

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

January 17, 1964

To: Earle R. Hayes, Executive Secretary, Maine State Retirement System
Re: Dissolution of Community School District; Effective Date

Your memorandum of January 9, 1964 is acknowledged.

Facts:

The 101st Legislature enacted Chapter 78 of the Private and Special Laws of 1963 to authorize certain enumerated municipalities comprising a community school district to form into a school administrative district. The Act authorized the towns "to proceed pursuant to section 111-F to 111-U-1 to form a school administrative district providing that the municipalities, upon voting to form said district, shall vote to assume the entire outstanding indebtedness of said Community School District #1." Further language of the Act is as follows:

"Upon formation of the School Administrative District, said Community School District #1 shall cease to have any responsibility for the education of the pupils of said Community School District #1 and the board of trustees shall continue to function only in that capacity necessary to retire any outstanding bonds or notes of the Community School District #1."

Question:

Whether Community School District #1 ceased to exist as a community school district upon the formation of the School Administrative District, or remains in existence until the date the outstanding bonds of the Community School District are retired?

Answer:

Although the creation of the school administrative district relieved the community school district of the responsibility for the education of certain school children, the community school district continues in existence as an entity "only in that capacity necessary to retire any outstanding bonds or notes."

Reason:

Our Legislature, in Chapter 78 of the 1963 Private and Special Laws, authorized certain of the towns comprising Community School District #1 "to proceed pursuant to Section 111-F to 111-U-1 to form a School Administrative District." One of the district towns that did not favor reorganization was directed (by the Act) to "assume full responsibility for the education of its secondary pupils." The mandate of the Legislature that the community school district "shall cease to have any responsibility for the education of the pupils" in the district; that the school administrative district shall "assume the entire outstanding indebtedness" of the community school district; that "the board of trustees shall continue to function *only* in that capacity necessary to retire any outstanding *bonds or notes*" of the community school district, evidences an intention that the school administrative district (upon its creation) replace the community school district. (Emphasis supplied.) Note that the trustees continue to function if only for the purpose of retiring bonds or notes notwithstanding that all of the obligations of the community school district are assumed by the school administrative district.

Although the community school district be relieved of certain obligations relative to the education of students the district continues to function in a limited fashion; to liquidate the bonds and notes. *R. S., c. 41, § 112* (“a community school district which shall be a body politic and corporate”); § 115 (“bonds and notes of the district”) § 121 (no withdrawal of towns permitted when outstanding indebtedness of district exists).

JOHN W. BENOIT

Assistant Attorney General

January 28, 1964

To: Ernest H. Johnson, State Tax Assessor

Re: Sales Tax Exemption — Boy Scouts of America

I received your memorandum of January 17, 1964, enclosing material from the Pine Tree Council, Inc. of the Boy Scouts of America in which the question is raised whether the Boy Scouts of America is entitled to exemption on purchases insofar as the Maine sales and use tax is concerned.

You state that some years ago it was ruled that the American Red Cross was entitled to exemption as an instrumentality of the Federal Government on the basis of its Congressional charter.

The attached material contains a letter from Robert W. Cameron, Assistant Scout Executive of the Pine Tree Council, Inc. in which he seeks interpretation of the Boy Scouts' charter and bylaws which he enclosed with the hope that they may be exempted from the State sales and use tax act law.

I have examined the constitution and bylaws of the Boy Scouts of America which you submitted with the material which Mr. Cameron mailed you and also the pamphlet on the procurement of donated surplus military personal property by the Boy Scouts of America and I have also examined the charter and Act of Congress of the American Red Cross which is tax exempt as an instrumentality of the Federal Government.

This was decided by the Supreme Court of the United States in *Standard Oil Company of California v. Johnson*, 316 U. S. 481, and the Act of Congress was passed to act in matters of relief under the Treaty of Geneva of August 22, 1864, makes the American National Red Cross an instrumentality of the United States and is exempt from the Maine sales and use tax under section 10, subsection II, Chapter 17, Revised Statutes 1954.

The American National Red Cross headquarters are located in Washington, D. C. and the United States Government, by Act of Congress, made available the land and buildings but they remain the property of the United States and the United States audits its annual accounts.

The Boy Scouts of America is a private corporation and the principal office is located in New Brunswick, New Jersey.

True, the Charter was granted by Act of Congress in 1916 by private incorporators and in our opinion it is not an agency or instrumentality of the Federal Government and is not entitled to exemption under the Maine Sales and Use Tax Act and the local corporations, namely Pine Tree Council,