Mr. Herbert C. Holmes, Member
State Board of Tax Commissioners
201 State Office Building
Indianapolis, Indiana

Dear Mr. Holmes:

This is in response to your request for my Opinion concerning the effect of the Acts of 1965, ch. 234, and particularly whether the repeal of poll tax levies, effected thereby, operates to remove such poll tax levies from the total property tax levies fixed in 1965 for 1965 taxes payable in 1966. The question arises by reason of the fact that on March 1, 1965, at the time when assessing officials were commencing their work of assessment, said Acts of 1965, ch. 234, supra, approved March 10, 1965, had not, as of then nor during the period from March 1, 1965 to May 15, 1965, become effective. Said 1965 Act did not contain an emergency clause and thus did not become effective until the 1965 Acts had been published and circulated in all of the counties of this state on July 8, 1965, according to the Indiana Constitution, Art. 4, § 28.

Because of the fact that said act and the repeal of the poll tax levies thereby provided did not become effective during the assessing period between March 1, 1965 and May 15, 1965, it is my understanding that taxpayers, who would otherwise have been subject to such poll taxes, were instructed to execute tax schedules so as to indicate whether a poll tax was payable. Thus, such schedules indicate poll tax liability, yet the municipal corporations which fix tax levies are now desirous of knowing whether to include such poll tax levies in the overall tax rate.


"AN ACT to amend the law relating to taxation by removal of the provisions for the imposition and collection of a poll tax."
1965 O. A. G.

"Be it enacted by the General Assembly of the State of Indiana:

"SECTION 1. Acts 1919, c. 59, s. 1 is amended to read as follows: Section 1. All taxes for the support of the government of this state shall be assessed on property listed and valued in an equal and ratable proportion, except such stocks and other property as may be specifically taxed, in the following manner, namely: The amount necessary and proper to be charged on each hundred dollars’ ($100) worth of property, for state expenditures and for school purposes, shall, from time to time, be fixed by law, subject to modifications hereinafter provided; and the amount to be charged on each one hundred dollars’ ($100) worth of property for all other subdivisions of the state, namely, counties, cities, towns, townships, both civil and school, and other public corporations or taxing units of whatsoever kind, shall be determined as now provided by law, subject to the conditions and modifications hereinafter mentioned.

"SEC. 2. The acts and parts of acts and amendments thereto are hereby specifically repealed as follows: Acts 1919, Chapter 59, Sections 2 and 320; Acts 1925, Chapter 79, Section 3; Acts 1937, Chapter 118, Section 1; Acts 1953, Chapter 138, Sections 1 and 2."

Section 1 of said 1965 Act amends the Acts of 1919, ch. 59, § 1, by deleting the words “on polls and” which immediately preceded the words “on property listed” and further by deleting the words “on each poll and” which immediately preceded the words “on each one hundred dollars’” wherever they appeared in said § 1 of the Acts of 1919, ch. 59. Since this section is the basic law upon which tax levies are imposed for all taxing units of whatever kind, the deletion of such words has the effect of eliminating all poll tax levies.

Moreover, Section 2 of said Act specifically repeals the state poll tax levy, the listing for which is provided by the Acts of 1919, ch. 59, § 2, as found in Burns IND. STAT. ANN. (1961 Repl.), § 64-102, and the levy of which is provided by the Acts of 1925, ch. 79, § 3, as found in Burns IND. STAT.
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ANN. (1961 Repl.), § 61-103. Note here that Burns IND. STAT. ANN. [1965 Cumulative Pocket Supplement to Vol. 11, Part 3] erroneously indicates that both Burns IND. STAT. ANN. [1961 Repl.], §§ 64-102 and 64-103 were repealed by § 2 of the Acts of 1965, ch. 234, supra. Section 2 of said 1965 Act did repeal Burns 64-102, supra, being Acts 1919, ch. 59, § 2, but did not repeal Burns 64-103, supra, as indicated, § 64-103, being the Acts of 1919, ch. 59, § 327. Instead, Section 2 of said 1965 Act did repeal Burns 61-103, supra, being the Acts of 1925, ch. 79, § 3, which Burns IND. STAT. ANN. [1965 Cumulative Pocket Supp. to Vol. 11, Part 2] fails to indicate as having been repealed. Thus, by reason of § 1 of the Acts of 1965, ch. 234, supra, the right to impose a tax levy upon each poll “for state expenditures and for school purposes” and “for all other subdivisions of the state, namely, counties, cities, towns, townships, both civil and school, and other public corporations of taxing units of whatsoever kind” has been deleted, so that none of such taxing units may impose any poll tax notwithstanding the provision of any other statute pertaining to such taxing units. Furthermore, as above noted, the precise statutory provisions for both listing persons for poll tax and for imposing the state poll tax have been repealed.

Although the “Property Assessment Act of 1961,” as amended, being the Acts of 1961, ch. 319, by Section 102 thereof, as found in Burns IND. STAT ANN. (1961 Repl.), § 64-302, defines the term “assessment date” to mean March 1st, this is the date used in determining what property shall be subject to assessment and taxation, as provided by the Acts of 1961, ch. 319, § 201, as found in Burns IND. STAT. ANN. (1961 Repl.), § 64-401. However, although Burns 64-302, supra, fixes the date on which the determination of what property is subject to assessment and taxation is made, such “assessment date” is not the date of the levy of taxes imposed by the state and the various taxing units thereof.

