

visions of sections 454a and 556a of this title, as now or hereafter amended: \* \* \* .”

The automobile purchased for the veteran by the Veteran's Administration is a benefit to the veteran within the provisions of the above act and is, in my opinion, to be exempted from property taxation by the states.

---

OFFICIAL OPINION NO. 14

February 19, 1948.

Mr. Byron C. Kennedy,  
Assistant Director,  
Indiana Department of Conservation,  
140 North Senate Avenue,  
Indianapolis, Indiana.

Dear Sir:

I have your letter of January 30, which is as follows:

“Reference is made to Section III of Chapter 234 of the Acts of 1947, Vol. I, page 885 in which an appropriation for the reconstruction, repair and equipment for established State Parks and Memorials in the sum of \$990,550.00 is made from the Post War Construction fund created by Section 13 of Chapter 357 of the Acts of 1945.

“Your official opinion is requested as to whether or not the appropriation referred to will revert and, if so, when.”

Section 3 of Article 10 of the Constitution of Indiana is as follows:

“No money shall be drawn from the Treasury, but in pursuance of appropriations made by law.”

For a discussion of what is required to constitute an appropriation, we refer you to Official Opinion No. 116, dated November 14, 1945, addressed to the Honorable Ralph F. Gates, Governor.

Section 1 of Chapter 234 of the Acts of 1947 appropriates from the Post War Construction Fund the sum of \$25,733,-908.00 to be used by the agencies designated for the purpose of construction, reconstruction, rehabilitation and repair of state properties, including equipment for such purposes and for the purchase of land.

Section 2 of said act provides that said appropriation shall be allocated by the Budget Committee with the approval of the Governor to the said state agencies.

Section 3, referred to in your letter, provides in part as follows:

“The Budget Committee, with the approval of the Governor in allocating funds, pursuant to the provisions of this act, shall consider allocations for the following purposes, as funds are available:

“\* \* \*

“(b) For Reconstruction, repair and equipment for established state parks and memorials the sum of \$990,550.00 to be allocated as follows: \* \* \*.”

Then follows a long list of various parks and memorials, under each of which specific purposes and amounts are mentioned, and also certain specific purposes and amounts are set forth for new park projects.

We call your attention to the fact that these appropriations are not made from the General Fund, but are made from the Post War Construction Fund, created by Section 13 of Chapter 257 of the Acts of 1945. In this respect it differs from most of the appropriations made by Chapter 233 of the Acts of 1947, which is the General Appropriation Act for the conduct of state government. Most of the appropriations in the latter act are made from the General Fund and are made for a designated period of time. Such appropriations so made by said Chapter 233 must be expended within the designated period and at the end of the period, the power to expend the sum appropriated is lost. Sometimes it is said the unexpended balance of said fund reverts to the General Fund. This, however, is inaccurate. The situation in the case of such appropriations is that the appropriation constitutes the authority to expend a given amount of money for a given purpose within a given amount of time and at the end of that time any money

not so expended simply remains in the General Fund and is not so much a question of reversion as it is an expiration of authority to expend.

Chapter 234 of the Acts of 1947, which makes the appropriation mentioned in your letter, makes no provision for the time within which the expenditure shall be made and places no time limitation upon said expenditure, nor does it place any time limitation upon the authority and requirement for allocation by the Budget Committee with the approval of the Governor.

The reason why appropriations of the type mentioned in Chapter 233, above referred to, may not be expended after the end of the period, usually the fiscal year, is because the power to expend has expired leaving the unexpended balance remaining in the General Fund.

