



# Mary Taylor, CPA Ohio Auditor of State



Ohio Auditor of State  
Mary Taylor, CPA

## Village/Township Funds and How They May Be Expended

Presented by: Local  
Government Services

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Village/Township  
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### Definition of a Fund

- A Fund is a fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and balances, which are segregated for the purposes of carrying on specific activities in accordance with restrictions, or limitations.

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## What kinds of Funds are there?

- Governmental Funds
- Proprietary Funds
- Fiduciary Funds

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## Governmental Funds

- General Fund
- Special Revenue Funds
- Debt Service Funds
- Capital Project Funds
- Permanent Funds

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## Special Revenue Funds

- Used to account for the proceeds of specific revenue sources (other than those for major capital projects) that are legally restricted to disbursements for specified purposes
- Trust funds that allow the holder to spend the principal and interest earned on the principal are classified as a special revenue fund

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## Special Revenue Funds

- Drug Law Enforcement, Enforcement and Education, and Law Enforcement Trust Fund
- All 3 - Special Revenue & for similar purposes
- Drug Law: Revenue is fines from drug offenders
- Enforcement and Edu: Revenue is fines
- Law Enforcement Trust: Revenue is proceeds from the sale of seized property

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## Special Revenue Funds

- Drug Law Enforcement, Enforcement and Education, and Law Enforcement Trust Fund
- Drug Law: Law Enforcement costs
- Enforcement and Edu: Spend money in this fund to enforce ORC 4511.19 and to educate the public about driving under the influence
- Law Enforcement Trust: Law enforcement costs

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## Special Revenue Funds

- Motor Vehicle License Tax, Street Construction, Maintenance and Repair, Gasoline (Cents per Gallon) Tax, State Highway, Permissive Motor Vehicle License Tax
- Specific revenue sources from various taxes
- All funds to be used for road improvements

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## Special Revenue Funds

- Grants
  - Many grant agreements specify that the entity receiving the grant shall establish a new fund for the grant
  - It is not necessary to ask AOS permission for a new fund if required by the agreement

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## Debt Service Funds

- Used to account for the accumulation of resources for, and the payment of, general long-term and short-term debt principal and interest

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## Capital Project Funds

- Used to account for financial resources used for the acquisition or construction of major capital facilities (other than those financed by proprietary funds)

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## Permanent Funds

- Used to account for the financial resources that are legally restricted to the extent that only earnings, and not principal, may be used for purposes that benefit the government or its citizens.

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## Proprietary Funds

- Enterprise Funds
- Internal Service Funds

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## Enterprise Funds

- Enterprise funds may be used to account for any activity for which a fee is charged to external users for goods or services.

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## Internal Service Funds

- Account for the financing of goods or services provided by one department or agency to other departments or agencies of the governmental unit, or to other governmental units, on a cost-reimbursement basis.

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## Fiduciary Funds

- Used to report assets held in a trustee or agency capacity for others and cannot be used to support the government's own programs.
  - Pension Trust - *Rare*
  - Investment Trust - *Rare*
  - Private Purpose Trust - *Common*
  - Agency - *Common*

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## Private Purpose Trusts

- Used to report all trust arrangements, other than those properly reported in pension or investment trust funds, under which principal and income benefit individuals, private organizations, or other governments.

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## Agency Funds

- Used to report resources held by the government in a purely custodial capacity (assets equal liabilities). Typically involve only receipt, temporary investment, and remittance of fiduciary resources to individuals, private organizations, or other governments.

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## LOCAL GOVERNMENT SERVICES

88 East Broad Street  
Columbus, Ohio 43215

**April Davis**

Presenter Phone: (800) 345-2519  
Presenter Fax: (614) 466-4717  
E-mail: [acdavis@auditor.state.oh.us](mailto:acdavis@auditor.state.oh.us)

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## **5705.09 Establishment of funds.**

Each subdivision shall establish the following funds:

- (A) General fund;
- (B) Sinking fund whenever the subdivision has outstanding bonds other than serial bonds;
- (C) Bond retirement fund, for the retirement of serial bonds, notes, or certificates of indebtedness;
- (D) A special fund for each special levy;
- (E) A special bond fund for each bond issue;
- (F) A special fund for each class of revenues derived from a source other than the general property tax, which the law requires to be used for a particular purpose;
- (G) A special fund for each public utility operated by a subdivision;
- (H) A trust fund for any amount received by a subdivision in trust.

Effective Date: 10-01-1953

## Uniform Accounting Network - Accounting Manual

**Appendix A**  
**Township Chart of Accounts**  
**Fund Numbers**

<u>Fund Number</u>	<u>Fund Name</u>	<u>Program Default</u>
<b>GOVERNMENTAL FUNDS</b>		
1000	General	defined by user
<b>SPECIAL REVENUE</b>		
2011	Motor Vehicle License Tax	330
2021	Gasoline Tax	330
2031	Road and Bridge	330
2041-2069	Cemetery	410
2071-2079	Garbage and Waste Disposal District	320
2081-2109	Police District	210
2111-2139	Fire District	220
2141-2169	Road District	330
2171-2179	Park Levy	610
2181-2189	Zoning	130
2191-2219	Special Levy	defined by user
2221	Drug Law Enforcement	210
2231	Permissive Motor Vehicle License Tax	330
2241	Permissive Sales Tax (For hotel/motel excise tax for Convention and Visitors Bureau. Section 5739.09b, Revised Code.)	defined by user
2251	Federal Law Enforcement	210
2261	Law Enforcement Trust	210
2271	Enforcement and Education	210
2281-2289	Fire and Rescue, Ambulance and Emergency Medical Services	230
2291-2339	Underground Storage Tank	430

## Uniform Accounting Network - Accounting Manual

**Appendix A**  
**Township Chart of Accounts**  
**Fund Numbers**

<u>Fund Number</u>	<u>Fund Name</u>	<u>Program Default</u>
2401-2599	Special Assessment	defined by user
2901-2999	Miscellaneous Special Revenue	defined by user
<b>DEBT SERVICE</b>		
3101-3199	General (Bond)(Note) Retirement	810, 820, 830
3201-3299	Sinking	810, 830
3301-3399	Special Assessment	810, 820, 830
3901-3999	Miscellaneous Debt Service	810, 820, 830
<b>CAPITAL PROJECTS</b>		
4101-4199	Bond	760
4301-4399	Permanent Improvement	760
4401-4499	Public Works Commission Project - Issue 2	760
4501-4599	Special Assessment	760
4901-4949	Miscellaneous Capital Projects	760
<b>PERMANENT</b>		
4951-4999	Permanent	defined by user
<b>PROPRIETARY FUNDS</b>		
5001-5999	Enterprise	defined by user
6001-6999	Internal Service	defined by user

## Uniform Accounting Network - Accounting Manual

<p style="text-align: center;"><b>Appendix A</b> <b>Township Chart of Accounts</b> <b>Fund Numbers</b></p>
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<u>Fund Number</u>	<u>Fund Name</u>	<u>Program Default</u>
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### FIDUCIARY FUNDS

(only if being held for another government)

9001-9249	Agency	defined by user
9501-9749	Investment Trust	defined by user
9751-9999	Private-Purpose Trust	defined by user

