

MAINE STATE LEGISLATURE

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April 10, 1923

To the Board of State Assessors
Re: Taxation of Cars in Stock

In reply to yours of the 5th inst., asking for our opinion as to whether certain automobiles now stored in various places in this state are property taxable in the towns where situated on April first, you are advised as follows:

According to the statement submitted, these cars are of three classes, but all of them were shipped to and are all in the possession of one corporation:

1. Cars now in Maine sold to dealers outside Maine before their shipment from Flint, to be delivered to the respective purchasers as soon as weather conditions made delivery possible;
2. Cars always destined for the Noyes-Buick sales room or warehouse and to be moved on to that point as soon as possible;
3. Cars which before or at the time of shipment were sold to Maine dealers. These are tagged as they stand so that they can be picked out specifically.

As we understand it, all of these cars were shipped from Flint, Michigan, billed to the Noyes-Buick Company at the various points where they now are and it was intended to drive them later in the season to the various places where purchasers await them.

This property, or so much of it as is owned by persons residing out of the State, is by paragraph 2 of Section 14, Chapter 10, of the Revised Statutes, taxable in the place where it is on the first day of April, unless for some reason it is exempted from assessment.

We understand that the claim made here of the persons in possession of these cars is that they are not taxable because it is claimed they are in transit as interstate commerce and that the State has no right to authorize the assessment of a tax upon goods while in transit as an interstate shipment through such States. Such is the general rule, but while the question is not entirely free from doubt, we incline to the opinion that the cars in question are not in transit in interstate commerce within the proper meaning of that term and that they are subject to taxation in this state.

The case of General Oil Co. v. Crain, 209 U.S. Reports 211, holds that merchandise may cease to be interstate commerce at an intermediate point between the place of shipment and ultimate destination; and if kept at such point for the use and profit of the owners and under the protection of the laws of the State, it becomes subject to the taxing and police power of the State.

This principle seems applicable to the property under consideration.

Again, in Bacon vs. Illinois, 228 U.S. Reports 505, it is stated that property brought from another state and withdrawn from the carrier and held by the owner with full power of disposition becomes subject to the local taxing power, notwithstanding the owner may intend to ultimately forward it to a destination beyond the state.

It seems to us that the status of the property in question is such that the principles declared by the Supreme Court in the two cases cited would be decisive and that taxation in this State would be upheld. The cars owned by non-residents should be taxed in the towns where found on April first, but a different rule would apply to such cars, if any, as were owned by residents of Maine.

According to Sec. 13 of Chapter 10, Revised Statutes, all personal property within or without the State, except in certain enumerated cases, shall be assessed to the owner in the town where he is an inhabitant on the first day of April, so that, if the title to any of these cars had before April first passed to inhabitants of the State they should be taxed to such owners in the town of their residence and not in the town where the cars are. The question of title is one which we cannot express our opinion on, as we have not sufficient facts upon which to justify doing so, but the ownership can doubtless be ascertained by the assessors in the different towns where the cars are stored.

It should not be overlooked that if these cars are not taxed in Maine, they will probably not be taxed anywhere, and the law does not favor such a result as that.

William H. Fisher
Deputy Attorney General