



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

July 19, 1976

ATTORNEY GENERAL OPINION NO. 76-226

Mr. Lawrence E. Christenson
City Attorney
City of Winfield
P. O. Box 731
Winfield, Kansas 67156

RE: Cities -- Aggregate Levy Limitations -- Airports

SYNOPSIS: The levy authorized by K.S.A. 1975 Supp. 3-121 as amended by ch. 11, §2, L. 1976, for operation and maintenance of airports is not exempt from the aggregate levy limitations of K.S.A. 1975 Supp. 79-5001 et seq., commonly known as the tax lid.

* * *

Dear Mr. Christenson:

K.S.A. 1975 Supp. 79-1952 provides that the governing body of any city of the second class is authorized to levy taxes in each year for the general fund and other city purposes, and further provides that

"said governing body shall not fix a rate of levy in any one year on each dollars of assessed tangible valuation of any such city for any of the following-named purposes in excess of the following-named rates:

* * *
Airport: Joint operation as provided by K.S.A. 3-121 .50 mill"

K.S.A. 3-121, as amended by ch. 11, §2, L. 1976, provides in pertinent part as follows:

Mr. Lawrence E. Christenson
July 19, 1976
Page Two

"In lieu of issuing such bonds for the purchase or acquisition of an airport, the governing body of the municipality may levy an annual tax of not to exceed one mill on the dollar on all the taxable tangible property in such municipality for not to exceed three (3) years for the purpose of creating a special fund to be used to pay the expenses of purchasing or acquiring such airports or flying fields. Any such governing bodies are hereby further authorized to levy an annual tax of not to exceed the limitation prescribed by K.S.A. 1975 Supp. . . . 79-1952 . . . and amendments thereto, per year, for the support, maintenance and operation of such airports."

K.S.A. 1975 Supp. 79-5003 states thus:

"All tax levies now 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 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 limitation imposed under the provisions of section 1 to 16, inclusive, of this act."

The levy for operation and maintenance of airports under K.S.A. 3-121 as amended is not specifically excluded from the tax lid by K.S.A. 1975 Supp. 79-5011, nor is it specifically exempted from the tax lid by any provision of the section which authorizes the levy itself. Accordingly, in my opinion, the levy for operation and maintenance is subject to the aggregate levy limitations of K.S.A. 1975 Supp. 79-5001 et seq., the tax lid.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:en