## Uniform Accounting Network - Accounting Manual

**Appendix B**  
**Village Chart of Accounts**  
**Fund Numbers**

<u>Fund Number</u>	<u>Fund Name</u>	<u>Program Default</u>
<b>GOVERNMENTAL FUNDS</b>		
1000	General	User assigned
<b>SPECIAL REVENUE</b>		
2011-2019	Street Construction, Maintenance and Repair	6xx
2021-2029	State Highway	6xx
2031-2039	Cemetery	240
2041-2049	Parks and Recreation	3xx
2051-2059	Federal Grant	User assigned
2061-2069	State Grant	User assigned
2071-2079	Income Tax	User assigned
2081-2089	Drug Law Enforcement	110
2091-2099	Law Enforcement Trust	110
2101-2109	Permissive Motor Vehicle License Tax	6xx
2111-2119	Permissive Sales Tax (For hotel/motel excise tax for Convention and Visitors Bureau. Section 5739.09b, Revised Code.)	User assigned
2121-2129	COPS Fast	110
2131-2139	Police Disability and Pension	110
2141-2149	Fire Disability and Pension	120
2271-2289	Enforcement and Education	110
2291-2299	Underground Storage Tank	190
2401-2499	Special Assessment	User assigned
2901-2999	Other Special Revenue	User assigned

## Uniform Accounting Network - Accounting Manual

**Appendix B**  
**Village Chart of Accounts**  
**Fund Numbers**

<u>Fund Number</u>	<u>Fund Name</u>	<u>Program Default</u>
<b>DEBT SERVICE</b>		
3101-3199	General Obligation Bond Retirement	850
3201-3299	Sinking	850
3301-3399	Special Assessment Debt Service	850
3401-3499	Note Retirement	850
3901-3999	Other Debt Service	850
<b>CAPITAL PROJECTS</b>		
4101-4199	Bond Construction	800
4201-4299	Grant Construction	800
4501-4599	Special Assessment Construction	800
4901-4949	Other Capital Projects	800
<b>PERMANENT</b>		
4951-4999	Permanent	User assigned
<b>PROPRIETARY FUNDS</b>		
<b>ENTERPRISE</b>		
5101-5199	Water Operating	530 series
5201-5299	Sewer Operating	540 series
5301-5399	Electric Operating	510 series
5401-5499	Parking	150, 650
5501-5599	Swimming Pool	340
5601-5699	Other Enterprise Operating	User assigned
5701-5709	Enterprise Improvement	800

## Uniform Accounting Network - Accounting Manual

### Appendix B Village Chart of Accounts Fund Numbers

<u>Fund Number</u>	<u>Fund Name</u>	<u>Program Default</u>
5721-5739	Enterprise Debt Service	850
5741-5759	Enterprise Debt Service Reserve	850
5761-5779	Enterprise Reserve	User assigned
5781-5799	Enterprise Deposit	User assigned
5901-5919	Other Enterprise	User assigned
<b>INTERNAL SERVICE</b>		
6101-6199	Revolving	User assigned
6901-6999	Other Internal Service	User assigned
<b>FIDUCIARY FUNDS</b>		
<b>AGENCY (only if being held for another government)</b>		
9101-9199	Unclaimed Monies	User assigned
9201-9209	Income Tax	User assigned
9901-9924	Other Agency	User assigned
<b>TRUST FUNDS (only if being held for another government)</b>		
9951-9974	Investment Trust	User assigned
9976-9999	Private - Purpose Trust	User assigned

# MAS BULLETIN

MAS9025.BUL

## THOMAS E. FERGUSON

AUDITOR OF STATE

MANAGEMENT ADVISORY SERVICES

P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

MAS NO. 90-25  
DATE 7-21-90  
PAGE 1 of 2

TO: All Municipal court Clerks  
All Municipal Finance Officers  
All City Auditors  
All Common Pleas Court Clerks  
All County Court Clerks  
All County Law Libraries  
All County Auditors  
All Mayor's Courts  
All Township Clerks

SUBJECT: OMVI Legislative Changes, Substitute House Bill Number 837.  
Effective 7-25-90.

DATE: July 19, 1990

The purpose of this advisory bulletin is to inform you of the passage of legislation that changes in part, the accounting treatment of OMVI related fine money.

Instead of the 50% part of the fines (under 4507.99 of the Revised Code) going to the Indigent Drivers Alcohol Treatment Account, this part of the fines will now be deposited in the Indigent Drivers Alcohol Treatment Fund, (a special revenue fund), (division 4511.191 (M) of the Revised Code), to be established by the county or municipal corporation in which there is a municipal court. No additional authorization from the Auditor of State is necessary for the Fund's establishment; only a resolution of the legislative authority is needed.

Each legislative authority receiving part of the fine imposed under division 4511.99 (A) of the Revised Code should establish an Enforcement and Education Fund, (a special revenue fund). This Fund should be used by the law enforcement agency to pay only those costs it incurs in enforcing Section 4511.19 of the Revised Code or a substantially similar municipal ordinance and in educating the public of laws governing operation of a motor vehicle while under the influence of alcohol, the dangers of operation of a motor vehicle while under the influence of alcohol, and other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages. No additional Auditor of State permission is necessary for fund establishment; only a resolution of the legislative authority is needed.

All Municipal Court Clerks, etc.  
Page 2  
July 19. 1990

Also a part of the fine money is to be paid to the political subdivision responsible for housing the offender during his term of incarceration. This share of the fine should be used by the political subdivisions to pay or reimburse incarceration costs and should be paid to the fund that pays the cost of incarceration.

The following funds and fund codes may be established by the political subdivisions:

Counties

Indigent Drivers Alcohol Treatment Fund - B-15

Enforcement and Education Fund - B-16

Cities and Villages

Indigent Drivers Alcohol Treatment Fund - B-12 or 212

Enforcement and Education Fund - B-13 or 213

Townships

Enforcement and Education Fund 33

If you have any questions, you may contact the Auditor of State's Management Advisory Services staff at 1-800-345-2519 or (614) 466-4717.

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Russell L. Rouch,  
Deputy State Auditor

RLR/jr

\* \* CAUTION \* \*  
\* \* REMEMBER \* \*

\* \* \* *The OHIO Revised Code Section(s) included with, or referenced by this MAS BULLETIN May Have Been CHANGED, and Thus May Be OUTDATED.*  
\* \* \* *PRIOR to taking any action, CONSULT AN UP-TO-DATE CURRENT LEGISLATIVE SERVICE To Ensure Compliance With The OHIO REVISED CODE. \* \**  
*\*CONSULT YOUR LEGAL COUNSEL.\* \* \**

## **4511.19 Operating vehicle under the influence of alcohol or drugs - OVI.**

(A)(1) No person shall operate any vehicle, streetcar, or trackless trolley within this state, if, at the time of the operation, any of the following apply:

(a) The person is under the influence of alcohol, a drug of abuse, or a combination of them.

(b) The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(c) The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

(d) The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(e) The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(f) The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.

(g) The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.

(h) The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.

(i) The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.

(j) Except as provided in division (K) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:

(i) The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.

(ii) The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.

(iii) The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine

than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

(4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under division (G) of this section and if section 4510.13 of the Revised Code permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under section 4503.231 of the Revised Code, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of section 4503.231 of the Revised Code.

(5) Fines imposed under this section for a violation of division (A) of this section shall be distributed as follows:

(a) Twenty-five dollars of the fine imposed under division (G)(1)(a)(iii), thirty-five dollars of the fine imposed under division (G)(1)(b)(iii), one hundred twenty-three dollars of the fine imposed under division (G)(1)(c)(iii), and two hundred ten dollars of the fine imposed under division (G)(1)(d)(iii) or (e)(iii) of this section shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. The agency shall use this share to pay only those costs it incurs in enforcing this section or a municipal OVI ordinance and in informing the public of the laws governing the operation of a vehicle while under the influence of alcohol, the dangers of the operation of a vehicle under the influence of alcohol, and other information relating to the operation of a vehicle under the influence of alcohol and the consumption of alcoholic beverages.

(b) Fifty dollars of the fine imposed under division (G)(1)(a)(iii) of this section shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. If the offender is being sentenced for a violation of division (A)(1)(a), (b), (c), (d), (e), or (j) of this section and was confined as a result of the offense prior to being sentenced for the offense but is not sentenced to a term of incarceration, the fifty dollars shall be paid to the political subdivision that paid the cost of housing the offender during that period of confinement. The political subdivision shall use the share under this division to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate this section or a municipal OVI ordinance, costs of any immobilizing or disabling device used on the offender's vehicle, and costs of electronic house arrest equipment needed for persons who violate this section.

(c) Twenty-five dollars of the fine imposed under division (G)(1)(a)(iii) and fifty dollars of the fine imposed under division (G)(1)(b)(iii) of this section shall be deposited into the county or municipal indigent drivers' alcohol treatment fund under the control of that court, as created by the county or municipal corporation under division (F) of section 4511.191 of the Revised Code.

(d) One hundred fifteen dollars of the fine imposed under division (G)(1)(b)(iii), two hundred seventy-seven dollars of the fine imposed under division (G)(1)(c)(iii), and four hundred forty dollars of the fine imposed under division (G)(1)(d)(iii) or (e)(iii) of this section shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol

# MAS BULLETIN

MAS9026.BUL

## THOMAS E. FERGUSON

AUDITOR OF STATE

MANAGEMENT ADVISORY SERVICES

P.O. Box 1140 - Columbus, Ohio - 43266-1140 (614) 466-4717 or 1-800-345-2519

MAS NO. 90-26  
DATE 8-6-90  
PAGE 1 of 3

TO: City Auditors  
County Auditors  
Township Clerks  
Village Clerks

SUBJECT: Recently enacted legislation pertaining to Law Enforcement  
Agencies and Accounting.

DATE: July 13, 1990

The purpose of this advisory bulletin is to inform you of the provisions of recently enacted legislation which affects your law enforcement agency(ies).

*Law Enforcement Trust Fund*  
*Drug Law Enforcement Fund*

Amended Substitute House Bill No. 215, effective 4-11-90 contains the following new provisions:

Section 2923.32 (B) (6) of the Revised Code. The provision here is for the law enforcement agency that seized property to maintain an accurate record of the property and not identify the officer who seized the property. The information record of the item seized is a matter of public record.

A cumulative report is to be maintained and sent to the Attorney General no later than March 1 of the following year.

Section 2923.35 (A) of the Revised Code. This section provides for the court to maintain an accurate record of actions taken with respect to the property ordered forfeited, or the fine, or civil penalty. The record is a public record.

Section 2923.35 (C) of the Revised Code. This section provides that the prosecuting attorney, for each item he orders forfeited, shall maintain an accurate record which is a public record; and shall report annually on the items forfeited to the Attorney General.

Section 2923.35 (D) of the Revised Code. This section provides that no money shall be allocated to a county sheriff, prosecuting attorney, or municipal police department unless there is an adopted written internal control policy that addresses the use of moneys received from the fund.

City Auditors, County Auditors, Township Clerks, Village Clerks

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Each sheriff, prosecuting attorney, or municipal police department that receives money from a Law Enforcement Trust Fund shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by him.

Sections 2933.41 and 2933.43 of the Revised Code. These sections deal with property which is seized in accordance with Section 2933.43 of the Revised Code.

Written internal control policies must be adopted, and annual reports submitted as previously discussed in this bulletin.

Sections 3719.11, 3719.14 and 3719.141 of the Revised Code deal with controlled substances.

Section 3719.11 of the Revised Code is amended to permit the agency served by the peace officer who obtained or took custody of the controlled substances to destroy the substances or to send them to the Bureau of Criminal Identification and Investigation for destruction.

Sections 3719.14 and 3719.141 of the Revised Code permits a "peace officer" to sell a controlled substance in the performance of his official duties only as provided in Section 3719.141 of the Revised Code; which mandates (in part) that detailed financial records of receipts and expenditures be kept; and written internal control policies governing such a sale be adopted.

Substitute House Bill No. 261, effective 7-18-90 contains the following new provisions:

Townships and township law enforcement agencies have been included with those that may receive proceeds from property forfeited under the corrupt activity law, mandatory drug trafficking fines, and the proceeds from the disposal of seized contraband.

Township law enforcement agencies that receive proceeds of such forfeited property or contraband are required to adopt internal control procedures, to keep public records, and to report to the Attorney General regarding the expenditure of such proceeds. (Sections 2923.35, 2925.03, and 2933.43 of the Revised Code.)

City Auditors, County Auditors, Township Clerks, Village Clerks

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July 13, 1990

The required internal control policies should be adopted by resolution of the legislative authority.

On or after 7-18-90, townships may establish a Law Enforcement Trust Fund, fund code 32. The Law Enforcement Trust Fund is to be classified as a special revenue fund, governmental fund type for accounting and financial reporting purposes. No additional Auditor of State permission is needed for the Fund's establishment; only a resolution passed by the Trustees is necessary.

If you have any questions, you may contact the Auditor of State's Management Advisory Services staff at 1-800-345-2519 or (614) 466-4717.

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Russell L. Rouch, Deputy State Auditor

RLR/jr

\* \* CAUTION \* \*

\* \* REMEMBER \* \*

*\* \* \* The OHIO Revised Code Section(s) included with, or referenced by this MAS BULLETIN May Have Been CHANGED, and Thus May Be OUTDATED.*

*\* \* \* PRIOR to taking any action, CONSULT AN UP-TO-DATE CURRENT LEGISLATIVE SERVICE To Ensure Compliance With The OHIO REVISED CODE. \* \* \*CONSULT YOUR LEGAL COUNSEL.\* \* \**

## **2981.13 Sale of forfeited property - application of proceeds - forfeiture funds.**

(A) Except as otherwise provided in this section, property ordered forfeited as contraband, proceeds, or an instrumentality pursuant to this chapter shall be disposed of, used, or sold pursuant to section 2981.12 of the Revised Code. If the property is to be sold under that section, the prosecutor shall cause notice of the proposed sale to be given in accordance with law.

(B) If the contraband or instrumentality forfeited under this chapter is sold, any moneys acquired from a sale and any proceeds forfeited under this chapter shall be applied in the following order:

(1) First, to pay costs incurred in the seizure, storage, maintenance, security, and sale of the property and in the forfeiture proceeding;

(2) Second, in a criminal forfeiture case, to satisfy any restitution ordered to the victim of the offense or, in a civil forfeiture case, to satisfy any recovery ordered for the person harmed, unless paid from other assets;

(3) Third, to pay the balance due on any security interest preserved under this chapter;

(4) Fourth, apply the remaining amounts as follows:

(a) If the forfeiture was ordered by a juvenile court, ten per cent to one or more certified alcohol and drug addiction treatment programs as provided in division (D) of section 2981.12 of the Revised Code;

(b) If the forfeiture was ordered in a juvenile court, ninety per cent, and if the forfeiture was ordered in a court other than a juvenile court, one hundred per cent to the law enforcement trust fund of the prosecutor and to the following fund supporting the law enforcement agency that substantially conducted the investigation: the law enforcement trust fund of the county sheriff, municipal corporation, township, or park district created under section 511.18 or 1545.01 of the Revised Code; the state highway patrol contraband, forfeiture, and other fund; the department of public safety investigative unit contraband, forfeiture, and other fund; the department of taxation enforcement fund; the board of pharmacy drug law enforcement fund created by division (B)(1) of section 4729.65 of the Revised Code; the medicaid fraud investigation and prosecution fund; or the treasurer of state for deposit into the peace officer training commission fund if any other state law enforcement agency substantially conducted the investigation. In the case of property forfeited for medicaid fraud, any remaining amount shall be used by the attorney general to investigate and prosecute medicaid fraud offenses.

