

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date June 2, 1964

To Ernest H. Johnson, State Tax Assessor Dept. Bureau of Taxation

From Ralph W. Farris, Asst. Attorney General Dept. " " "

Subject Revised Statutes, Chapter 16, section 159--Definition of "distributor"
in Gasoline Tax Act

I received your request for advice as to whether a trucking concern, with bulk storage facilities in this State, but purchasing gasoline only for its own use, is entitled to be licensed as a "distributor" under the provisions of the Gasoline Tax Act.

After reading the language of section 159, of Chapter 16, Revised Statutes, I am of the opinion that the legislature, in defining the word "distributor," did not intend to include purchasing within the State in tank car or ship or barge lots, for the purpose of use within the State for themselves.

It appears to me that it would not be proper to license a trucking concern as a "distributor" where the purchase was for its own use and not for sale to, or use by, others.

The first part of the definition of "distributor" under the statute is "any person, association of persons, firm or corporation, wherever resident or located, importing or causing to be imported for sale or for use in this State," and the last part of the definition is anyone "purchasing within the State in tank car or ship or barge lots, internal combustion engine fuel as defined, for the purpose of sale or use within the State."

I do not understand that the trucking concern in question is an importer under the first part of the definition, and the latter part of the definition would apply only to a "distributor" who purchased gasoline for sale or use to others, therefore, in my opinion, the trucking concern mentioned in your memorandum would not qualify as a distributor.

RWF:epd

STATE OF MAINE

Inter-Departmental Memorandum Date June 4, 1964

To Ralph E. Farris, Assistant Attorney General Dept. Bureau of Taxation

From Ernest H. Johnson, State Tax Assessor Dept. Bureau of Taxation

Subject R.S. Chapter 16, Section 159 - Definition of "distributor" in Gasoline Tax Act

Section 159 of Chapter 16 of the Revised Statutes, the definition section of the Gasoline Tax Act, defines "distributor" in part as one "purchasing within the state in tank car or ship or barge lots, internal combustion engine fuel as defined, for the purpose of sale or use within the state."

Up to this time, so far as I know, we have neither licensed, nor have been requested to license, as a gasoline distributor anyone other than one principally engaged in selling gasoline to others.

We have now been approached by one of the larger trucking concerns in the state with respect to the possibility of its being licensed as a gasoline distributor. This request is based upon the fact that if the trucking concern is licensed as a distributor, it will not become liable for payment of gasoline tax until the gasoline is actually delivered into the fuel tanks of its motor vehicles, and hence will avoid tying up a fairly sizable amount of capital since tax presently must be paid upon delivery of the fuel into its bulk storage facilities; and the further fact that, as a distributor, it may become entitled to certain allowances for loss through shrinkage, evaporation and handling.

While it may be argued that a trucking concern purchasing gasoline in bulk quantities, even though only for its own use, may properly be considered a distributor under the gasoline tax law and licensed as such, since it is "purchasing . . . for the purpose of . . . use within the state", it does not appear to this office that the term was ever intended to apply other than to one primarily engaged in selling gasoline to others.

Will you please advise whether a trucking concern, with bulk storage facilities in this State, but purchasing gasoline only for its own use, is entitled to be licensed as a "distributor" under the provisions of the Gasoline Tax Act.

EHJ:J