

MAINE STATE LEGISLATURE

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Joe. Jubb OFFICE OF THE ATTORNEY GENERAL
kw

February 28, 1974

To: Ernest H. Johnsen, State Tax Assessor Bureau of Taxation
From: John M. Dudley, Asst. Atty. Gen. Bureau of Taxation
Subject: Effect of Chapter 592, Public Laws of 1973, on State Valuation of Municipalities

yes

SYLLABUS:

36 M.R.S.A. SECTION 381 PROVIDES THAT THE STATE TAX ASSESSOR SHALL FILE A STATE VALUATION BEFORE FEBRUARY 1, 1975.

INVENTORIES, STOCK IN TRADE, AGRICULTURAL AND FOREST PRODUCTS AND LIVESTOCK SHOULD NOT BE INCLUDED IN THE STATE VALUATION TO BE FILED BEFORE FEBRUARY 1, 1975.

FACTS:

36 M.R.S.A. Section 655, sub-section 1, paragraphs A, B, C & D as enacted by Section 13 of Chapter 592 of the Public Laws of 1973 exempts inventories, stock in trade, agricultural and forest products and livestock from taxation under the general property tax law.

36 M.R.S.A. Section 455 as enacted by Chapter 592, Section 4-A of the Public Laws of 1973 provides as follows: "Personal property otherwise exempt from taxation under Section 655, sub-section 1, paragraphs A, B, C & D shall be subject to a tax commencing April 1, 1974 and continuing until April 1, 1976 for the tax year ending March 31, 1977 . . . In municipalities the tax provided in this section shall be assessed by the municipal assessor and committed to the municipal tax collector . . ." This is an additional state property tax.

QUESTION:

Whether the next State Valuation of Municipalities, to be filed before February 1, 1975, is to reflect the valuation of the personal property exempt from the general property tax but subject to the special property tax under Chapter 592 Public Laws of 1973?

ANSWER:

No.

REASONS:

36 M.R.S.A. Section 383 as amended provides as follows:

"The municipal assessors and the assessors of primary assessing areas shall, at such times as the State Tax Assessor may require, make and return on blank lists

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which shall be seasonably furnished by the said State Tax Assessor for that purpose, all such information as to the assessment of property and collection of taxes as may be needed in the work of the State Tax Assessor, including annually, the land value, exclusive of buildings and all other improvements, and the valuation of each and every class of property assessed in their respective jurisdictions, with the total valuation and percentage of taxation, together with a statement to the best of their knowledge and belief of the ratio, or percentage of current just value, upon which the assessment is based, an itemized list of property upon which the town has voted to affix a value for taxation purposes."

36 M.R.S.A. Section 381 as amended provides in part as follows:

"A statement in the amount of the assessed valuation for each town, township and lot or parcel of land in any unorganized township and lot or parcel of land not included in any township, after adjustment as provided by section 208, the aggregate amount for each county, and for the entire state as fixed by the State Tax Assessor, shall be certified by the State Tax Assessor and deposited in the office of the Secretary of State as soon as completed, and before the first day of February of the regular sessions of the Legislature. The valuation thus determined shall be the basis for the computation and apportionment of the State and County taxes, and the school subsidy formulae in Title 20, until the next biennial assessment and equalization" (emphasis supplied)

From reading Sections 383 and 381, it would appear that the State valuation is to be based on the information contained in the lists filed by the municipal assessors and the assessors of the primary assessing areas.

36 M.R.S.A. Section 381, clearly states "The valuation thus determined shall be the basis for the computation and apportionment of the State and County taxes, and the school subsidy formulae...."

Under 36 M.R.S.A. Section 208, this is the State Valuation.

If the personal property exempted under 36 M.R.S.A. Section 655, sub-section 1, paragraphs A, B, C & D, to wit: Inventories, stock in trade, agricultural and forest products and livestock, reflect in the

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State Valuation, their value would be part of the basis for the computation and apportionment of the State tax.

36 M.R.S.A. Section 455, clearly describes the tax on inventories, stock in trade, agricultural and forest products and livestock as an "Additional State Property Tax" and further provides that it shall be assessed and collected at the local level except for the unorganized areas.

"A statute imposing taxes is not to be interpreted by its own language alone, but in connection with other tax statutes prior and contemporaneous, and also in the light of contemporaneous and subsequent practical understanding of it by taxing officers and the public."

Inhabitants of East Livermore vs. The Livermore Falls Trust & Banking Co. 103 Me. 418.

We interpret 36 M.R.S.A. Section 655, sub-section 1, paragraphs A, B, C & D Public Laws of 1973 as exempting inventories, stock in trade, agricultural and forest products and livestock from taxation under the general property tax law.

We also interpret 36 M.R.S.A. Section 455 as subjecting inventories, stock in trade, agricultural and forest products and livestock to an additional State Property Tax to be collected at the local level except for the unorganized areas.

Thus we have a state tax being assessed and collected at the local level. If the valuation of inventories, stock in trade, agricultural and forest products and livestock is included in the State Valuation we will have double taxation on this property.

"Tax statutes are to be construed strictly against the State, and especially are they to be so construed as to avoid double taxation unless their language interpreted according to recognized principles of statutory interpretation compels a contrary construction." Inhabitants of East Livermore vs. The Livermore Falls Trust & Banking Co. 103 Me. 418

The State Valuation is based on property subject to taxation under the general property tax laws. Inventories, stock in trade, agricultural and forest products and livestock are tax exempt under the general property tax laws, and are taxable only for a state tax once. This state tax is assessed and collected pursuant to 36 M.R.S.A. Section 455.

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Assessment cannot be made under both 36 M.R.S.A. Section 455
and 36 M.R.S.A. Section 451, as this would result in double taxation
on the same property.


John M. Dudley
Assistant Attorney General

JMD:gr
cc: Attorney General