



STATE OF KANSAS

Office of the Attorney General

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

CURT T. SCHNEIDER
Attorney General

January 17, 1975

Opinion 75- 14

Mr. Charles E. Sims
State Librarian
Kansas State Library
State Capitol Building
Topeka, Kansas 66612

Dear Mr. Sims:

You inquire concerning the scope of the term "capital outlay" as it appears in K.S.A. 75-2558, which prescribes certain limitations on the expenditure of monies distributed under the State Grants-in-Aid to Libraries Act, K.S.A. 75-2553 et seq. The pertinent provision provides thus in pertinent part:

"State funds distributed to libraries as grants-in-aid shall not be expended for construction or repair, debt reduction, utilities, or capital outlay"

[Emphasis added.]

Specifically, you inquire whether the prohibition against expenditure of state funds distributed under this program for books and like materials.

As you point out, the financial accounting practices and directions of the State Department of Administration regard purchases of books as capital expenditures. Certainly, the departmental directives and practices are not legally conclusive in the construction of the term as used in this legislation. They may be, however, illustrative of the ordinary acceptance of the term, as used in reference to books and like library materials. For purposes of federal income tax deductibility in United States v. Akin, 248 F.2d 742 (10th Cir. 1957), the court stated thus:

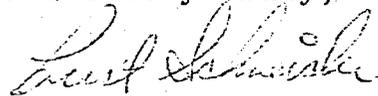
"It is not always easy to find a verbal formula which readily supplies an unerring

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guide in drawing the boundary line between current expenses and capital outlays. But it may be said in general terms that an expenditure should be treated as one in the nature of the capital outlay if it brings about the acquisition of an asset having a period of useful life in excess of one year or if it secures a like advantage to the taxpayer which has a life of more than one year." 248 F. 2d at 744

Once again, of course, the rules governing federal income tax deductibility are not conclusive. However, they are instructive. It may well have been the legislative intention in enacting the quoted restriction upon their expenditure that state funds distributed as grants-in-aid be used, to the maximum extent feasible, for the purchase of books. Books are, however, virtually the capital of any library, and the purchase of books to equip or augment a library entails according to any applicable legal construction given the term "capital outlay," a capital expenditure. We cannot but conclude that, whatever the legislative intention underlying K.S.A. 75-2558, that the terms of those restrictions prohibit the expenditure of monies received as grants-in-aid for books and like library materials. We earnestly suggest that prompt legislative attention be given to the necessary amendments to assure that monies distributed on April 1 may be used for that vital and necessary purpose.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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