If the prosecutor declines to accept any of the remaining amounts, the amounts shall be applied to the fund of the agency that substantially conducted the investigation.

(c) If more than one law enforcement agency is substantially involved in the seizure of property forfeited under this chapter, the court ordering the forfeiture shall equitably divide the amounts, after calculating any distribution to the law enforcement trust fund of the prosecutor pursuant to division (B) (4) of this section, among the entities that the court determines were substantially involved in the

seizure.

(C)(1) A law enforcement trust fund shall be established by the prosecutor of each county who intends to receive any remaining amounts pursuant to this section, by the sheriff of each county, by the legislative authority of each municipal corporation, by the board of township trustees of each township that has a township police department, township police district police force, or office of the constable, and by the board of park commissioners of each park district created pursuant to section 511.18 or 1545.01 of the Revised Code that has a park district police force or law enforcement department, for the purposes of this section.

There is hereby created in the state treasury the state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the medicaid fraud investigation and prosecution fund, the department of taxation enforcement fund, and the peace officer training commission fund, for the purposes of this section.

Amounts distributed to any municipal corporation, township, or park district law enforcement trust fund shall be allocated from the fund by the legislative authority only to the police department of the municipal corporation, by the board of township trustees only to the township police department, township police district police force, or office of the constable, and by the board of park commissioners only to the park district police force or law enforcement department.

(2)(a) No amounts shall be allocated to a fund created under this section or used by an agency unless the agency has adopted a written internal control policy that addresses the use of moneys received from the appropriate fund. The appropriate fund shall be expended only in accordance with that policy and, subject to the requirements specified in this section, only for the following purposes:

(i) To pay the costs of protracted or complex investigations or prosecutions;

(ii) To provide reasonable technical training or expertise;

(iii) To provide matching funds to obtain federal grants to aid law enforcement, in the support of DARE programs or other programs designed to educate adults or children with respect to the dangers associated with the use of drugs of abuse;

(iv) To pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the operation of the laboratory;

(v) For other law enforcement purposes that the superintendent of the state highway patrol, department of public safety, prosecutor, county sheriff, legislative authority, department of taxation, board of township trustees, or board of park commissioners determines to be appropriate.

(b) The board of pharmacy drug law enforcement fund shall be expended only in accordance with the written internal control policy so adopted by the board and only in accordance with section 4729.65 of the Revised Code, except that it also may be expended to pay the costs of emergency action taken under section 3745.13 of the Revised Code relative to the operation of an illegal methamphetamine laboratory if the forfeited property or money involved was that of a person responsible for the

operation of the laboratory.

(c) The state highway patrol contraband, forfeiture, and other fund, the department of public safety investigative unit contraband, forfeiture, and other fund, the department of taxation enforcement fund, the board of pharmacy drug law enforcement fund, and a law enforcement trust fund shall not be used to meet the operating costs of the state highway patrol, of the investigative unit of the department of public safety, of the state board of pharmacy, of any political subdivision, or of any office of a prosecutor or county sheriff that are unrelated to law enforcement.

(d) Forfeited moneys that are paid into the state treasury to be deposited into the peace officer training commission fund shall be used by the commission only to pay the costs of peace officer training.

(3) Any of the following offices or agencies that receive amounts under this section during any calendar year shall file a report with the specified entity, not later than the thirty-first day of January of the next calendar year, verifying that the moneys were expended only for the purposes authorized by this section or other relevant statute and specifying the amounts expended for each authorized purpose:

(a) Any sheriff or prosecutor shall file the report with the county auditor.

(b) Any municipal corporation police department shall file the report with the legislative authority of the municipal corporation.

(c) Any township police department, township police district police force, or office of the constable shall file the report with the board of township trustees of the township.

(d) Any park district police force or law enforcement department shall file the report with the board of park commissioners of the park district.

(e) The superintendent of the state highway patrol and the tax commissioner shall file the report with the attorney general.

(f) The executive director of the state board of pharmacy shall file the report with the attorney general, verifying that cash and forfeited proceeds paid into the board of pharmacy drug law enforcement fund were used only in accordance with section 4729.65 of the Revised Code.

(g) The peace officer training commission shall file a report with the attorney general, verifying that cash and forfeited proceeds paid into the peace officer training commission fund pursuant to this section during the prior calendar year were used by the commission during the prior calendar year only to pay the costs of peace officer training.

(D) The written internal control policy of a county sheriff, prosecutor, municipal corporation police department, township police department, township police district police force, office of the constable, or park district police force or law enforcement department shall provide that at least ten per cent of the first one hundred thousand dollars of amounts deposited during each calendar year in the agency's law enforcement trust fund under this section, and at least twenty per cent of the amounts exceeding

one hundred thousand dollars that are so deposited, shall be used in connection with community preventive education programs. The manner of use shall be determined by the sheriff, prosecutor, department, police force, or office of the constable after receiving and considering advice on appropriate community preventive education programs from the county's board of alcohol, drug addiction, and mental health services, from the county's alcohol and drug addiction services board, or through appropriate community dialogue.

The financial records kept under the internal control policy shall specify the amount deposited during each calendar year in the portion of that amount that was used pursuant to this division, and the programs in connection with which the portion of that amount was so used.

As used in this division, "community preventive education programs" include, but are not limited to, DARE programs and other programs designed to educate adults or children with respect to the dangers associated with using drugs of abuse.

(E) Upon the sale, under this section or section 2981.12 of the Revised Code, of any property that is required by law to be titled or registered, the state shall issue an appropriate certificate of title or registration to the purchaser. If the state is vested with title and elects to retain property that is required to be titled or registered under law, the state shall issue an appropriate certificate of title or registration.

(F) Any failure of a law enforcement officer or agency, prosecutor, court, or the attorney general to comply with this section in relation to any property seized does not affect the validity of the seizure and shall not be considered to be the basis for suppressing any evidence resulting from the seizure, provided the seizure itself was lawful.

Amended by 128th General Assembly File No. 9, HB 1, § 101.01, eff. 10/16/2009.

Effective Date: 07-01-2007; 2007 HB120 07-01-2007

## **5735.06 Motor fuel dealer to file monthly report - contents of report.**

(A) On or before the last day of each month, each motor fuel dealer shall file with the tax commissioner a report for the preceding calendar month, on forms prescribed by or in a form acceptable to the tax commissioner. The report shall include the following information:

(1) An itemized statement of the number of gallons of all motor fuel received during the preceding calendar month by such motor fuel dealer, which has been produced, refined, prepared, distilled, manufactured, blended, or compounded by such motor fuel dealer in the state;

(2) An itemized statement of the number of gallons of all motor fuel received by such motor fuel dealer in the state from any source during the preceding calendar month, other than motor fuel included in division (A)(1) of this section, together with a statement showing the date of receipt of such motor fuel; the name of the person from whom purchased or received; the date of receipt of each shipment of motor fuel; the point of origin and the point of destination of each shipment; the quantity of each of said purchases or shipments; the name of the carrier; the number of gallons contained in each car if shipped by rail; the point of origin, destination, and shipper if shipped by pipe line; or the name and owner of the boat, barge, or vessel if shipped by water;

(3) An itemized statement of the number of gallons of motor fuel which such motor fuel dealer has during the preceding calendar month:

(a) For motor fuel other than gasoline sold for use other than for operating motor vehicles on the public highways or on waters within the boundaries of this state;

(b) Exported from this state to any other state or foreign country as provided in division (A)(4) of section 5735.05 of the Revised Code;

(c) Sold to the United States government or any of its agencies;

(d) Sold for delivery to motor fuel dealers;

(e) Sold exclusively for use in the operation of aircraft;

(4) Such other information incidental to the enforcement of the motor fuel laws of the state as the commissioner requires.