Thus far in this opinion consideration has not been given to Section 21 of Chapter 279 of the Acts of 1947, which section is a part of the Fiscal Reorganization Act, and is as follows:

“(a) Except as specifically provided for in appropriation Acts, every appropriation or part thereof remaining unexpended and unencumbered at the close of any fiscal year shall lapse and be returned to the general revenue fund; provided, that an appropriation for purchase of real estate or for construction or other permanent improvement shall not lapse until the purposes for which the appropriation was made shall have been accomplished or abandoned, unless such appropriation has remained during an entire fiscal biennium without any expenditure therefrom or encumbrance thereon. (b) Except as otherwise expressly provided by law, the provisions of this section shall apply to every appropriation of a stated sum for a specified purpose or purposes heretofore or hereafter made from the general revenue fund, but shall not, unless expressly so provided by law, apply to any fund or balance of a fund derived wholly or partly from special taxes, fees, earnings, fines, federal grants, or other sources which are by law appropriated for special purposes by standing, continuing, rotary or revolving appropriations.”

Since (a) of said section uses the language "be returned to the general revenue fund," it is indicated that the Legislature was referring to appropriations from the General Fund. Part of said section also provides: "the provisions of this section shall apply to every appropriation \* \* \* made from the general revenue fund," which is a further indication that the section is to apply only to appropriations from the General Fund. If this interpretation be correct, then this section would not apply to the appropriation in Chapter 234 of the Acts of 1947 concerning which you make inquiry, as said appropriation was not made from the General Revenue Fund.

I wish to point out that said Section 21 would apply to the appropriations made by Chapter 233 of the Acts of 1947 of specified amounts for a specified fiscal year and, under the terms of said section, any part thereof remaining unexpended or unencumbered at the close of the fiscal year would lapse, so that the same result is reached as to such appropriations as existed prior to the adoption of this section.

However, as to appropriations from the General Fund where no time limitation is provided in the appropriating act, this section will cause such appropriation to lapse at the end of the fiscal year, which does constitute a change from the pre-existing rule and procedure. To this there is an exception for appropriations for the purchase of real estate or for construction or other permanent improvements. Such appropriations from the General Fund for the purchase of real estate, construction or permanent improvements do not lapse unless an entire fiscal biennium passes without expenditures being made therefrom or encumbrances thereon.

If my construction that said Section 21 applies only to appropriations from the General Fund is correct, then this section does not apply to the appropriation in question. However, even if it should be thought to apply to the appropriation in question, then any expenditure therefrom or encumbrance thereon during each fiscal biennium would prevent the appropriation from lapsing until the purposes for which the appropriation was made have been accomplished or abandoned.

In addition, paragraph (b) of said Section 21 expressly provides that the section shall not, unless expressly so provided by law, apply to any fund or balance of a fund derived wholly or partly from special taxes which are by law appropriated for special purposes by standing, continuing,

rotary or revolving appropriations. It was pointed out in Official Opinion No. 116, 1945 Ind. O.A.G., p. 499, that the post war construction fund, referred to in Sections 13 and 14 of Chapter 256 of the Acts of 1945, was derived from special taxes and, by Chapter 234 of the Acts of 1947, is appropriated for special purposes by a standing appropriation and for this additional reason said section would not apply to the appropriation in question.

In summary, it is my opinion that Section 21 of Chapter 279 of the Acts of 1947 does not apply to the appropriation in question as it is not an appropriation from the General Fund, and there being no time limit placed upon the power to expend said funds, they will remain available for expenditure under said appropriation until allocated or expended or until further legislation is enacted. It is further my opinion that even if said Section 21 of Chapter 279 does apply to appropriations made from funds other than the General Fund, it would not apply to the appropriation in question for the reason that said appropriation is from a fund derived from special taxes and appropriated by a standing appropriation.

If, in the second paragraph of your letter, you mean to inquire as to whether any unexpended balance would revert to the General Fund, it is my opinion that in no event would any unexpended balance become a part of the General Fund without legislation transferring the same to the General Fund.

What is said in this opinion has no reference or application to appropriations by or for political subdivisions of state government. Upon this question, see Official Opinion No. 53 for 1946 addressed to the State Board of Accounts.

---

OFFICIAL OPINION NO. 15

February 20, 1948.

Mr. Hoyt Moore, Sr.,  
State Senator,  
Rural Route 3, Box 920,  
Indianapolis 44, Indiana.

Dear Sir:

Your letter of January 26, 1948, has been received and is as follows: