

MAINE STATE LEGISLATURE

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September 16, 1946

To Lucius D. Barrows, Chief Engineer,
State Highway Commission

I received your letter of September 12th with enclosures:-
Letter from Frederick Hoitt, secretary and treasurer of New England
Road Builders Association, dated August 14th, together with photo-
static copies of:

Letter of Deputy Internal Revenue Commissioner Bliss
dated May 18, 1945. . . . and
Alabama form of release referred to in the above bulletin,

all which I have read with interest and herewith return.

After reading Mr. Hoitt's letter and the exhibits attached thereto, and checking the Maine statute in regard to the authority of the Highway Commission to let contracts for the construction of State highways and the procedure therein, it is my opinion that it would be legal for the State Highway Commission to have the materials for use on highway projects consigned to the State Highway Commission in care of the contractor, in order to save the 3% transportation tax, as outlined in the letter of New England Road Builders Association, providing this would be a saving to the State of Maine and not to the contractor, which should be considered when the Highway Commission accepts bids on State Highway construction projects.

Before taking on this responsibility, however, I believe that the State Highway Commission should have a form of release to be executed by the contractor, similar to the form which the Highway Department of the State of Alabama is now using, to make sure that all bills and charges for materials and invoices for the payment of same should not be made to the State Highway Commission, and also have a clause the same as the Alabama release, relating to a revocation of the authority.

The Treasury Department in its letter of May 18, 1945, states: "Where the shipping papers clearly show the consignee to be the State Highway Department. . . care of a contractor, the tax will not apply, irrespective of whether the transportation charges are paid to the carrier by the State."

Ralph W. Farris
Attorney General

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