Act itself.

The conclusion is that,

1. The fact that the Columbia Air Lines, Inc., is in the hands of a trustee for liquidation does not suspend the ninety (90) day period within which a claimant must file applications for rebate.

2. That the provisions of the Federal or Bankruptcy Act, a portion of which is above quoted, is not sufficiently broad and specific to in any way limit the conditions and provisions of sub-section (c) of Section 47-1505 Burns Indiana Statutes Annotated, 1933.

Therefore, it is the opinion of this Department that the claims of Fred Hummell, Trustee of Columbia Air Lines, Inc., in the sum of $444.86, should be disallowed in toto.

DEPARTMENT OF PUBLIC INSTRUCTION: Transportation of school children to parochial school—Application of Chapter 54 of Acts of 1933 to Catholic orphanages.

November 6, 1936.

Hon. Grover Van Duyn,
Assistant Superintendent of
Public Instruction,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter in part as follows:

"An orphanage is maintained by a Catholic church in Vincennes Township, Knox County, Indiana. This orphanage has approximately 200 children in which