Mr. William L. Fortune, Commissioner
Indiana Department of State Revenue
202 State Office Building
Indianapolis, Indiana

Dear Mr. Fortune:

I am in receipt of your request for my Official Opinion, which request reads in part as follows:

"The recently adjourned 1965 Indiana General Assembly enacted legislation amending the existing Intangibles Tax Law, which included the elimination of the sale of adhesive stamps. The Act is effective as of April 1, 1965 as a result of an emergency being declared.

"Nineteen sixty four (1964) stamps are presently being sold to evidence collection of intangibles tax for the preceding year of 1964 that according to existing law continues until June 30, 1965.

"Does this same legislation apply to the sale of 1964 year's stamps as well as 1965 year's stamps?"

Before proceeding to the explicit treatment of your problem, your question is one in which the rules of statutory construction are particularly applicable in order that the true intent of the Legislature be determined. As stated in Zoercher v. Indiana Associated Tel. Corp., 211 Ind. 447, 453, 7 N.E.2d 282 (1937):

"... It is also a rule of statutory construction that words of a statute will be construed in accord with the apparent legislative intent, even though their exact and literal meaning would not warrant such construction. State ex rel. Devening v. Bartholomew (1911), 176 Ind. 182, 95 N.E. 417. In this case the court quoted with approval the following from Clare v. State (1879), 68 Ind. 17, 25:

"'We do not understand that this court is bound, in the interpretation and construction of a statute, to take the words used therein in
their plain, exact and literal sense. On the contrary, the true rule is, and always has been, as recognized in many decisions of this court, to make the legislative intention in the enactment of the particular statute, the chief guide of the court in its interpretation and construction. If the object, purpose and intention of the legislature, in the enactment of the particular statute, can be fairly ascertained and arrived at, then it is the duty of the court to overlook and disregard all apparent inaccuracies and mistakes in the mere verbiage or phraseology of the statute, and, if, possible, to give force and effect to the evident reason, spirit and intention of the law. This, we think, is the true and only safe rule for the guidance of the courts in all statutory exposition and construction, and as such it has been recognized and acted upon by this court, in a large number of its reported decisions."

There are innumerable other text and case citations to the same effect and I believe that the above rule is peculiarly applicable to the interpretation of the Intangibles Tax Law as amended by the 1965 Legislature. The explicit legislative intent of ch. 226 of the Acts of 1965 is to change the procedure, method and time of collecting the intangibles tax. Chapter 226 amends the Acts of 1933, ch. 81, which is the Intangibles Tax Act and provides a new and different period of time for the payment of the tax, and a new method and procedure under which said tax is to be paid and collected. The levy of the tax and the rate of the tax is left intact. To answer your question, we must determine whether or not the Legislature intended the changes made by the 1965 Act to apply to the intangible tax which had accrued for the year 1964, prior to the passage of ch. 226 of the 1965 Indiana Acts. By examining ch. 226 of the Acts, we find that Section 6 of said Act adds a new section to the Intangibles Tax Act to be known as Section 13B which reads as follows:

"Sec. 13B. In lieu of affixing the stamps to the intangibles, as heretofore provided by this act, the tax-
payer shall pay the tax by describing the intangibles on a form to be prescribed and furnished by the Indiana Department of Revenue and by paying the amount owing on account thereof contemporaneous with the taxpayer’s annual payment of his gross income tax or adjusted gross income tax for the particular year in question and in no event later than the returns for such taxes are due as provided by law. The form prescribed by the Indiana Department of Revenue pursuant to this amendatory act shall contain a list of all the various intangibles subject to tax under present law, and such form shall also be attached to or included in the forms furnished by said department for payment of gross income tax or adjusted gross income tax. If requested, the Indiana Department of Revenue shall mail the duplicate form to the taxpayer as evidence of the payment of the tax on the intangibles described thereon for the year for which the return was made. The companies defined in section 41 (b) of this act shall pay the tax imposed by this act in accordance with the provisions of said section 41 (b) and not by affixing adhesive stamps to intangibles.

