

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1930 - JUNE 30, 1932

STATE OF MAINE

REPORT

OF THE

Attorney General

for the calendar years

1931-1932

from the county treasury, regardless of whether the costs so assessed have been actually paid by the convicted person. Costs accruing in favor of the state in respect to the state highway police seem to me to stand on a different footing.

NAPHTHA AND THE GASOLINE TAX

October 19, 1931

To Hon. E. D. Hayford
State Auditor

You inquire with reference to the taxability of naphtha under the gasoline tax act.

Sec. 1 of the act in classifying the "internal combustion engine fuel," which by sec. 2 of the act is taxable when "sold within this state," defines three kinds of "motor fuel," viz.:

- (a) Gasoline.
- (b) Benzol.
- (c) Other products except kerosene and crude oil to be used in the operation of an internal combustion engine.

All sales of classes (a) and (b) are taxable. Class (c) is composed of two special products whose sales are never taxable, and of other products whose sales are taxable only under the special circumstances there specified.

This department has in the past, as you know, ruled that "naphtha" falls within class (c). Unlike kerosene and crude oil it is taxable if sold to be "used in the operation of an internal combustion engine", but unlike gasoline and benzol it is taxable only when so sold. Naphtha sold for cleansing purposes, not being an "internal combustion engine fuel" within the statutory definition, is not taxable.

Sec. 2 of the act provides for the rebate of three-fourths and "no more" of the tax paid,—

"Upon such internal combustion engine fuels sold for exclusive use in motor boats, tractors used for agricultural purposes not operating on public ways or in such vehicles as run only on rails or tracks, or sold for use in stationary engine or sold for use in the mechanical or industrial arts."

This section applies only to taxable fuels; that is,—(a) gasoline, (b) benzol, (c) certain other products sold for the special use specified in the definition of the class. Three-quarters of the tax paid on such fuels is to be rebated in certain cases. The section does not affect the right of a tax payer to a refund of a mistaken payment.

Since naphtha sold for a purpose not specified in the definition of its class (e. g. for cleansing) is absolutely untaxable, the whole amount of any tax mistakenly paid on such naphtha should be refunded.