(B) The report shall show the tax due, computed as follows:

(1) The following deductions shall be made from the total number of gallons of motor fuel received by the motor fuel dealer within the state during the preceding calendar month:

(a) The total number of gallons of motor fuel received by the motor fuel dealer within the state and sold or otherwise disposed of during the preceding calendar month as set forth in section 5735.05 of the Revised Code;

(b) The total number of gallons received during the preceding calendar month and sold or otherwise disposed of to another licensed motor fuel dealer pursuant to section 5735.05 of the Revised Code;

(c) To cover the costs of the motor fuel dealer in compiling the report, and evaporation, shrinkage, or other unaccounted-for losses:

(i) If the report is timely filed and the tax is timely paid, three per cent of the total number of gallons of motor fuel received by the motor fuel dealer within the state during the preceding calendar month less the total number of gallons deducted under divisions (B)(1)(a) and (b) of this section, less one per cent of the total number of gallons of motor fuel that were sold to a retail dealer during the preceding calendar month;

(ii) If the report required by division (A) of this section is not timely filed and the tax is not timely paid, no deduction shall be allowed;

(iii) If the report is incomplete, no deduction shall be allowed for any fuel on which the tax is not timely reported and paid;

(2) The number of gallons remaining after the deductions have been made shall be multiplied separately by each of the following amounts:

(a) The cents per gallon rate;

(b) Two cents.

The sum of the products obtained in divisions (B)(2)(a) and (b) of this section shall be the amount of motor fuel tax for the preceding calendar month.

(C) The report shall be filed together with payment of the tax shown on the report to be due, unless the motor fuel dealer is required by section 5735.062 of the Revised Code to pay the tax by electronic funds transfer, in which case the dealer shall file the report pursuant to this section and pay the tax pursuant to section 5735.062 of the Revised Code. The commissioner may extend the time for filing reports and may remit all or part of penalties which may become due under sections 5735.01 to 5735.99 of the Revised Code. For purposes of this section and sections 5735.062 and 5735.12 of the Revised Code, a report required to be filed under this section is considered filed when it is received by the tax commissioner, and remittance of the tax due is considered to be made when the remittance is received by the tax commissioner or when credited to an account designated by the treasurer of state and the tax commissioner for the receipt of tax remittances. The tax commissioner shall immediately forward to the treasurer of state all amounts received under this section.

(D) The tax commissioner may require a motor fuel dealer to file a report for a period other than one month. Such a report, together with payment of the tax, shall be filed not later than thirty days after the last day of the prescribed reporting period.

(E) No person required by this section to file a tax report shall file a false or fraudulent tax report or supporting schedule.

## **5735.27 Distribution of amount credited to gasoline excise tax fund and highway operating fund.**

(A) There is hereby created in the state treasury the gasoline excise tax fund, which shall be distributed in the following manner:

(1) The amount credited pursuant to divisions (B)(2)(a) and (C)(2)(a) of section 5735.23 of the Revised Code shall be distributed among municipal corporations. The amount paid to each municipal corporation shall be that proportion of the amount to be so distributed that the number of motor vehicles registered within the municipal corporation bears to the total number of motor vehicles registered within all the municipal corporations of this state during the preceding motor vehicle registration year. When a new village is incorporated, the registrar of motor vehicles shall determine from the applications on file in the bureau of motor vehicles the number of motor vehicles located within the territory comprising the village during the entire registration year in which the municipal corporation was incorporated. The registrar shall forthwith certify the number of motor vehicles so determined to the tax commissioner for use in distributing motor vehicle fuel tax funds to the village until the village is qualified to participate in the distribution of the funds pursuant to this division. The number of motor vehicle registrations shall be determined by the official records of the bureau of motor vehicles. The amount received by each municipal corporation shall be used to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to pay the costs apportioned to the municipal corporation under section 4907.47 of the Revised Code; to purchase, erect, and maintain traffic lights and signals; to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the municipal corporation may issue bonds; and to supplement revenue already available for these purposes.

(2) The amount credited pursuant to division (B) of section 5735.26 of the Revised Code shall be distributed among the municipal corporations within the state, in the proportion which the number of motor vehicles registered within each municipal corporation bears to the total number of motor vehicles registered within all the municipal corporations of the state during the preceding calendar year, as shown by the official records of the bureau of motor vehicles, and shall be expended by each municipal corporation to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads and streets; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to pay costs apportioned to the municipal corporation under section 4907.47 of the Revised Code; to pay the principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the municipal corporation may issue bonds; and to supplement revenue already available for these purposes.

(3) The amount credited pursuant to divisions (B)(2)(b) and (C)(2)(c) of section 5735.23 of the Revised Code shall be paid in equal proportions to the county treasurer of each county within the state and shall be used only for the purposes of planning, maintaining, and repairing the county system of public roads and highways within the county; the planning, construction, and repair of walks or paths along county roads in congested areas; the planning, construction, purchase, lease, and maintenance of suitable buildings for the housing and repair of county road machinery, housing of supplies, and housing of personnel associated with the machinery and supplies; the payment of costs apportioned to the county under section 4907.47 of the Revised Code; the payment of principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of

the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the board of county commissioners may issue bonds under that chapter; and the purchase, installation, and maintenance of traffic signal lights.

(4) The amount credited pursuant to division (C) of section 5735.26 of the Revised Code shall be paid in equal proportions to the county treasurer of each county for the purposes of planning, maintaining, constructing, widening, and reconstructing the county system of public roads and highways; paying principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for the purpose of acquiring or constructing roads, highways, bridges, or viaducts or acquiring or making other highway improvements for which the board of county commissioners may issue bonds under that chapter; and paying costs apportioned to the county under section 4907.47 of the Revised Code.

(5)(a) The amount credited pursuant to division (D) of section 5735.26 and division (C)(2)(b) of section 5735.23 of the Revised Code shall be divided in equal proportions among the townships within the state.

(b) As used in division (A)(5)(b) of this section, the "formula amount" for any township is the amount that would be allocated to that township if fifty per cent of the amount credited to townships pursuant to section 5735.291 of the Revised Code were allocated among townships in the state proportionate to the number of lane miles within the boundaries of the respective townships, as determined annually by the department of transportation, and the other fifty per cent of the amount credited pursuant to section 5735.291 of the Revised Code were allocated among townships in the state proportionate to the number of motor vehicles registered within the respective townships, as determined annually by the records of the bureau of motor vehicles.

Beginning on August 15, 2003, the tax levied by section 5735.29 of the Revised Code shall be partially allocated to provide funding for townships. Each township shall receive the greater of the following two calculations:

(i) The total statewide amount credited to townships under division (A) of section 5735.291 of the Revised Code divided by the number of townships in the state at the time of the calculation;

(ii) Seventy per cent of the formula amount for that township.

