

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

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,

Inc. and Katahdin Council, Inc., are entitled to the same treatment as the parent corporation.

Where a corporation claims immunity from the common burdens of taxation, which rest equally upon all, such corporation must bring itself clearly within the exemption; and the language relied upon as creating such exemption must be strictly construed.

RALPH W. FARRIS

Assistant Attorney General

January 29, 1964

To: Mrs. Alice B. Mann, Secretary, State Board of Barbers

Re: Lapsed Barber Licenses

Facts:

There are within the state some persons who have, in the past, been licensed as barbers. For one reason or another they have not annually renewed their license. In particular, some have not been licensed in the year 1963.

Question No. 1:

Does a person who has failed to renew his barber license in any year, including 1963, have to pass a regular examination in order to have a license?

Answer No. 1:

Yes.

Reason:

The 101st legislature enacted P. L. 1963, c. 102, which replaced the last paragraph of c. 25, § 230-K, to read:

"Any registered barber who fails in any year to renew certificate to practice barbering shall successfully pass a regular examination conducted by the Board of Barbers before a new certificate may be issued."

This new enactment became effective September 21, 1963. The licensing year is the calendar year, c. 25, § 230-K. Hence, any barber who had not renewed his license prior to December 31, 1963, must successfully pass a regular examination before being granted a license for 1964. The same would be true in any succeeding year.

Question No. 2 and 3:

If a barber has failed to renew his license in any year would he be eligible for a permit to practice barbering until the next examination?

If so, would he be required to work under the supervision of a master barber while using this permit?

Answer No. 2 and 3:

Yes.

Reason:

Revised Statutes, c. 25, § 230-J, in the second paragraph provides in part:

"If any applicant to practice barbering . . . qualifies for examination, the board may issue to such applicant, until the