

MAINE STATE LEGISLATURE

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Municipalities Property Tax rate differences
Me. Const. Art. IX sec. 8

Taxation Inventories

STATE OF MAINE

3 (MR) A 455 Inter-Departmental Memorandum Date February 24, 1977

To John P. O'Sullivan, Commissioner Dept. Finance & Administration

From Joseph E. Brennan Dept. Attorney General

Subject Tax rate of optional local property tax

This is in reply to your request for an opinion on the following question.

QUESTION:

Is the Legislature restricted in either setting the mill rate itself or in granting municipalities the right to set the mill rate of an optional local property tax on those categories of property formerly subject to taxation under 36 M.R.S.A. § 455 (Supp. 1973)?

ANSWER:

The Legislature must require the mill rate of an optional local property tax upon those categories of property formerly subject to taxation under 36 M.R.S.A. § 455 (Supp. 1973) to be set at the same municipal tax rate as is applied to all other property which is subject to municipal property taxation.

STATUTORY BACKGROUND:


36 M.R.S.A. § 455 (Supp. 1973) created an additional state tax on inventory, stock in trade, livestock, agricultural produce and forest products. The tax created by § 455 terminates on the tax year ending March 31, 1977. 36 M.R.S.A. § 655 (Supp. 1973) exempts the same property taxed under § 455 from property taxation.

REASONING:

The Supreme Judicial Court has interpreted Me. Const. Art. IX, § 8 to prohibit taxation of one class of property at a higher rate than is applied to all other classes of property. Opinion of the Justices, 123 Me. 573, 577 (1923). This office concluded in a prior opinion (attached to this opinion) that "[t]he provisions of . . . Art. IX, § 8 apply only to the particular taxing jurisdiction which is subjected to the burdens of a tax." Thus, any municipality which imposes a municipal property tax, in addition to any state, county or special district taxes, must apply a constant municipal tax rate to all non-exempt property.

The categories of property formerly subject to State property taxation under 36 M.R.S.A. § 455 (Supp. 1973) are presently exempt from municipal property taxation. 36 M.R.S.A. § 655 (Supp. 1973). A municipality which, pursuant to legislative authorization, elects to impose a municipal property tax on those categories of property formerly subject to State property taxation under § 455 is restricted in the rate which it can apply to those categories of property. The mill rate of such an optional tax must equal the municipal tax rate that is applied to all other non-exempt property. The municipal tax rate is

the mill rate (at 100% valuation) which a municipality imposes in excess of any state, county or special district rate. The restrictions on the rate of an optional tax can be emphasized by explaining the impact of those restrictions on a hypothetical municipality. For example, Municipality A has a total effective tax rate of 35 mills. However, state, county and special district taxes comprise 25 mills of that total rate. Thus, Municipality A has adopted a 10 mill rate (35 minus 25) to fund municipal services. If Municipality A imposes an optional municipal property tax on those categories of property formerly subject to State property taxation under § 455, then the municipality must apply a 10 mill rate to that property.



JOSEPH E. BRENNAN
Attorney General

JEB:spa
Att.