(c) The total difference between the amount of money credited to townships under division (A) of section 5735.291 of the Revised Code and the total amount of money required to make all the payments specified in division (A)(5)(b) of this section shall be deducted, in accordance with division (B) of section 5735.291 of the Revised Code, from the revenues resulting from the tax levied pursuant to section 5735.29 of the Revised Code prior to crediting portions of such revenues to counties, municipal corporations, and the highway operating fund.

(d) All amounts credited pursuant to divisions (A)(5)(a) and (b) of this section shall be paid to the county treasurer of each county for the total amount payable to the townships within each of the counties. The county treasurer shall pay to each township within the county its proportional share of the funds, which shall be expended by each township only for the purposes of planning, constructing, maintaining, widening, and reconstructing the public roads and highways within the township, paying principal, interest, and charges on obligations incurred pursuant to section 5531.09 of the Revised Code, and paying costs apportioned to the township under section 4907.47 of the Revised Code.

No part of the funds designated for road and highway purposes shall be used for any purpose except to pay in whole or part the contract price of any such work done by contract, or to pay the cost of labor in planning, constructing, widening, and reconstructing such roads and highways, and the cost of materials forming a part of the improvement; provided that the funds may be used for the purchase of road machinery and equipment and for the planning, construction, and maintenance of suitable buildings for housing road machinery and equipment, and that all such improvement of roads shall be under supervision and direction of the county engineer as provided in section 5575.07 of the Revised Code. No obligation against the funds shall be incurred unless plans and specifications for the improvement, approved by the county engineer, are on file in the office of the township fiscal officer, and all contracts for material and for work done by contract shall be approved by the county engineer before being signed by the board of township trustees. The board of township trustees of any township may pass a resolution permitting the board of county commissioners to expend the township's share of the funds, or any portion of it, for the improvement of the roads within the township as may be designated in the resolution.

All investment earnings of the fund shall be credited to the fund.

(B) Amounts credited to the highway operating fund pursuant to divisions (B)(2)(c) and (C)(2)(d) of section 5735.23 and division (A) of section 5735.26 of the Revised Code shall be expended in the following manner:

(1) The amount credited pursuant to divisions (B)(2)(c) and (C)(2)(d) of section 5735.23 of the Revised Code shall be apportioned to and expended by the department of transportation for the purposes of planning, maintaining, repairing, and keeping in passable condition for travel the roads and highways of the state required by law to be maintained by the department; paying the costs apportioned to the state under section 4907.47 of the Revised Code; paying that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; and paying the costs of the department of public safety in administering and enforcing the state law relating to the registration and operation of motor vehicles.

(2) The amount credited pursuant to division (A) of section 5735.26 of the Revised Code shall be used for paying the state's share of the cost of planning, constructing, widening, maintaining, and reconstructing the state highways; paying that portion of the construction cost of a highway project which a county, township, or municipal corporation normally would be required to pay, but which the director of transportation, pursuant to division (B) of section 5531.08 of the Revised Code, determines instead will be paid from moneys in the highway operating fund; and also for supplying the state's share of the cost of eliminating railway grade crossings upon such highways and costs apportioned to the state under section 4907.47 of the Revised Code. The director of transportation may expend portions of such amount upon extensions of state highways within municipal corporations or upon portions of state highways within municipal corporations, as is provided by law.

Effective Date: 03-31-2003; 03-29-2005; 12-20-2005; 06-30-2006

## **5735.28 Funds for maintaining state highways within municipal corporations.**

Wherever a municipal corporation is on the line of the state highway system as designated by the director of transportation as an extension or continuance of the state highway system, **seven and one-half per cent** of the amount paid to any municipal corporation pursuant to sections 4501.04, 5735.23, and 5735.27 of the Revised Code shall be used by it only to construct, reconstruct, repave, widen, maintain, and repair such highways, to purchase, erect, and maintain traffic lights and signals, and to erect and maintain street and traffic signs and markers on such highways, or to pay principal, interest, and charges on bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for such purposes.

Effective Date: 09-28-1973; 03-29-2005

## **4503.02 Levy of annual license tax.**

An annual license tax is hereby levied upon the operation of motor vehicles on the public roads or highways, for the purpose of enforcing and paying the expense of administering the law relative to the registration and operation of such vehicles; planning, constructing, maintaining, and repairing public roads, highways, and streets; maintaining and repairing bridges and viaducts; paying the counties' proportion of the cost and expenses of cooperating with the department of transportation in the planning, improvement, and construction of state highways; paying the counties' portion of the compensation, damages, cost, and expenses of planning, constructing, reconstructing, improving, maintaining, and repairing roads; paying the principal, interest, and charges on county bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; for the purpose of providing motorcycle safety and education instruction; enabling municipal corporations to plan, construct, reconstruct, repave, widen, maintain, repair, clear, and clean public highways, roads, and streets; paying the principal, interest, and other charges on municipal bonds and other obligations issued pursuant to Chapter 133. of the Revised Code or incurred pursuant to section 5531.09 of the Revised Code for highway improvements; to maintain and repair bridges and viaducts; to purchase, erect, and maintain street and traffic signs and markers; to purchase, erect, and maintain traffic lights and signals; to supplement revenue already available for such purposes; to pay the interest, principal, and charges on bonds and other obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 of the Revised Code. Such tax shall be at the rates specified in sections 4503.04 and 4503.042 of the Revised Code. Under section 4503.04 of the Revised Code, the tax shall be paid to and collected by the registrar of motor vehicles or deputy registrar at the time of making application for registration. Under section 4503.042 of the Revised Code, the tax shall be paid to and collected by the registrar at the time and manner set forth by the registrar by rule.

Effective Date: 06-30-1995; 03-29-2005

## **4504.06 Levy of municipal corporation.**

For the purpose of paying the costs and expenses of enforcing and administering the tax provided for in this section; and for planning, constructing, improving, maintaining, and repairing public roads, highways, and streets; maintaining and repairing bridges and viaducts; paying the municipal corporation's portion of the costs and expenses of cooperating with the department of transportation in the planning, improvement, and construction of state highways; paying the municipal corporation's portion of the compensation, damages, cost, and expenses of planning, constructing, reconstructing, improving, maintaining, and repairing roads and streets; paying any costs apportioned to the municipal corporation under section 4907.47 of the Revised Code; paying debt service charges on notes or bonds of the municipal corporation issued for such purposes; purchasing, erecting, and maintaining street and traffic signs and markers; purchasing, erecting and maintaining traffic lights and signals; and to supplement revenue already available for such purposes, the legislative authority of any municipal corporation may by proper legislation levy an annual license tax, in addition to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon the operation of motor vehicles on the public roads or highways. Such tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the district of registration of which, as defined in section 4503.10 of the Revised Code, is in the municipal corporation levying the tax and which are not subject to a county motor vehicle license tax levied by a resolution adopted pursuant to section 4504.02 of the Revised Code. Such tax shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171 , 4503.173 , 4503.41, 4503.43, and 4503.46 of the Revised Code.

No municipal corporation shall enact any ordinance, resolution, or other measure levying a tax pursuant to this section on any motor vehicle registration which would be subject to a resolution previously adopted levying a county motor vehicle license tax where such resolution has not become effective solely because of the filing of a referendum petition pursuant to sections 305.31 to 305.41 of the Revised Code or because the thirty-day period following adoption of the resolution has not expired.

No ordinance, resolution, or other measure levying a municipal motor vehicle license tax shall be enacted as an emergency measure under section 731.30 of the Revised Code or pursuant to the charter of any municipal corporation and each such ordinance, resolution, or other measure is subject to a referendum as provided in sections 731.29 to 731.41 of the Revised Code or by the charter of the municipal corporation.

