

# MAINE STATE LEGISLATURE

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September 15, 1930

To Elbert D. Hayford, State Auditor  
Re: Tank Car Lots - Pipéd Gasoline

You inquire as to the taxation, under the Gasoline Tax Act, of a person who buys a tank car of gasoline from a seller who has obtained it through a pipe line from the corporation which imported it into the State.

Our gasoline tax law places the burden of paying the tax primarily on the "distributor". As amended by the last Legislature, distributors are of three classes who may be characterized briefly as,-

- (a) Importers into the State;
- (b) Producers, refiners and manufacturers;
- (c) Purchasers in tank car lots.

The object of the 1929 amendment which added this third class of distributors was, as I understand it, to place in the same category with importers, a large class of wholesalers against whom the law as it stood worked some discrimination.

The Legislature adopted the expression, "purchasers in tank car lots", as the test. Wholesalers who do not come within this category are not distributors under the statute.

The practical point of view appears to be that the moment of its arrival in the State is the starting point. Thereafter the gasoline is subject to taxation as soon as distributed by one who is a distributor under the statute, unless such distributor shows that he has passed it along to a purchaser who is himself a distributor. Such second distributor, in turn, becomes liable for the tax on gasoline which he distributes, except to such persons as are themselves distributors, and so on down the line. The ultimate distributor in a series of transactions between distributors is the one who pays the tax.

The problem suggested by your letter is the problem of a sale by a distributor to a person not a distributor who himself resells to a distributor. We have previously ruled that a person purchasing through a pipe line is not a distributor because he is not buying "in a tank car lot". He may be buying as much as he would be buying if he were it in a tank car, but he is not buying it in that form and so does not bring himself within the legal definition of a distributor.

The solution of this problem, it seems to me, is this. The first distributor, being liable for the tax at the time when he makes his distribution to a person not a distributor, pays the tax and that is the end of it.

Until the Legislature provides especially for the situation where this taxed gasoline is subsequently bought by a distributor, the gas tax authorities have no further concern with the gasoline.

The second purchaser is buying gasoline on which the tax has necessarily been paid and there is no provision for rebating, refunding or discounting this paid tax in connection with a levying of the tax on this gasoline against this second purchaser. As to the gasoline purchased by this second purchaser, which has already been properly and legally taxed, he is not a distributor under the Act.

Clement F. Robinson  
Attorney General