“The provisions of this section shall apply to intangibles on account of which a tax is imposed by this act for all taxable years beginning after December 31, 1964, except that no further tax for the year 1965 shall be measured by or collected on those intangibles on account of which taxes for said year 1965 have been paid in full by the taxpayer on the date this act becomes effective, and the Indiana Department of Revenue shall make appropriate rules governing the reporting of such tax-paid intangibles on the above form.”

From the wording of the last paragraph of said Section 6 a legislative intent is perceived that the new method of payment is to be applied to intangibles and the tax imposed thereon beginning January 1, 1965. The 1964 intangibles tax as of December 31, 1964, had become due and payable upon any and all intangibles which were subject to tax in the year of 1964. Chapter 226 makes no allowances or provisions
for the payment and collection of the 1964 accrued intangibles tax. The Indiana Legislature has expressed no intent in Chapter 226 that the 1964 intangibles tax should be paid and collected in any other manner than that provided for in the Intangibles Tax Act in existence at the time of the accrual of the 1964 intangibles tax.

The Intangibles Tax Act and the provisions effecting the payment and collection of the intangibles tax in effect December 31, 1964, provided that 1964 intangible tax stamps should be sold by county treasurers through June 30, 1965. The sale of the intangible tax stamps for that period of time was to allow for the payment of intangibles tax due and owing upon intangibles owned during the year 1964 by the owners thereof. In view of the fact that the Legislature made no provisions in Chapter 226 for payment and collection of the accrued 1964 intangibles tax and in view of the expressed intention of the Legislature that the provisions of Chapter 226 should only apply to intangibles and the tax imposed thereon from January 1, 1965, it is my opinion, that the provisions of Sec. 9 of ch. 226 of the Indiana Acts of 1965, amending the Acts of 1933, ch. 81, §27 to provide that county treasurers sell intangibles tax stamps and collect the money therefrom until effective date of ch. 226, which effective date is April 1, 1965, was meant to apply to the sale of 1965 intangibles tax stamps only. It is my further opinion, that Sec. 13, ch. 226, which amends Acts of 1933, ch. 81, §40, which amendment provides for the repeal of certain sections of Intangibles Tax Act was meant to apply to intangibles on the account of which a tax is imposed by the Intangibles Tax Act for all taxable years beginning on and after January 1, 1965.

It is my opinion that the Legislature intended that the provisions of the Intangibles Tax Act in existence on December 31, 1964, for the payment and collection of the 1964 intangibles tax should remain in effect and control the payment of the accrued 1964 intangibles tax.

In answer to your question, it is therefore my opinion, that 1964 intangible tax stamps should be sold by the county treasurers through June 30, 1965, in the manner provided by the Intangibles Tax Act in existence upon December 31,
1964, and that the Legislature only intended for the cessation of the sale of 1965 intangible tax stamps as of April 1, 1965.

OFFICIAL OPINION NO. 5

April 8, 1965

Mr. Tedd Vance, Secretary
State Board of Certified Accountants
912 State Office Building
Indianapolis, Indiana

Dear Mr. Vance:

This is in response to your letter of recent date in which you request an Official Opinion regarding Rule 7 of the Rules and Regulations of the State Board of Certified Accountants of Indiana. Pertinent parts of your letter read as follows:

1. Is Rule 7, of the State Board of Certified Accountants of Indiana, invalid?

2. If the answer to this first question is yes, then may Rule 7 be ignored and certificates be issued to candidates who were unable to meet this requirement, but were qualified in all other respects?"

Rule 7 of the State Board of Certified Accountants of Indiana reads as follows:

"In order to qualify for the issuance of a certificate as a Certified Public Accountant, the applicant must have had at least three years experience in the practice of accounting which must have been of a character which satisfies the Board as to its adequacy, and must include at least two full years in public accounting work; except that in the case of an applicant who has for five years immediately prior to the application date, served as an instructor in accounting, auditing and/or business law in a school of business administration of recognized standing, the Board may waive the provision as to the required experience. (Our emphasis.)