STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL

August 29, 2018

Opinion No. 18-40

Interpretation of "Office Expense" in Tenn. Code Ann. § 16-2-518

Question

Does the term "office expense" in Tennessee Code Annotated § 16-2-518 apply only to items such as pens and paper or does it also include "capital assets" as that term is defined by the Department of Finance and Administration in the State of Tennessee Capital Asset Guide?

Opinion

The term "office expense" in Tennessee Code Annotated § 16-2-518 includes the authorized costs of all items, including capital assets, that are incurred for the district attorney general's office to perform its duties and responsibilities.

ANALYSIS

Tennessee Code Annotated § 16-2-518 addresses local funding of the offices of district attorneys general and public defenders. It imposes a mandatory formula for the allocation of local funds between the office of the district attorney general and the office of the public defender when there is an increase in local funding for positions or for "office expense" provided to the office of the district attorney general of a particular judicial district.

> Any increase in local funding for positions or office expense for the district attorney general shall be accompanied by an increase in funding of seventy-five percent (75%) of the increase in funding to the office of the public defender in such district for the purpose of indigent criminal defense.

Tenn. Code Ann. § 16-2-518.

The statute does not, however, provide a definition of "office expense," and, while Tennessee courts have determined that "expenses of the office" are expenses that inure to the benefit of the particular office, as opposed to expenses that personally benefit an officer,[1] no court

[1] See Sneyd v. Washington Cnty., 387 S.W.3d 1, 9-10 (Tenn. Ct. App. 2012) (court found that attorney fees incurred by clerk and master in her action against county to increase her salary due also to being clerk of probate court did not constitute "expenses of the office" because action was filed for clerk's sole benefit and did not benefit the office of clerk and master); Marshall v. Sevier Cnty., 639 S.W.2d 440, 444-445 (Tenn. Ct. App. 1982) (court found legal expenses incurred by county clerk and master in successfully defending action against her removal were not expenses of her office that were reimbursable under Tenn. Code Ann. § 8-22-108 because the fees paid in her personal defense did not inure to the benefit of the office of clerk and master).

has been required to examine the meaning or scope of the term "expense" within the context of Tenn. Code Ann. § 16-2-518 or any of the many other Tennessee statutes[2] involving public officers and entities that refer to "office expenses."

Undefined words in the Tennessee Code must "be given their natural and ordinary meaning, without forced or subtle construction that would limit or extend the meaning of the language, except when a contrary intention is clearly manifest." Tenn. Code Ann. § 1-3-105(b). Dictionaries remain the accepted source for information concerning the natural and ordinary meaning of words. *English Mountain Spring Water Co. v. Chumley*, 196 S.W.3d 144, 148 (Tenn. Ct. App. 2005). The dictionary defines the noun "expense" as "the cost incurred or required for something," or "something on which money must be spent," or the cost "incurred in the performance of a job or task." *Concise Oxford English Dictionary* 501 (12th ed. 2011).

Thus, in the context of Tenn. Code Ann. § 16-2-518, the natural and ordinary meaning of "expense" is a cost incurred to perform a job or task. An "office expense" as used in § 16-2-518 therefore encompasses the authorized cost incurred for any item for the district attorney general's office to fulfill its duties and responsibilities.

It follows that, if a "capital asset" is an item necessary for the district attorney general's office to perform its job, the authorized cost of that capital asset will fall within the meaning of "office expense" for purposes of § 16-2-518. A "capital asset" is generally defined as a "long-term asset that is not bought or sold in the normal course of business." John Downs and Jordan Elliott Goodman, eds., *Barron's Dictionary of Finance and Investment Terms* 92 (6th ed. 2003). Consistent with this definition, the *State of Tennessee Capital Asset Guide* defines a "capital asset" as "a tangible or intangible asset with a *cost* equal to or greater than an established capitalization threshold and having an estimated useful life of three years or more." Division of Accounts, Tennessee Department of Finance and Administration, *State of Tennessee Capital Asset Guide 1* (Aug. 2017). By its express terms, the *Guide* defines a capital asset—whether tangible or intangible—as one with a "cost." *Id*. Moreover, the *Guide* makes clear that "[c]apital asset purchases are recorded as *expenditures* at the time of purchase." *Id*. at 3. Therefore, the cost of a capital asset that is incurred for the district attorney general's office to carry out its duties and responsibilities is an "office expense" under Tennessee Code Annotated § 16-2-518.

In sum, the term "office expense" in Tennessee Code Annotated § 16-2-518 includes the authorized costs of all items, including capital assets, that are incurred for the district attorney general's office to perform its duties and responsibilities.

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[2] *See, e.g.*, Tenn. Code Ann. §§ 5-14-103(d) (county purchasing agent); 8-22-104(b)(1), -108(a)(1)(A), -109(a) (various public officers); 8-22-110(a) (sheriff); 10-7-408(b)(1)(A) (county records commission); 16-15-102(b)-(d) (courts of general sessions); 40-30-209(c) (post-conviction defender); 58-2-104(d) (Tennessee emergency management agency); 67-5-2007(a)(3) (county trustee).

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