

**Year, Meaning of Calendar. Calendar Year, Meaning of. Public Accountancy. Funds, Disposition of Excess. Funds, Excess in Public Accountancy. Appropriations, Lapse of.**

The calendar year begins on the first day of January and ends on the 31st day of December. The law which provides that the excess of collections over expenses, under the act providing for public accountancy, "becomes the property of the state university," is interpreted to mean that the state treasurer must, at the end of the fiscal year, transfer this excess to the university maintenance fund.

Where an appropriation is made for the year ending February 28, 1910, for furnishing and equipping a state university library building, or bills for furnishings and equipments ordered prior to the expiration of the period of appropriation, but not received until after that date, may be audited, presented to the board of examiners, allowed and paid out of the appropriation, which is not covered back to the state treasury until the termination of the two year period.

Helena, Montana, February 28, 1910.

Dr. C. A. Duniway,  
President, University of Montana,  
Missoula, Montana.

Dear Sir:—

I am in receipt of your letter of February 19, submitting two questions bearing upon the business of the university. One of these questions concerns the interpretation of chapter 39 of the laws of 1909, on certified public accountancy. Quoting from section 6 of said chapter 39, you desire my official opinion as to the meaning of the following clause:

“At the close of each calendar year any surplus remaining, after the payment of the year’s expenses, shall become the property of the university.”

Your first query, with regard to the above language is:

“Does the expression ‘close of each calendar year’ mean December 31, or could it bear the construction of one year from the final passage and approval of the act.”

The code seems to determine the interpretation which may properly be put upon this language.

Section 2027, revised codes, reads as follows:

“Time is computed according to the Gregorian or new style; and the first of January in every year passed since seventeen hundred and fifty-two or to come, must be reckoned as the first day of the year.” \*  
\*

Section 16, of the same code, subdivision 4, is as follows:

“The word ‘year’ as used in this code means a calendar year \* \* \* unless otherwise expressed.”

The second subdivision of your first inquiry, with regard to the funds that may remain in excess of the expenses in the public accountancy fund, which, under the law, “become the property of the university,” may be answered as follows:

The conversion of this fund, in my opinion, is governed by section 679 of the revised codes. Under the first subdivision thereof,

“For the support and endowment of the university there is annually and perpetually appropriated:

‘1. \* \* \* and all other sums of money appropriated by law to the university fund income.’

So that you are advised that any funds remaining on the account of public accountancy should be transferred by the treasurer of the state of Montana (ex-officio treasurer of the board of education) to the university fund income.

Your second inquiry has to do with the appropriation for furnishing and equipped library building at the state university, under house bill No. 400, session laws of 1909.

In connection with this you state that there are at least two instances in which articles ordered have not been, and may not be, delivered by February 28, 1910.

House bill No. 400, above referred to, provides an appropriation for furnishing and equipping a library building at the state university of

\$7,500.00 for the year ending February 28, 1910, and makes no appropriation for the same purpose for the year ending February 28, 1911. However, this office has heretofore held that unexpended appropriations do not lapse and are not converted back to the fund from which they are appropriated in the general treasury of the state of Montana until the end of the second fiscal year, and in this case where furnishing and equipment have been ordered during the year ending February 28, 1910, but have not been delivered during that year, that the bills rendered for such supplies may be transmitted to the board of examiners, and that the unused portion of the appropriation may be applied to their payment even though the audited bills were forwarded to the state board of examiners after February 28, 1910.

Very truly yours,

ALBERT J. GALEN,

Attorney General.