

PUBLIC SAFETY, DIVISION OF: Motor vehicles, safety glass.

December 24, 1937.

Hon. Don F. Stiver, Director,
Department of Public Safety,
Indianapolis, Indiana.

Dear Sir:

This is in response to the following request from your department:

“Kindly furnish me with a formal opinion as to whether or not the replacement of glass in a passenger car of less than eight passenger seating capacity registered in the State of Indiana, must be of approved safety glass.

“This is under the Acts of 1935, Page 126, sections 1, 2, 3 and 4.”

In my opinion, the replacement of glass must be of approved safety glass. The unlawfulness in such matters, however, consists in the operation of the car without safety glass on the public highways.

Attention is called to the opinion from this office appearing in the 1936 opinions at page 216, and the opinion to Peter F. Hein, Treasurer, dated June 7, 1937, for a more complete discussion of the safety glass question.

GROSS INCOME TAX DIVISION: Information on Gross Income Tax returns confidential.

December 27, 1937.

Hon. Clarence A. Jackson,
Director of Gross Income
Tax Division,
141 South Meridian Street,
Indianapolis, Indiana.

Dear Sir:

Your letter of December 17, 1937, sets forth the following:

“The Gross Income Tax Division has been receiving a number of letters from County Departments of Public

Welfare in which it is requested that the gross income as reported by various taxpayers be divulged to such Public Welfare agencies in order that the information requested may be used in administrating the public welfare enactments. May the Gross Income Tax Division co-operate with such other governmental agencies by furnishing to them upon their request the data relating to a taxpayer's income or the amount of gross income taxes paid by such taxpayers?"

The information contained in the returns of taxpayers, who pay pursuant to the provisions of the Gross Income Tax Law is confidential.

Section 64-2624 of Burns Annotated Statutes 1933 which is chapter 117, section 24, of the Acts of 1937, which amended section 24, chapter 50, of the Acts of 1933 provides:

"Unless in accordance with a judicial order, or as herein provided, the department, its counsel, agents, clerks, stenographers or other employees shall not divulge the gross income or the amount of tax paid by any person, or any other information disclosed by the reports filed under the provisions of this Act, except to members and employees of the department, or to the governor, or to the attorney-general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of this Act, or to any duly authorized officer of the United States."

Then there follows a penalty provision for violation of this section.

It will be noticed that there are but two ways by which information may be legally disclosed:

First—in accordance with a judicial order.

Second—a disclosure may be made as the act itself provides to certain named persons under certain circumstances.

Neither the Departments of Public Welfare of the Counties, nor the Department of Public Welfare of the State is mentioned in this particular section of the act as those persons eligible to obtain such information. None of the Departments of Public Welfare function in a judicial capacity; thus such departments could not issue a judicial order because judicial order means a regulation or a rule laid down by a court of

justice or a judge thereof. Since then the Departments of Public Welfare can not issue judicial orders, and since they are not named in section 24, of chapter 117, of the Acts of 1937 hereinabove quoted, it is my opinion that the information contained in the returns of taxpayers in your department are not available to the various public welfare departments' employees in the absence of a judicial order of one of the several circuit or superior courts, which order would direct the Gross Income Tax Division to make such disclosures as are necessary.

There is, however, a practical solution of the problem presented. The departments of public welfare in the various counties and/or the department of public welfare of the state could request that the taxpayer name the department of public welfare or its agent, the attorney-in-fact for the taxpayer, in order to make the required examination of the returns.

PUBLIC INSTRUCTION, SUPERINTENDENT OF: Selection of schoolbooks by State Board of Education, whether schools must use selected books.

December 27, 1937.

Hon. Floyd I. McMurray,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Mr. McMurray:

I have before me your letter reading in part as follows:

“Pursuant to the provision of the textbook law and the expiration of contracts for high school subjects, the State Board of Education will adopt high school texts February 4, 1938. The state board under the provision of the law has added the subjects of biology, economics, ninth and tenth grade literature in addition to the subjects whose contracts will expire in 1938.

“Since the additional subjects referred to above were not covered by the state adoption in 1933, school corpo-