

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

the 50,000 pounds, no more than 22,000 pounds is on any one axle and the tire width qualifies?"

Answer. Over-registration gives no more right than over-insurance. A three-axle truck having a distance of 17 feet from the front axle to the rear axle, being registered for 46,000, 48,000 or 50,000 pounds, may not carry a load according to the registration, as such truck is limited to carrying a load not to exceed 41,160 pounds. See statute above quoted.

Question No. 4. "If so (perhaps repeating) is there any limit to the weight on any axle or combination of axles except the 22,000 per axle and the 50,000 pounds overall, assuming forward and rear axles are not 'less than 10 feet apart' and the tire width is sufficient to qualify?"

In answer to Question No. 4 we would refer you to the answer given to Question No. 2 and would also refer you to the first sentence of the above quoted section of the law.

JAMES G. FROST
Deputy Attorney General

April 15, 1953

To Ernest H. Johnson, State Tax Assessor
Re: Excise Tax of Servicemen at Limestone

I reply to your inquiry of April 13, 1953. You state that servicemen in quarters at the Limestone Air Base sometimes register motor vehicles in Maine, prior to which they are compelled to obtain an excise tax receipt. You inquire to what town the excise tax should be paid.

Under the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C.A., Section 574, the serviceman is exempt from any such tax in Maine if he has paid his excise tax in the state of his domicile. Otherwise, the exemption does not apply. I assume that in the cases you mention, no excise was paid to the state of domicile.

The next question is whether the registrant is "occasionally or temporarily residing" in a municipality. As you know, the municipality has no functions of government in the Limestone Air Base, the Federal Government having assumed "exclusive jurisdiction" under Section 12 of Chapter 1, R. S. 1944.

As I see the statute, its literal clear meaning calls for a tax but there is no literal clear meaning concerning to what municipality the tax should be paid. We are, therefore, left, in my judgment, to reasonable construction, the duty being clearly based upon the serviceman to pay a tax if he is not going to pay one in his home jurisdiction and if he is going to register the car in Maine.

Essentially, taxes are bills for services rendered by governments. The excise tax is payable to the town of residence because that town affords the government services which the taxpayer ought to pay for. Pursuing the reason for the statute to its logical limit, the excise tax in question ought to be paid to the Town of Limestone. It is that town which affords police protection, street maintenance, and other government benefits.

It is, therefore, my conclusion that the excise taxes should be paid to the treasurer of the Town of Limestone. This memorandum is written, of course, with the understanding that the servicemen in question reside on that part of the air base which used to be within the Town of Limestone.

BOYD L. BAILEY
Assistant Attorney General

April 27, 1953

To Hon. S. W. Collins, State Senator
Re: Excise Tax in Limestone Air Base

You have forwarded to me for comment the letter of Mr. D. E. Chick, Town Manager of Caribou, dated April 23, 1953.

Mr. Chick points out that the Town of Caribou offers certain government services to servicemen at the Limestone Air Base and concludes, therefore, that "there doesn't seem to be any logical argument for payment in any particular town."

The statute in question is Section 40, Chapter 19, R. S. 1944, amended by Chapter 264, P. L. 1951. Non-residents, by this statute, "registering a motor vehicle or aircraft in this state shall pay to the municipality of the state where he is occasionally or temporarily residing, or if there be no such residing place, then to the state the excise tax above provided. . ."

It is apparent from reading this language that there is a legislative intent that the excise tax shall be for local, not state, benefits unless no locality can be determined to be a proper recipient. I have speculated, in my opinion of April 15, that the reason for this legislative policy is that the excise tax is to pay for government benefits such as police protection, street maintenance, etc. That is pure speculation. Mr. Chick disagrees with it. The essential consideration, in my judgment, is that the statute has made the criterion: "The municipality of the state where he is occasionally or temporarily residing." If that place can be found, the excise tax must be paid there. The servicemen are definitely located at the Base; there is no question as to the location of their living quarters. That being the case, I see no reason why the tax should not be paid to that municipality in which those living quarters are. . . .

BOYD L. BAILEY
Assistant Attorney General

April 28, 1953

To Herbert G. Espy, Commissioner of Education
Re: Distribution of Bibles in the Public Schools

We have your memo of April 22, 1953, in which you ask the following questions:

"(1) Is it legally possible for a school committee to authorize an organization, such as the Gideons, to distribute Bibles in the public schools?"