Effective Date: 06-27-1988

## **4504.18 Supplemental township license tax.**

For the purpose of paying the costs and expenses of enforcing and administering the tax provided for in this section; for the construction, reconstruction, improvement, maintenance, and repair of township roads, bridges, and culverts; for purchasing, erecting, and maintaining traffic signs, markers, lights, and signals; for purchasing road machinery and equipment, and planning, constructing, and maintaining suitable buildings to house such equipment; for paying any costs apportioned to the township under section 4907.47 of the Revised Code; and to supplement revenue already available for such purposes, the board of township trustees may levy an annual license tax, in addition to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon the operation of motor vehicles on the public roads and highways in the unincorporated territory of the township. The tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the owners of which reside in the unincorporated area of the township and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of township trustees shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the township once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum in the same manner, except as to the form of the petition, as provided in division (H) of section 519.12 of the Revised Code for a proposed amendment to a township zoning resolution. In addition, a petition under this section shall be governed by the rules specified in section 3501.38 of the Revised Code. No resolution levying a tax under this section for which a referendum vote has been requested shall go into effect unless approved by a majority of those voting upon it.

A township license tax levied under this section shall continue in effect until repealed.

Effective Date: 07-01-1987; 03-29-2005

## ROADS

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### II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

#### *Funds Available for Road Purposes, Including Housing and Machinery Taxes Levied for Roads*

1. Q. May the township trustees levy a general property tax within the ten-mill limitation for road purposes?
  - A. Yes. O.R.C. 5705.06 (G) permits a township to levy within the ten-mill limitation for construction, reconstruction, resurfacing, and repair of roads, excluding state roads and bridges on such roads including the township's proportion of the cost of the construction and improvement, maintenance, and repair of county roads and bridges.
  
2. Q. If a village lies wholly or partially within the limits of a township, are the inhabitants of such village subject to taxation for road purposes?
  - A. Yes. When the boundaries of a municipality are not the same with those of the township, the territory of the municipality does not cease to be a part of the township. The fact that the inhabitants of the village may have limited interest in the township road system outside their corporation is immaterial. See OAG No. 90-048.

#### *Motor Vehicle Gasoline Tax Fund and Motor Vehicle License Tax Fund Uses Specifically Provided by Statute*

1. Q. May gasoline and motor vehicle license tax money be used for constructing, reconstructing and widening township roads and highways within the existing right of way?
  - A. Yes. O.R.C. 5735.27 includes these purposes among the ones for which gasoline tax money may be used, and O.R.C. 4503.02, includes these purposes among ones for which motor vehicle license tax money may be used.
  
2. Q. May gasoline tax money and motor vehicle license tax money be used for maintenance of township roads?
  - A. Yes. Maintenance of the township roads is one of the purposes specifically permitted by both statutes.
  
3. Q. May the expense of materials and labor necessary in constructing, widening within the right of way, and reconstructing of roads be paid out of the gasoline tax fund and motor vehicle license tax fund?
  - A. Yes.
  
4. Q. May road machinery and equipment necessary for maintaining, constructing, reconstruction and widening of roads be purchased out of the gasoline and motor vehicle license funds?
  - A. Yes. O.R.C. 5735.27 specifically authorizes such and, although O.R.C. 4503.02 does not specifically authorize such, power has been implied from the specific statutory authority given to construct, reconstruct, improve and maintain.

## ROADS

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### II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

#### *Motor Vehicle Gasoline Tax Fund and Motor Vehicle License Tax Fund (Continued) Uses Specifically Provided by Statute (Continued)*

5. Q. May buildings suitable for housing road machinery and equipment be constructed and maintained from gasoline tax money and motor vehicle license tax money?
- A. O.R.C. 5735.27 specifically authorizes gasoline tax money to be used for the construction and maintenance of suitable buildings for housing road machinery and equipment, but does not authorize the acquisition of a site or purchase of real estate for such purpose, or the purchase of a building already constructed. Motor vehicle license tax money may not be used to purchase or construct a building to house road equipment. See OAG No. 64-1499 and OAG No. 93-057.
6. Q. May the township trustees pass a resolution permitting the board of county commissioners to spend the township's share of the gasoline tax money and motor vehicle license tax money, or any portion thereof, for the improvement of roads within the township?
- A. Yes. By express statutory authority, gasoline tax money may be used for such roads as are designated in the resolution authorizing the county commissioners to spend the money, and implied authority can be found to use motor vehicle license tax money in the same fashion. O.R.C. 5735.27.
7. Q. May the costs apportioned to the townships under the provisions of O.R.C. 4907.07 (Railroad Crossing Protection) be paid from the gasoline tax fund?

A. Yes.

#### *Uses Connected with Improvement*

1. Q. May a township which has constructed gravel roads, using bonds to pay for the same, and having adequate money both in the gasoline tax fund and the motor vehicle license fund, apply such money to the redemption of the bonds?
- A. No. Neither the proceeds of the gasoline tax nor the motor vehicle license tax may be expended except for the purpose for which the taxes were levied. Bonds that have been issued, even though they were issued for road purposes, are simply obligations of the township and their status is no different from any other bonded indebtedness of the township. See OAG No. 32-4015.
2. Q. May the township trustees use the gasoline tax fund or the motor vehicle license tax fund to construct sidewalks within the road easement but outside the portion of the road traveled by motor vehicles?
- A. No. The construction of sidewalks is not closely enough related to the purposes set forth in O.R.C. 5735.27 and 4503.02. General fund money should be used for sidewalks. See OAG No. 37-880.
3. Q. May the cost of bridges, culverts and bridge abutments be paid out of the gasoline and motor vehicle license tax funds?
- A. Yes. The words "highways" and "public roads" include bridges, culverts and abutments. Therefore, both motor vehicle license and gasoline tax money may properly be expended for the purpose of constructing or maintaining bridges, culverts or abutments. See OAG No. 33-1385.

(Revised February 2004)

## ROADS

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### II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

#### *Motor Vehicle Gasoline Tax Fund and Motor Vehicle License Tax Fund (Continued)* *Uses Connected with Improvement (Continued)*

4. Q. May gasoline and motor vehicle license tax funds be used if the township trustees proceed by force account in the construction, reconstruction, improvement or widening of township roads within the existing right of way?

A. Yes.

#### *Uses Connected with Maintenance*

1. Q. May both gasoline tax money and motor vehicle tax money be used for labor, equipment, and chemicals in connection with brush and weed control?

A. Yes. Pursuant to O.R.C. 5579.04 and 5579.08 the township trustees have a mandatory duty to destroy brush and weeds growing along public highways. Although these sections direct that the cost of such work shall be paid from the township road fund, they do not provide that no other funds shall be used for that purpose. Since keeping the highways free of brush and weeds is a part of the maintenance of roads, and both gasoline tax and motor vehicle tax money may be used for road maintenance, both funds may be used for cutting weeds and brush.

2. Q. May gasoline tax money and motor vehicle license tax money be spent to purchase necessary equipment and employ necessary labor for the removal of ice and snow from public roads and highways?

A. Yes. Even though the cost of the removal of snow is directed to be paid out of the township road fund, there is no provision forbidding the payment for such work from other available funds. Keeping the highways of the township free from obstruction by snow and ice is a part of the proper maintenance of such highways and, therefore, the cost may be paid from the funds allocated to townships by O.R.C. 5735.27 and 4503.02.

