

# MAINE STATE LEGISLATURE

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October 17, 1974

Keith Ingraham, Director

Bureau of Alcoholic Beverages

Harrison B. Wetherill, Jr., Asst.

Attorney General

Excise Tax Refund

You have asked whether a wholesale licensee, having paid an excise tax on imported malt liquor or table wine, qualifies for a mandatory excise tax refund under 28 M.R.S.A. § 452 by returning the malt liquor or table wine to an agent of the manufacturer within the boundaries of the State of Maine. The answer to this question is no.

Under 28 M.R.S.A. § 603, no foreign manufacturer or wholesaler may ship or cause to be transported into the State of Maine any malt liquor or table wine until the Liquor Commission has certified that the excise tax has been paid or that the Maine wholesale licensee, to whom shipment is to be made, has filed a bond to guarantee payment of the excise tax. 28 M.R.S.A. § 602 states that the purpose of § 603 is to regulate the importation, transportation, and sale of malt liquor and table wine, and in addition thereto, to regulate and control the collection of excise taxes. The above provisions have been in effect in substantially the same form since prior to 1944 (See Revised Statutes 1944, Chap. 57, § 16) and indicate a legislative intent to prevent the entry into the State of Maine of any malt liquor or table wine, in suitable containers for retail sale, without the excise tax thereon having been paid or such payment having been assured by filing of a bond. Under § 603 the state line is the control point for regulating the collection of excise taxes.

In 1947 (See Public Laws 1947, Chap. 195) 28 M.R.S.A. § 452 was amended by the addition of the following language:

"[The Commission] shall refund all excise tax paid by the wholesale licensee on all malt liquor or table wine returned to the manufacturer in original containers, if credit is issued and allowed for same by the manufacturer, upon the filing of affidavits in such form as they may prescribe.

The above language indicates no intent on the part of the legislature to deviate in any way from the pre-existing use of the State line as the control point for regulating the collection of excise taxes.

You have indicated that the Commission has interpreted the requirement that the malt liquor or table wine be returned to the manufacturer, prior to an excise tax refund to mean that the beverage must be returned to the manufacturer outside of the State, thus insuring removal from within the State of any beverage on which a refund is allowed. I concur with the Commission's interpretation.

HBWJr/mf