

# MAINE STATE LEGISLATURE

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## STATE OF MAINE

29-83

Inter-Departmental Memorandum Date April 30, 1979To Stephen J. Murray, Jr.Dept. Property TaxFrom C.B. Olson, AssistantDept. Attorney GeneralSubject Property tax status of Comsat antennas

You have asked whether Chapter 595 of the Public Laws of 1977, which expressly provides that municipalities shall tax as real property "microwave towers or similar towers" owned by telephone and telegraph companies, authorizes the Town of Andover to assess real property tax upon antennas owned by the Communications Satellite Corporation (Comsat) and located in that town. My understanding is that the structures in question are dish-shaped antennas approximately ten stories high which rest on low bases which are, in turn, affixed to ledge.

The legislative history of Chapter 595 is revealing in terms of the question presented. The original bill, L.D. 1932, was altered by Committee Amendment "A" to encompass within taxable real property microwave towers or similar towers, "together with the equipment attached to these towers". Senate Amendment "A" to Committee Amendment "A" would have replaced the word "attached" with the word "affixed" for the purpose of "[making] certain that municipalities may tax only that equipment which is affixed on a microwave tower." However, Senate Amendment "B" to Committee Amendment "A" struck out the words "together with the equipment attached to these towers", because "[t]he dishes or horns located on microwave towers have always been considered 'central office equipment'; they are part of the line that receives and transmits microwave signals; therefore, they have never been considered 'real property' and consequently come under the gross receipts tax." Chapter 595 was enacted without the language of Committee Amendment "A" referring to equipment. This history indicates a legislative intent that municipalities should tax the towers which hold transmitting and receiving equipment but not the equipment itself. Consequently, I conclude that the Comsat antennas, insofar as they consist of receiving and transmitting equipment, are not real property subject to municipal taxation but personal property exempted from municipal taxation by the telephone and telegraph tax law.

Furthermore, considerable doubt exists as to whether even the "towers" on which the Comsat antennas rest are within the expanded real property tax base resulting from Chapter 595. The original bill would have expanded the tax base to include "structures affixed to land", but Committee Amendment "A" replaced this language with the words "microwave towers or similar towers", apparently for the purpose of clarifying the intent of the bill. The dual use of the word "tower" in lieu of more general language suggests that the legislature intended to reach only towers and not all structures similar (e.g. in function, if not in physical characteristics) to microwave towers. The word "tower" is not defined in either the property tax law or the telephone and telegraph tax law, and

therefore, recourse must be had to the dictionary meaning. Webster's Seventh New Collegiate Dictionary defines "tower" as

a building or structure typically higher than its diameter and high relative to its surroundings that may stand apart..., or be attached... to a larger structure, and that may be a skeleton framework (as an observation or transmission tower).

To the extent that the Comsat antenna bases, in the absence of the transmitting or receiving equipment, are neither higher than their diameters nor high relative to their surroundings, I conclude that they do not constitute "towers" and are therefore not affected by Chapter 595.

CBO:cc