3. Q. In using gasoline tax money or motor vehicle license tax money for either the purpose of maintaining or constructing, reconstructing, including widening within the right of way of public roads and highways in a township, must the work be done by contract or may it also be done by force account?

A. Such work may be done either by contract or by force account. O.R.C. 5575.01.

#### *Uses Incidental to Purchase of Machinery*

1. Q. Where the township trustees have purchased road machinery by the installment plan pursuant to O.R.C. 5549.02 may the notes issued for the balance of the purchase price be paid at maturity from gasoline tax funds or motor vehicle license tax funds?

A. Yes. Since either fund may be used for the purchase of road machinery or equipment, retirement of notes issued for such purposes would be authorized.

## ROADS

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### II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

#### *Motor Vehicle Gasoline Tax Fund and Motor Vehicle License Tax Fund (Continued) Uses Incidental to Payment for Labor*

1. Q. Pursuant to O.R.C. 4127.07 a township is required to pay premiums to the public work relief employees' compensation fund. When the premium covers persons employed in connection with the construction, maintenance, widening or reconstruction of township roads, may the cost thereof be taken from the gasoline tax fund or the motor vehicle license tax fund?
  - A. Yes. Such expenditure is one required as part of the cost of labor and as a direct result of keeping the roads in condition for the traveling public.
2. Q. If a township trustee drives a tractor or a grader on the roads, may his compensation for such be paid out of either fund?
  - A. Yes. O.R.C. 505.24 provides that trustees' compensation shall be paid from the general fund or from such other township funds in such proportions as the board may specify by resolution.

#### *Unauthorized Uses*

1. Q. May the township trustees purchase out of the gasoline tax fund a building already constructed suitable for housing road equipment?
  - A. No. O.R.C. 5735.27 merely authorizes the construction of a building to house road equipment and does not authorize the purchase of a building already constructed.
2. Q. May buildings suitable for housing road machinery and equipment be purchased or constructed out of the motor vehicle license tax fund?
  - A. No.
3. Q. May gasoline tax money or motor vehicle license tax money be used to place markers on the right of way lines which will serve as a guide in determining the exact boundary lines of the right of way and thus avoid dispute and litigation concerning the title of property adjacent to the right of way?
  - A. No. Such use is not closely enough related to physical maintenance to be defined as an authorized expenditure. See OAG No. 36-6128.
4. Q. May the gasoline tax fund or motor vehicle license tax fund be used to purchase, install and maintain traffic control signals as the term is defined in O.R.C. 4511.01 (RR)?
  - A. Yes. The cost to purchase, erect and maintain traffic lights and signals may be paid out of the gasoline tax fund and the motor vehicle license tax funds.
5. Q. May expenditures be made from the gasoline tax fund or motor vehicle license tax fund for the purpose of placing monuments in the right of way?
  - A. No. See OAG No. 36-6128.

## ROADS

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### II. ROADS MAINTENANCE AND REPAIR (CONTINUED)

#### *Motor Vehicle Gasoline Tax Fund and Motor Vehicle License Tax Fund (Continued) Unauthorized Uses (Continued)*

6. Q. May the cost of placing street lighting at dangerous intersections be paid from the gasoline tax fund or the motor vehicle license tax fund?
- A. No. The expense of installing street lighting as provided in O.R.C. 515.01 is a general fund expenditure.

#### *Provision Against Transfer*

1. Q. Is it necessary to establish a special fund into which to pay gasoline tax money and a special fund into which to pay motor vehicle license tax money?
- A. Yes. Both the gasoline tax money and the motor vehicle license tax money are within the category of revenue derived from a source other than the general property tax which the law requires to be used for a particular purpose. Pursuant to O.R.C. 5705.09 (F) it is necessary to establish a special fund for each of such revenues.
2. Q. May the township trustees transfer money from either the gasoline tax or motor vehicle license tax fund to the general fund or the road and bridge fund?
- A. No. Article XII, Section 5a of the Constitution of Ohio would prohibit such transfer by resolution, court order, or otherwise.
3. Q. A township has a balance of approximately \$12,000 in its gasoline tax fund, but the township has no township roads. Since the general fund of the township is practically depleted, may the gasoline tax money be transferred to the general fund?
- A. No. O.R.C. 5735.27 provides the sole purposes for which the gasoline tax fund may be used. Transfers out of this fund are not authorized. Nor does the fact that there are not township roads in the township give rise to the conclusion that such funds may not be expended for a lawful purpose, since in accordance with O.R.C. 5735.27 the township trustees may pass a resolution authorizing the board of county commissioners to spend the township's share of such funds or any portion thereof for the improvement of county roads within the township. A similar prohibition against transfer would apply in the case of money in the motor vehicle license tax fund.
4. Q. May the township trustees issue and sell bonds and use the proceeds thereof to build and improve township roads, and provide for the retirement of such bonds out of gasoline tax money or motor vehicle license tax money?
- A. No. In order to use either fund for the purpose of retiring bonds there would have to be a transfer from the gasoline tax fund which is a special fund to the bond retirement fund. The unexpended balance in any special fund, with the exception of a permanent improvement fund may not be transferred to the bond retirement fund until after the termination of the activity, service, or other undertaking for which such special fund existed until all obligations incurred and payable from such special fund have been met. This condition will not occur with either the gasoline tax fund or the motor vehicle license tax fund. If either fund has received the proceeds of borrowing for road purposes, then repayment of the debt may be made directly from the fund itself.

**IV. FISCAL TRANSACTIONS (CONTINUED)**

*Funds (Continued)*

*Proceeds from Sale (Continued)*

- 5. Q. If the township sells the townhall and the township has general obligation bonds outstanding, must the proceeds from the sale of the townhall be applied to the retirement of the bonds or may the proceeds from the sale of the townhall, instead, be paid into a permanent improvement fund?
  - A. There is no requirement that the proceeds be used to retire the general obligation bonds, although the proceeds may so be used. It is within the option of the board of township trustees to determine into which of the two authorized funds, the bond retirement or a permanent improvement fund the proceeds shall be paid. (See O.R.C. 5705.10)
- 6. Q. May money received from the State of Ohio in payment for an easement on the back section of the lots for highway purposes be paid into the general fund and used for current expenses of the fire department, or must the money be credited to the bond retirement fund?
  - A. O.R.C. 5705.10 provides that: "If a permanent improvement of the subdivision is sold, the amount received for the same shall be paid into the....bond retirement fund, or into a special fund for the construction or acquisition of permanent improvements ..." It has been determined that the sale of land may be defined as the sale of a permanent improvement within the meaning of the above quoted provision.
- 7. Q. The township created a special building fund into which it paid the proceeds derived from the sale of the old townhall. The board also transferred some general fund money into this fund. May money in this fund be used to pay the rental for office space that the township is leasing until such time as the new townhall will be built?
  - A. No. Payment of rent cannot be said to be "for the construction or acquisition of a permanent improvement."

*Interest*

- 1. Q. In the absence of a statute on the subject, into what fund should interest deriving from public money be paid?
  - A. All interest earned on the principal of any special fund, regardless of the source of purpose of the principal, must be paid into the general fund in the absence of any requirement to the contrary. O.R.C. 135.21, 135.351, and 5705.10. The following funds must receive the interest which they earn because there is an exception providing that the interest earned must be returned to the listed fund rather than the general fund:

Motor Vehicle License Tax		
Gasoline Tax		
State/Federal Grants - if so required by the grant agreement		
Permissive Motor Vehicle License Tax		
Permanent Improvement - sale of bonds/notes if required by the bond resolution		
Funds held as a fiduciary		
Cemetery	Trust	Fund(s)