

MAINE STATE LEGISLATURE

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STATE OF MAINE

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Inter-Departmental Memorandum Date June 3, 1965

To Ernest H. Johnson, State Tax Assessor

Dept. Bureau of Taxation

From Jon W. Doyle, Asst. Attorney General

Dept. _____

Subject Extension of Sales Tax to Telephone and Telegraph Service

(L.D. 1584 - H.P. 1152)

Your memorandum of May 27, 1965 poses two questions regarding the application of sales tax to telephone charges under L.D. 1584. They are as follows:

1. Will the sales tax be computed upon the charge for telephone service plus the ten per cent federal tax, or upon the charge for service before addition of the ten per cent federal tax?

The sales tax should be computed upon the charge for telephone service before the addition of the ten per cent federal tax.

Title 36, M.R.S.A. §1751, subsection 14, which now makes no specific provision for the treatment of the federal tax upon telephone service will provide under the amendment contained in section 3 of L.D. 1584, as follows:

"'Sale price' shall not include the amount of any tax imposed by the United States upon or with respect to retail sales, including sales of telephone or telegraph service, whether imposed upon the retailer or the consumer, excepting any manufacturer's or importer's excise tax" (underline indicates amendment).

The sale price therefore does not include the amount of any tax imposed by the United States upon or with respect to retail sales, including sales of telephone service. It should not be taken into consideration in computing the sales tax.

2. Whether, since section 1951 of Title 36 requires every retailer to file, on or before the fifteenth of each month, a report of "the total sale price of all sales made during the preceding calendar month", the telephone company should report on the basis of actual services rendered in the preceding calendar month or on the basis of billings to subscribers during the previous month.

Ernest H. Johnson, State Tax Assessor June 2, 1965

L.D. 1584 provides that the effective date of the application of the sales tax to telephone and telegraph services shall be on the basis of ". . . telephone and telegraph services first billed on or after July 1, 1965."

It is my interpretation, because of the particular language used, that the Legislature intended that the telephone company report be based upon billings to subscribers during the previous month rather than on actual services rendered during that period.

By the use of this language we must conclude that the Legislature intended that the tax liability of the telephone and telegraph company accrued at the time of billing rather than at the time of the rendition of the service.

Therefore the telephone and telegraph company should report on or before the fifteenth day of each month the total sale price based on all billings made during the previous calendar month.

JRD:epd

STATE OF MAINE

Inter-Departmental Memorandum Date May 27, 1965

To Jan B. Doyle, Assistant Attorney General Dept. Bureau of Taxation

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

Subject Extension of sales tax to telephone and telegraph service (S.B. 154 - R.P. 1152)

Several questions have arisen regarding the application of the sales tax to telephone charges under the above bill, as follows:

1. Will the sales tax be computed upon the charge for telephone service plus the 10% federal tax, or upon the charge for service before addition of the 10% federal tax? Subsection 14 of section 1752 of Title 36 says that sale price "shall not include the amount of any tax imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer, excepting any manufacturers' or importers' excise tax." Are we correct in assuming that this would eliminate the 10% federal tax from the sales tax base?

2. Section 1951 of Title 36 requires every retailer to file, on or before the 15th of each month, a report of "the total sale price of all sales made during the preceding calendar month. . . ." The question arises whether, in applying the sales tax to telephone service, "sales made during the preceding calendar month" refers to service rendered during that period, or to billings of subscribers during the previous month. We assume from any commonsense or practical standpoint that it would apply to the latter, particularly in view of section 10 of the bill which provides that "This Act shall become effective as to telephone and telegraph charges first billed on or after July 1, 1965." Are we correct in assuming that the tax liability of the telephone company accrues at the time of billing, rather than at the time the service was rendered, and that consequently the telephone company should report on or before the 15th day of each month on all billings made during the previous calendar month?

EHS:J