

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

Answer:

Real estate is taxable as real estate. Building is taxable as personal property.

Reasons:

Since the grantor here retains a life estate subject to a special limitation this would be considered to be an interest in land of which the fee is in the state and therefore would, for the purpose of taxation, be taxable as real estate under Chapter 91-A, section 4 of the Revised Statutes.

The pertinent section of the statute dealing with the taxability of buildings in the State of Maine is as follows:

“ . . . Buildings and house trailers on leased land or on land not owned by the owner of the buildings when situated in any municipality, shall be considered real estate for purposes of taxation, and shall be taxed in the municipality where said land is located; *but when such buildings and house trailers are located in the unorganized territory they shall be assessed and taxed as personal property in the place where located.* (Emphasis supplied).

It can be readily seen from the foregoing section that since the building in question here is located in an unorganized territory, for purposes of taxation it should be taxed as personal property.

RICHARD S. COHEN

Assistant Attorney General

November 25, 1964

To: Col. Robert Marx, Chief, Maine State Police

Re: Granting of weight tolerance

Facts:

On the ground that measuring devices are not 100% accurate, it has been requested that you grant a tolerance above the maximum gross weight of 73,280 pounds for trucks.

Question:

May a tolerance above the maximum gross weight of 73,280 pounds provided for in R. S., c. 22, § 109, be granted by the Maine State Police?

Answer:

No.

Opinion:

R. S., c. 22 § 109, provides for a maximum gross weight of 73,280 pounds. R. S., c. 22, § 111, provides for fines dependent upon the amount of the excess over the gross weight limit, and further provides:

“For the purposes of this chapter, weights as indicated by any type of stationary or portable scales approved by the Maine State Highway Commission and tested within 12 calendar months prior to the time of use by a person and method approved by said commission shall be deemed accurate.”

Section 111 also provides, with regard to the minimum fine, that the excess be intentional and be 1,000 pounds or over. To grant a further tolerance would violate the clear intent of this provision.

Tolerances have been granted by the Legislature in other sections of the law, but there is no authority for a tolerance based on the possible inaccuracy of weighing devices.

LEON V. WALKER, JR.

Assistant Attorney General

December 14, 1964

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Transportation of School Children

Facts:

The superintending school committee of Town A has contracted with the superintending school committee of Town B whereby public school pupils of Town B receive public school instruction in Town A's public school system. *R.S., c. 41, § 105*. Pursuant to said agreement, Town A's school buses transport Town B's school children to the public schools in Town A.

Town A intends to utilize its buses for the additional purpose of transporting certain of Town B's school children to a parochial school in Town A, at a charge to the parents of these children. Town B has voted not to approve transportation for private school children. *R.S., c. 90-A, § 12, III, E*.

Questions:

Question No. 1:

Whether the use of Town A's school buses for the purpose of transporting Town B's public school children to the public schools in Town A constitutes a valid use?

Answer:

Yes.

Question No. 2:

Whether the use of Town A's school buses for the purpose of transporting certain of Town B's school children to a private school in Town A constitutes a valid use?

Answer:

The matter is of local import not concerning State subsidy moneys.

Reason:

Contracts for conveyance of public school children are contemplated in the law.

" . . . The superintendent of schools in each town shall procure the conveyance of all elementary school pupils residing in his town, a part or the whole of the distance to and from the nearest suitable school, for the number of weeks for which schools are maintained in each year, when such pupils reside at such a distance from the said school as in the judgment of the superintending school