While there is no uniform date with respect to all taxing units which may be considered as the date of the levy of taxes, it is a fact, of which judicial knowledge may be taken, that in the procedure for the determination of budgets for the various taxing units and the fixing of the rates necessary to provide the revenues for meeting such budgets, the
date of the levy, as fixed by the levying bodies of the various taxing units, is generally subsequent to July 8, 1965, the effective date of the Acts of 1965, ch. 234, supra. The Acts of 1919, ch. 59, § 197, amended by the Acts of 1920 (Spec. Sess.), ch. 49, § 2, were last amended by the Acts of 1965, ch. 125, § 1, Burns IND. STAT. ANN. (1965 Supp.), § 64-1901, which reads as follows:

"SECTION 1. Acts 1919, c. 59, s. 197 as amended by Acts 1920 (Spec. Sess.), c. 49, s. 2, is further amended to read as follows: Sec. 197. The county auditor of each county not later than August first of each year, shall apportion and certify as apportioned, under the seal of the board of county commissioners, to the clerk, or corresponding officer, of each municipal corporation in the county, an estimate of the amount of assessed valuation in such municipal corporation during the next budget year together with an estimate of the taxes to be distributed to such municipal corporation during the last six months of the current budget year.

"The estimate of assessed valuation shall be based on the statement of assessed valuation required to be delivered by township assessors to the county auditor by July 15 of each year, as modified by the county auditor as a result of action taken by the county board of review or the state board of tax commissioners by July 15 of such year.

"The estimate of taxes to be distributed shall be based upon the abstract of taxes levied and collectible for the current year, less any taxes previously distributed for such year, and any other information at the disposal of the county auditor which might affect such estimate.

"Each clerk, or corresponding officer, of whatever designation, shall lay before the proper officers of his municipal corporation the estimates forwarded to him by the county auditor, and said municipal corporation, through its legal officers, shall make such tax levies, authorized by law, as it shall deem necessary, with reference to such estimates, within the restric-
tions and limitations imposed in the succeeding sections of this act. Said municipal corporations shall, through their proper officers, report to the county auditor the levies made, within five (5) days after the same have been established, and not later than two (2) days prior to the second Monday in September of each year, for submission thereof to the county board of tax adjustment.” (Emphasis added.)


The determining factor in answering your question is that pursuant to the Acts of 1965, ch. 125, § 1, as found in Burns IND. STAT. ANN. (1965 Supp.), § 64-1901, supra, the deadline on or before which the county auditor must certify to the clerk or corresponding officer of each municipal corporation in his county the estimate of the amount of assessed valuation, which information is necessary in computing the tax rate by each such municipal corporation, is August 1st.

Also, pursuant to said Acts of 1965, ch. 125, § 1, as found in Burns IND. STAT. ANN. (1965 Supp.), § 64-1901, supra, the deadline for such municipal corporations to make tax levies authorized by law and to report such levies to the county auditor is not later than two days prior to the second Monday in September. Thus, the fixing of the tax levy in each municipal corporation would fall on some date subsequent to July 8, 1965, the effective date of the repeal of the authority to levy a poll tax as provided by the Acts of 1965, ch. 234, supra. Therefore, it is my opinion that there is no authority for any municipal corporation to include any poll tax in the tax levy fixed by it for 1965 taxes payable in 1966. In passing, it may be observed that since § 2 of the Acts of 1965, ch. 234, supra, also expressly repeals, as of July 8, 1965, the poll tax exemption provided for veterans with a service-
connected disability as previously authorized by the Acts of 1937, ch. 118, § 1, as found in Burns IND. STAT. ANN., (1961 Repl.), § 64-217, and the poll tax exemption afforded to members of the armed forces of the United States previously provided by the Acts of 1953, ch. 138, §§ 1 and 2, as found in Burns IND. STAT. ANN. (1961 Repl.), §§ 64-215 and 64-216, an anomalous and ridiculous situation would result if such veterans and such servicemen were by the repeal of the poll tax exemptions applicable to them and the levy of poll taxes for the year 1965 payable in 1966, to thus become liable for such taxes for one year—the very year in which members of the Legislature voted to put an end to said tax.

In conclusion, it is suggested that a bulletin be issued by the State Board of Tax Commissioners on this subject and circulated to the county auditor of each county in the state, and to such other officers as are deemed necessary, advising them not to include poll taxes as a part of the levy for 1965 taxes payable in 1966.

OFFICIAL OPINION NO. 26

August 11, 1965

Mrs. Edith Sanderson, Executive Secretary
Indiana Board of Beauty Culturists Examiners
1023 State Office Building
Indianapolis, Indiana 46204

Dear Mrs. Sanderson:

This is in response to your letter of recent date, requesting an Official Opinion pertaining to the interpretation of the Acts of 1935, ch. 72, § 14, as amended, as found in Burns IND. STAT. ANN. (1961 Repl.), § 63-1814, which reads:

"'The board shall either refuse to issue or renew or shall suspend or revoke a certificate of registration for conviction of a felony shown by a certified copy of the record of the court conviction.'"

The specific questions stated in your letter are as follows:

"1. Can a person who has committed a felony and has been sentenced to the Women's Prison and has