

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

OPINION OF THE ATTORNEY GENERAL

October 1, 1969

Ernest H. Johnson, State Tax Assessor

Bureau of Taxation

Phillip M. Kilmister, Asst. Atty. Gen.

Real Estate Transfer Tax

SYLLABUS:

THE REAL ESTATE TRANSFER TAX DOES NOT APPLY TO THE VALUE OF PERSONAL PROPERTY INCLUDED WITHIN A GRANT OF REALTY.

FACTS:

A deed conveys two parcels of land together with buildings thereon. In said deed, the grantor also conveys "all furnishings and personal property including kitchen and dining utensils and dishes, all linen and bedding, and all tools and equipment presently located on the property. Also a 30 ft. Richardson cabin cruiser, a 26 ft. heavy wood boat and a 21 ft. pen yan and a 14 ft. boat Old Town."

QUESTION:

Does the real estate transfer tax apply to the value of personal property included in the above-designated conveyance of real estate?

ANSWER:

No.

OPINION:

The Legislature in 1967 (P. & S. L., c. 154, 8H) established the real estate transfer tax. The terms of said Act indicate a clear legislative intent to levy a tax only upon transfers of realty. This Act was repealed and replaced by P. L. 1967, c. 537 (36 M.R.S.A. §4651 et seq. in supp.), however the tax base or value upon which a transfer tax is to be assessed was in no manner broadened by the Legislature to include the valuation of personal property contained in real estate transfers.

Section 1 of P. L. 1967, c. 537 reads as follows:

"There is imposed, on each deed, instrument or writing by which any lands, tenements or other realty sold shall be granted, assigned, transferred or otherwise conveyed to, or vested

OPINION OF THE ATTORNEY GENERAL

Ernest H. Johnson, State Tax Assessor
Subject: Real Estate Transfer Tax
Page two

October 1, 1969

in, the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest on property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of the sale, exceeds \$100, a tax at the rate of 55¢ for each \$500 or fractional part thereof. (emphasis supplied).

The transfer of household furnishings and watercraft, although included in the same conveyance with the grant of realty, is entirely separate therefrom, and not subject to taxation under the above-quoted statutory language.

Phillip M. Kilmister
Assistant Attorney General

PMK:lpn