

# 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)

STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

The remaining item is that of being necessary for the purposes of carrying out the duties of the Aeronautic Commission. Note 6 M.R.S.A. § 2, wherein are set out general duties, (1) general progress in aviation; (2) development of aviation; (3) effecting uniform regulations throughout the state; (4) providing protection and promotion of public interest and safety in the operation of aircraft. More specific language is found in 6 M.R.S.A. § 42, but it all relates back to § 2. The Commission has responsibility for care and supervision of state-owned planes, except those owned or operated by Inland Fisheries and Game, Sea and Shore Fisheries or Forestry.

A thorough analysis of Title 6 reveals no language that can be construed as authorizing the purchase from the Aeronautical Fund of aircraft for use of the Governor and state agencies having no aircraft.

Very truly yours,

GEORGE C. WEST

Deputy Attorney General

October 15, 1969  
Bureau of Taxation

Thomas S. Squires, Asst. Director,  
Sales & Use Tax Division

Tax Status Under Sales and Use Tax Law of Pre-primary Non-profit Educational Institutions

*SYLLABUS:*

A PRE-PRIMARY NON-PROFIT EDUCATIONAL INSTITUTION DOES NOT QUALIFY FOR SALES AND USE TAX EXEMPTION AFFORDED "SCHOOLS" UNDER 36 M.R.S.A. § 1760 SUB. 16.

*FACTS:*

A pre-primary non-profit educational institution prepares children for entrance to primary schools. The assumption is made that the institution meets all other qualifications for a school. A ruling has been requested by the institution's Secretary-Treasurer to the effect that sales to that educational institution be tax exempt and that a certificate of exemption be issued.

*QUESTION:*

Are sales to pre-primary non-profit educational institutions tax exempt under the State of Maine Sales and Use Tax Law?

*ANSWER:*

No.

*REASONS:*

Sales to schools are exempted from Sales and Use Tax Law 36 M.R.S.A. § 1760 Sub. 16. The cited sub-section includes a definition of schools which reads as follows:

“ . . . ‘Schools’ mean incorporated nonstock educational institutions, including

institutions empowered to confer educational, literary or academic degrees, which have a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year, *which keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank*, no part of the net earnings of which inures to the benefit of any individual.” (Emphasis supplied).

The above definition establishes certain criteria which must be met before an educational institution can be considered a “school” under the Sales and Use Tax Law. We have been asked to assume that all qualifications have been met except that which relates to entrance requirements. Exemptions to tax laws must be construed strictly. The educational institution requesting the tax exemption certificate does not keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank; therefore the institution does not meet all the requirements established by 36 M.R.S.A. § 1760 sub. 16 for tax exempt status and the tax exemption certificate must be denied.

JEROME S. MATUS  
Assistant Attorney General

October 15, 1969  
Maine State Retirement System

E. L. Walter, Executive Secretary

State Income Tax on State Retirement System Benefit Payments

**SYLLABUS:**

STATE RETIREMENT SYSTEM BENEFIT PAYMENTS IN EXCESS OF CONTRIBUTIONS ARE NOT EXEMPT FROM THE MAINE STATE INCOME TAX. ONLY THOSE BENEFIT PAYMENTS WHICH ARE INCLUDABLE FOR FEDERAL TAX PURPOSES WILL BE INCLUDABLE FOR MAINE INDIVIDUAL INCOME TAX PURPOSES. SUCH BENEFIT PAYMENTS ARE NOT SUBJECT TO THE WITH-HOLDING PROVISIONS OF CHAPTER 827 OF THE LAW.

**FACTS:**

Pursuant to Chapter 101 of Title 5 M.R.S.A., the State retirement system provides various benefit payments, both retirement and disability, for qualifying State of Maine employees. Section 1003 of the law states:

“The right of a person to a retirement allowance, such retirement allowance itself, to the return of contributions, any optional benefit or death benefit or any other right accrued or accruing to any person under this chapter, and the moneys in the various funds created thereby, shall be exempted from any state, county or municipal tax in the State, and shall not be subject to execution, garnishment, attachment or any other process whatsoever, and shall be unassignable except as this chapter specifically provides.”

On June 28, 1969 the 104th Legislature passed a personal and corporate income tax law which took effect as to individuals on July 1, 1969. 36 M.R.S.A., Chapters 801-839.