

MAY 29, 1959

HON. GEORGE PFAUS
*Acting Commissioner of Labor and
Industry*
20 West Front Street
Trenton, New Jersey

FORMAL OPINION 1959—No. 9

DEAR COMMISSIONER:

You have sought our opinion as to whether taxed costs owing to the Department of Labor and Industry pursuant to R.S. 34:11-67 may be written off for accounting purposes when they have proven uncollectible.

Such an administrative practice has been questioned on the grounds that the New Jersey Constitution, *Art. VIII*, Section 3, paragraph 3 would be derogated. This paragraph states that:

“No donation of land or appropriation of money shall be made by the State . . . to or for the use of any society, association or corporation whatever.”

You are careful to distinguish this proposal of recognized accounting practice from the actual cancellation of a debt due to the State. Without passing upon the constitutionality of the ability to cancel a debt, *see In re Voorhees*, 123 N.J. Eq. 142 (Prerog. Ct. 1938); *Wilentz v. Hendrickson*, 133 N.J. Eq. 447 (Ch. 1943), *aff'd* 135 N.J. Eq. 244 (E. & A. 1944); *In re Wellhofer*, 137 N.J.L. 165 (S. Ct. 1948); *State v. Erie Railroad Co.*, 23 N.J. Misc. 203 (Sup. Ct. 1945), it is our opinion that you are authorized to treat a debt as uncollectible for accounting purposes. The State's claim would not be extinguished nor its rights impaired. Debts due the State in the form of taxed costs rendered in wage collection proceedings pursuant to N.J.S.A. 34:11-67 remain outstanding as a matter of record against the judgment debtor. Such a technique is an accepted accounting procedure necessary for accurate valuation of receivables. *Kester, Principles of Accounting*, 553 (1939). Subject to the uniform system of accounting authorized by the Treasurer pursuant to R.S. 52:27B-33, you may, therefore, write off for accounting purposes those taxed costs due pursuant to R.S. 34:11-67 which in your sound judgment are uncollectible.

Very truly yours,

DAVID D. FURMAN
Attorney General

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