

MAINE STATE LEGISLATURE

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28 M.R.S.A. § 452
STATE OF MAINE

Inter-Departmental Memorandum Date February 23, 1978

To Keith H. Ingraham, Director

Dept. Bureau of Alcoholic Beverages

From Jerome S. Matus, Asst. Atty. Gen.

Dept. Bureau of Taxation-Attorney General

Subject State Excise Tax Refund

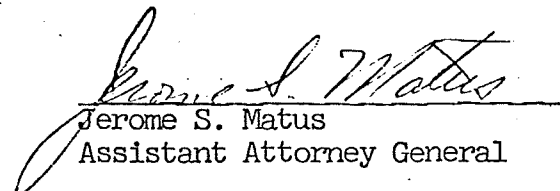
In your memorandum under date of February 9, 1978 you ask, in essence, whether or not a wholesaler is entitled to a refund of the state excise tax on malt liquor when the manufacturer or brewery does not give the wholesaler a credit or refund for the purchase of said malt liquor.

The answer to your question is in the negative.

Section 100-A of c. 564 of P.L. 1977 amended the fifth paragraph of 28 M.R.S.A. §452 to read as follows:

"The commission is authorized to give such proper credits and to make such proper tax adjustments as they may from time to time deem the wholesale licensee to be entitled to upon the filing of affidavits in such form as they may prescribe and shall refund all excise tax paid by the wholesale licensee on all malt liquor or table wine caused to be destroyed by a supplier as long as the quantity and size are verified by the Bureau of Alcoholic Beverages and the destruction is witnessed by an inspector of the bureau if credit is issued and allowed for same by the manufacturer." (emphasis supplied)

The terms of the above-quoted statutory language which establish the basis for a refund of the excise tax on malt liquor are conjunctive rather than disjunctive in nature, and clearly provide as a necessary ingredient for the granting of a tax refund to a wholesaler, that the manufacturers of said malt liquor give the wholesaler a credit for same.


Jerome S. Matus
Assistant Attorney General

JSM:dp