

MAY 2, 1952.

HON. J. LINDSAY DEVALLIERE, *Director,*  
*Division of Budget and Accounting,*  
State House, Trenton, N. J.

## FORMAL OPINION—1952. No. 5.

MY DEAR DIRECTOR:

This will acknowledge receipt of your letter of April 25, 1952, wherein you request an opinion concerning refund of funds which have escheated to the State of New Jersey. The question presented in your letter is:

Does the amendment to the escheat act (Chap. 304, Laws of 1951, now N. J. S. 2A:37-43) which permits payment of escheat funds less than \$50.00 upon presentation of satisfactory proof, without the necessity of a court order reopening the judgment theretofore entered, allow the Treasurer of New Jersey to deduct the pro rata expenses of the State in collecting the escheated funds?

My answer is that the treasurer must deduct the pro rata expenses incurred before making refunds.

In the original escheat act, L. 1946, c. 155 (now 2A:37-28), the procedure was outlined to reopen a judgment of escheat by one whose property had escheated to the State of New Jersey. It contained the following: "provided, however, there shall be first deducted all expenses and charges that may have accrued or been paid out by reason of the entry of the original judgment." A great many judgments of escheat were entered in 1949, 1950 and 1951 and many people began to make claims to the treasurer for payment of moneys due them. The treasurer advised these claimants that it would be necessary to reopen the judgment theretofore entered, in accordance with the statute. In most of these instances, the amount sought to be refunded was small and people, therefore, abandoned their claims for refund, rather than incur the expense of counsel to have the judgment of escheat reopened.

In order to assist claimants in obtaining moneys due them, and obviate the need of employing counsel to reopen judgments of escheat where amounts were small, the 1951 amendment was passed. This permitted the treasurer, upon presentation of satisfactory proof, to refund sums less than \$50.00 without reopening the judgment. This amendment may now be found in N. J. S. 2A:37-43. It is as follows:

"Whenever it shall appear to the satisfaction of the State Treasurer or his representative that a person is the lawful owner of any moneys that have heretofore been received by the treasurer under the provisions of this article, and that such moneys are less than \$50 the State Treasurer is hereby authorized and empowered to repay to the lawful owner aforesaid the moneys so received without the necessity of reopening the judgment theretofore entered."

This provision does not modify N. J. S. 2A:37-28 which directs the treasurer to deduct a pro rata share of the expenses incurred in entering the judgment of escheat. It never was intended to modify or change that provision. The provisions of N. J. S. 2A:37-28 and N. J. S. 2A:37-43 must be read together. The amendment

was passed as a convenience to claimants to obtain refunds, speedily and inexpensively.

It is my opinion that the State Treasurer must deduct a pro rata share of the expense incurred on refunds made by him in sums less than \$50.00 where said moneys have escheated to the State of New Jersey.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General.*

By: OSIE M. SILBER,  
*Deputy Attorney General.*

oms/n

---

OCTOBER 1, 1952.

HONORABLE FREDERICK M. RAUBINGER,  
*Commissioner of Education,*  
175 West State Street,  
Trenton 8, New Jersey.

FORMAL OPINION—1952. No. 6.

DEAR COMMISSIONER:

You have requested our opinion as to whether an employee of a school for industrial education, constituted pursuant to Title 18, chapter 15, article 4 of the Revised Statutes, is eligible for a veteran's pension under the provisions of R. S. 43:4-1 et seq.

In my opinion the answer is "Yes."

Section 43:4-2 of the Revised Statutes provides for a pension to veterans who for twenty years have been "in office, position or employment of this State or of a county, municipality or school district or board of education." While the governing body of a school for industrial education is denominated as a "board of trustees," the statute gives to such board virtually the same status, powers and duties as are vested in the boards of education which govern other publicly-operated schools and are known as "boards of education." (See R. S. 18:15-19 to 18:15-23.) It seems clear that in making the veterans' pension law apply to employment of a "school district or board of education," the Legislature intended to include not only the governing bodies of local school districts, but all other governing bodies of publicly-supported and operated schools. Thus, when the statute mentions "boards of education" in addition to "school districts," the former term must be held to include boards such as the board of trustees of a school for industrial education established pursuant to R. S. 18:15-17 et seq.

Yours very truly,

THEODORE D. PARSONS,  
*Attorney General.*

By: THOMAS P. COOK,  
*Deputy Attorney General.*

tpc;b