

ity of the federal statute referred to earlier in this opinion. It appears, however, from the above cases that the referee would be authorized to allow interest, and upon the authority of the case last cited a penalty of no greater amount than the penalty provided under the Indiana Act could be treated as in lieu of interest. While the question is perhaps not entirely free from doubt, in my opinion the county treasurer should include in any claim for delinquent taxes against a bankrupt's estate where the provisions of the 1935 Act apply,—that he should include the penalty provided by statute. This conclusion is upon the theory that the federal statute does not prohibit the allowance of interest and that these penalties should be treated in lieu of interest.

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**TAX COMMISSIONERS, STATE BOARD OF: Taxation—  
reduction of rate by increase of payment to teachers.**

September 20, 1937.

Honorable Philip Zoercher, Chairman,  
State Board of Tax Commissioners,  
231 State House,  
Indianapolis, Indiana.

Dear Sir:

This will acknowledge receipt of your request of September 20, 1937, in which you submit the following question:

“Section 5 of chapter 194, in reference to the tax rate for school purposes, make certain provisions in reference to the budget for the years 1937 and 1938. The first part of that section provides that the tax rate for the years 1937 and 1938 shall be reduced in an amount equal to the increased benefits which shall be paid to such school township, school town or school city by reason of the increased payment of \$200.00 for each taxing unit. Then it further provides that the final budget of such school corporation adopted in 1937 and 1938 shall not exceed the amount of the budget adopted in 1936 without the approval of the County Tax Adjustment Board, and if such approval is reduced then such excess may be approved by the State Board of Tax Commissioners.

“Does this mean that the rate for 1937 and 1938 must be reduced by the amount of the increased payment? If the budget can be increased with the approval of the Tax Adjustment Board or with the approval of this board, how can this be accomplished without a higher rate to meet such increase in the budget? How can such increase be made in excess of the budget first adopted?”

The Act to which you refer, the same being section 5, chapter 194, Acts of the Indiana General Assembly, 1937, reads as follows:

“The tax rate to be adopted in the years 1937 and 1938 by any school township, school town, school city, or municipal corporation for school purposes shall be reduced in an amount equal to the increased benefits which shall be paid to such school township, school town, school city, or municipal corporation by reason of the passage of this Act, provided, however, that the final budget of such school township, school town, school city or municipal corporation for school purposes adopted in 1937 and 1938 shall not exceed the amount of the budget adopted in 1936 without the approval of the county tax adjustment board, and if such approval is refused then such excess may be approved by the State Board of Tax Commissioners. Provided, however, that nothing herein shall prevent the right of appeal as now provided by law.”

It will be noted from a reading of the Act in its entirety that a sum not less than \$700.00 per teaching unit shall be paid to the various school corporations of the state from the state treasury. It is a matter of general knowledge that the major part of this \$700.00 per teaching unit is paid from funds derived from the gross income tax. I think it is also a matter of common knowledge that the purpose of the gross income tax law was to provide a source of additional revenue to the end that the burden of taxation on real and tangible property might be reduced. It is my opinion that the legislature had this fact in mind when they required that the “tax rate to be adopted in the years 1937 and 1938 by any school township, school town, school city, or municipal corporation

for school purposes shall be reduced in an amount equal to the increased benefits which shall be paid to such school township, etc.”

As a further effort to reduce the rate on real and tangible property the legislature provided, “that the final budget of such school township, etc., adopted in 1937 and 1938 shall not exceed the amount of the budget adopted in 1936 without the approval of the county tax adjustment board, etc.”

It is therefore a matter of almost mathematical certainty that if the budget is not permitted to exceed the total budget for 1936, and if the state pays additional sums to the local taxing units for purposes of helping defray expenses of their schools, the tax rate in such taxing units will of necessity be lowered.

It is my opinion, therefore, that it was the intention of the legislature by this means to lower the tax rate in taxing units. However, the Act contains a further provision that the budget adopted in 1936 may be exceeded by the budgets proposed for 1937 and 1938 upon “the approval of the county tax adjustment board.” Of course it necessarily follows that if the budget for the coming year is to exceed the budget for the year 1936, then the rate will have to be such as will meet the requirements as determined by the county tax adjustment board or the State Board of Tax Commissioners.

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**MOTOR VEHICLES, BUREAU OF: Three-wheeled motor vehicle—classification for registration.**

September 20, 1937.

Mr. Mark Rodenbeck, Assistant Commissioner,  
Bureau of Motor Vehicles,  
Indianapolis, Indiana.

Dear Sir:

This is in answer to your request for an opinion as to the proper classification of a certain type of motor car under the registration and licensing statute. Your letter is as follows:

“We are in doubt as to the proper classification of a new type of vehicle which is being constructed. The vehicle in question has a triangular frame with one