

MAINE STATE LEGISLATURE

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STATE OF MAINE

no

Inter-Departmental Memorandum Date June 16, 1952

To Boyd L. Bailey, Esq., Asst.

Dept. Attorney General (Taxation)

From James G. Frost, Deputy

Dept. " "

Subject Registration of Aircraft

This office is in receipt of the attached memo dated May 26, 1952, from Scott E. Higgins, Director, Maine Aeronautics Commission.

The problem is an interesting one and I have done a little research on it. I am sending the memo to you with what information I found, for answer.

Section 12, Chapter ²¹19, R. S., provides for and requires registration of aircraft and pilots. Section 39-A of Chapter 19 provides for an excise tax for the privilege of operating an aircraft and sets up the formula by which that tax is imposed. The last sentence of Section 39-A reads as follows:

"This excise tax on aircraft shall be subject to the same provisions and exemptions as apply to motor vehicles in sections 38, 39 . . . which can be applied to such aircraft."

Mr. Higgins inquires as to the legality of the directive of the Maine Aeronautics Commission of May 1, 1952.

The import of this action is to exclude bona fide dealers of aircraft in the State of Maine from the registration and excise requirements of Chapter 19.

Before such dealers are found to be exempt from the requirements of registration and payment of excise tax it is necessary that such exemption be provided for in the laws.

Section 39 states that the excise tax on aircraft shall be subject to the same provisions and exemptions as apply to motor vehicles in Section 38, 39, etc., which can be applied to aircraft

Section 38 provides that an excise tax shall be levied on motor vehicles, spells out the formula used in levying the excise tax, and provides that "bona fide dealers or manufacturers of motor vehicles, which motor vehicles are solely for the purpose of demonstration and sale and which constitute stock in trade. . . shall not be subject to the excise herein provided; . . ."

Applying the statement in Section 39 that the excise tax on aircraft shall be subject to the same provisions and exemptions as apply to motor vehicles in Section 38, then it appears that bona fide dealers of aircraft, which aircraft are solely for the purpose of demonstration and sale, and which constitute stock in trade, shall not be subject to the excise tax.

We also find, under Section 12 (being the registration section) paragraph IV, subparagraph J, that the provisions of Section 12, requiring registration of aircraft, pilots and owners, shall not apply to:

"J, an individual piloting an aircraft which is equipped with fully functioning dual controls when a properly certified pilot is in full charge of one set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser."

There are, then, two sections of the law which relate to the problem placed before us:- the interpretation of Section 38 of Chapter 19 into Section 39-A of Chapter 19, which exempts bona fide dealers or manufacturers of motor vehicles from payment of the excise tax, and Section 12, para. IV, subpara. J, relating to the piloting of aircraft used for instruction or demonstration purposes.

As a result of these exceptions we are of the opinion that the directive of the Maine Aeronautics Commission is not an improper one.

James G. Frost
Deputy Attorney General

JGF/c