

# MAINE STATE LEGISLATURE

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no

May 28, 1951

To John Fessenden, Deputy Attorney General  
Re: State Exemption from the Retail Sales and Use Tax

In your memorandum of May 18, you request information, on behalf of the State Purchasing Agent, whether the State is exempt from the payment of the Retail Sales and Use Tax.

For your information Section 10, of the Act, (Chapter 250, P.L. 1951) provides in pertinent part: "No tax on sales, storage or use shall be collected upon or in connection with . . . Sales to the state or any political subdivision, or to the federal government, or to any agency of either of them."

Thus it appears to me that in clear language, not subject to interpretation, all sales to the State are exempt.

It will be noted that sales by the State are not exempted by the above language. In connection with sales by the State the following language should be considered: "The term 'retail sale' or 'sale at retail' does not include an isolated transaction in which any tangible personal property is sold, transferred, offered for sale, or delivered by the owner thereof, or by his representative for the owner's account, such sale, transfer, offer for sale, or delivery not being made in the ordinary course of repeated and successive transactions of a like character by such owner or on his account by his representative." (Section 2, Definition of "Retail Sale") You will also note that "sale" is defined as transfer, exchange or barter "in the regular course of business". If any ruling is desired in connection with sales by the State we should be fully acquainted with the facts involved.

Boyd L. Bailey  
Assistant Attorney General