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Subject

County's Leases

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STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

August 8, 1974

Opinion No. 74- 260

Richard C. Dearth
Jones & Dearth, Chartered
1712 Broadway
Parsons, Kansas 67357

Dear Mr. Dearth:

K.S.A. 19-1827 provides in pertinent part thus:

"That the county commissioners of any county containing a population of not more than thirty thousand (30,000) and wherein there is located a city of the first class, are hereby authorized to levy a tax not to exceed the limitation prescribed by K.S.A. 79-1947 . . . for the purpose of maintaining a hospital within said county The tax hereinbefore provided shall be in addition to all other taxes now authorized by law."

You inquire whether this levy is subject to the aggregate levy limitations of K.S.A. 79-5001 *et seq.*

K.S.A. 79-5003 states in pertinent part thus:

"Except as otherwise hereinafter provided, no *taxing subdivision* shall certify to the county clerk . . . any tax levies upon tangible property, excluding taxes levied as special assessments and excluding levies specified in section 11 of this act and amendments thereto, which in the aggregate will produce an amount in excess of the amount which was levied by such taxing subdivision for the base year" [Emphasis supplied.]

Under K.S.A. 79-5001 every county is a "taxing subdivision" for purposes of the act. Inasmuch as the hospital levy under K.S.A.

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19-1827 would be certified by the county commissioners, notwithstanding it was for a hospital purpose, it would be a levy subject to the "lid." K.S.A. 79-5003 goes on to state:

"All tax levies nor or hereafter authorized by law to be made by taxing subdivisions subject to the provisions of this act, except levies specifically excluded under the provisions of section 11 [79-5011] of this act, shall be subject to the aggregate limitation prescribed hereunder unless the provisions of the act authorizing the levy specifically states that such levy is exempt from the limitations imposed under the provisions of sections 1 to 16 [79-5001 to 79-5016], inclusive, of this act."

The levy in question is not enumerated as exempt in K.S.A. 79-5011, and the language in the authorizing statute, K.S.A. 19-1827, does not specify that it is exempt from K.S.A. 79-5001 *et seq.*

Accordingly, we cannot but conclude that the levy is subject to the aggregate levy limitations referred to as the "tax lid."

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm