

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

September 4, 1968  
Bureau of Taxation

Ernest H. Johnson, State Tax Assessor

SUBJECT: Taxation of jet fuel sold from federally bonded storage facilities.

*SYLLABUS:*

JET FUEL IMPORTED, STORED AND EXPORTED "IN BOND" IS NOT SUBJECT TO TAXATION BY THE STATE OF MAINE.

*FACTS:*

You have inquired whether the Maine Gasoline Tax, 36 M.R.S.A. §§ 2901-2913 applies to jet fuel withdrawn from federally bonded storage at Bangor International Airport and used in international carriers.

We have received an outline of anticipated operations by Humble Oil and Refining Company part of which is quoted as follows;

"The city of Bangor arranged for customs people to be assigned to Bangor International Airport on July 1, 1968. Humble will lease storage facilities at the International Airport and title to the fuel will remain in Humble until it is delivered to an eligible airline flight. There will be separate storage and handling facilities for bonded and domestic jet fuel at Bangor. All bonded fuel will be subject to supervision and control of customs officials insuring compliance with the Tariff Act of 1930 (See 19 USCA Sections 309, 311) and related regulations, which provide freedom from internal revenue taxes and custom duties on supplies withdrawn from bonded storage when sold for use as fuel in certain vessels and aircraft. Humble will have required bonds on deposit which will be conditioned upon compliance with laws and regulations relating to the custody and safekeeping of the bonded products and to its proper withdrawal and ultimate use as fuel supplies.

1. Bonded tank truck delivery from our Everett, Massachusetts, bonded storage.
2. Tanker to Searsport, Portland, or Bucksport, Maine; pipeline delivery from Searsport or Portland to Bangor; tank truck delivery from Bucksport to Bangor.
3. Barge deliveries from Everett to Bangor.

Whichever delivery method is finally employed, our operations will be subject to and in accordance with applicable customs regulations governing bonded operations. Such operations are mainly controlled by Parts 18 and 19, Volume 19, of the Code of Federal Regulations. These detailed provisions completely cover the entire handling process of bonded products, depending upon the circumstances of each operation, and insure strict control by the Customs Service."

It appears that all fuel used in the manner described above will be imported to the State of Maine in bond and exported under federal control and supervision.

*QUESTION:*

Whether jet fuel imported, stored and exported "in bond" is subject to Maine taxes.

ANSWER:

No.

REASONS:

A state is prohibited from taxing imports or exports. *Constitution of the United States, Article I, Section 10*. The nature of the fuel to be the subject of sales at the Bangor International Airport is such that prior to its entry into the State of Maine and during the time of storage and withdrawal it is under the control and supervision of the United States Customs Service and subject to federal law and regulations. *19 USCA Section 309 and 311. 19 CFR Parts 18 and 19*. The property is treated pursuant to federal law as being in a constant state of exportation and therefore is said never to come to rest within the State of Maine. Since the fuel travels "in bond" upon its importation into the state, it never becomes a part of the common mass of property subject to taxation in the state. See *McGoldrick v. Gulf Oil Corporation*; 309 U.S. 414 (1940).

In order for the Excise Tax on gasoline to apply in this situation there must be a use or sale of the fuel in Maine. See *36 M.R.S.A. § § 2903, 2902 (3)*. Since there is no use or sale in Maine the fuel is not subject to the gasoline tax.

For the same reasons, the fuel is not subject to the Sales and Use Tax Law provisions of *36 M.R.S.A. § 1760 (8)*.

Neither is the fuel subject to property taxation while in the process of exportation.

CONCLUSION:

Property imported stored and sold in bond is therefore not subject to state taxation until such time as the property comes to rest within the state and can be considered part of the common mass of property subject to taxation.

JAMES M. COHEN  
Assistant Attorney General

September 30, 1968  
Water and Air Environmental  
Improvement Commission

Henry Mann, Chemist

Enforcement of Water Improvement Timetables.

SYLLABUS:

Dischargers, into water reclassified after January 1, 1967, face administrative enforcement action by the WAEIC if they fail to comply with applicable cleanup timetables. The Commission has no power to extend the dates within which such compliance may be had, but, after notice and hearing, may order compliance with an accelerated timetable.