

Corporations — License Taxes — Deductions — Improvements.

A corporation is not permitted to make deductions from its income for license tax purposes for improvements made, and spread the same over a period of years.

April 13, 1928.

State Board of Equalization,
Helena, Montana.

Gentlemen:

You have requested an opinion on the following question:

“If a corporation leases a building and makes certain addi-

tions and improvements to said building for the purpose of preparing it for tenancy for the particular business of said corporation, is it permitted to capitalize the costs of such additions or improvements and charge them off as deductions over a period of years, that is, if said improvements total \$10,000, is said corporation permitted to charge off \$1,000 a year for ten years, under chapter 79, laws of 1917, as amended?"

In section 3 of chapter 79, laws of 1917, as amended, and in the first subdivision thereof, we find the following language with reference to allowable deductions: "all of the ordinary and necessary expense actually paid within the year out of earnings in the maintenance and operation of its business and property within the state of Montana, including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity."

In the second subdivision of said section and chapter we find the following language:

"No deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made."

Money spent by a corporation in additions or improvements of property in which it has no title or is taking no title, or in which it has no equity is an allowable deduction, if said improvements were not made to increase the value of said property; this to depend entirely upon the facts of each individual case. But in my opinion said cost of said improvements, if found to be allowable as not made to increase the value of said property, must be charged off within the fiscal year in which said expenditures were made by said corporation.

If a corporation owns the building and makes improvements on said building, under chapter 79, laws of 1917, as amended, said corporation must add the cost of said improvements to the capital investment and charge it off as depreciation over a period of years, but may not be allowed a deduction for such expenditures for the fiscal year in which the improvements were made.

Very truly yours,

L. A. FOOT,
Attorney General.