

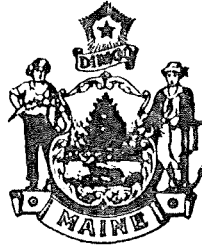
MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

JAMES E. TIERNEY
ATTORNEY GENERAL



Liber
81-6

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

January 19, 1981

R. L. Halperin
State Tax Assessor
Department of Finance and Administration
State Office Building
Augusta, Maine 04333

Dear Mr. Halperin:

Your memorandum of December 10, 1980, asks several questions regarding the recently effective Indian land claims legislation. That legislation is found in P.L. 1979, Chapter 732, effective December 12, 1980 and known as "The Maine Implementing Act" and P.L. 96-420 known as "The Maine Indian Claims Settlement Act." Those two acts, taken together, provide the jurisdictional framework governing the State's relationship with the Passamaquoddy Tribe and Penobscot Nation.

Generally, those acts provide that the two Tribes will be the functional equivalents of municipalities having the same rights, powers, duties and limitations as municipalities. Their municipal lands will consist of the current Reservations plus any land acquired in the future in Indian Territory. The lands eligible for inclusion in Indian Territory in the future are specifically identified in Section 6205 of the Maine Implementing Act.

With the above general outline in mind, I have set forth below the questions posed by you and our answers to each.

1. Should a value be included in the 1981 State Valuation for the Indian Reservations as they currently exist, and any lands in the Indian Territory as they are acquired?

As of December 12, 1980, the Indian Tribes are legally the functional equivalents of municipalities. The 1981 State Valuation should thus include their Reservations plus any other lands in Indian Territory (as defined in Chapter 732) held by them as of the valuation date. At the present time the Tribes have not acquired any lands in Indian Territory. As they do so the Secretary of

Interior is required to notify the Maine Secretary of State. In that way, the State of Maine will be officially notified as the Tribes acquire new lands in Indian Territory.

2. Will the provisions of the Maine Tree Growth Tax Law apply to the forested land within the Indian Territory?

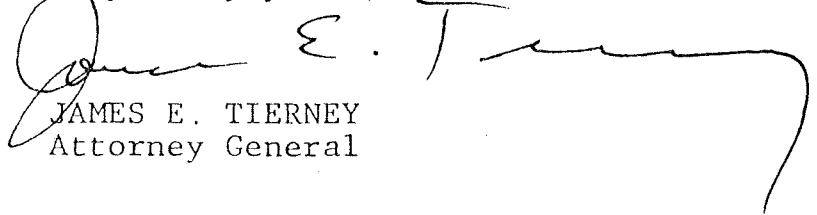
Chapter 732 provides that, except where otherwise specified, all Maine laws apply in Indian Territory. Since there is no exception with respect to Tree Growth Tax, 36 M.R.S.A. §§ 571-584-A, the provisions of that Act are to be applied in determining the value of forest land in Indian Territory.

3. Will assessment records be maintained by the Tribes within the Indian Territory, said records being the basis of State Valuation?

Under Chapter 732, the Tribes have all the powers of municipalities, including the power to tax. In this case, however, the land within the Tribal "municipality" will either be owned by the Tribes or the Secretary of Interior in trust for the Tribes. Thus, the Tribes will probably not be imposing a property tax and will in all likelihood not undertake any actual assessment other than for purposes of initial land acquisition as part of the settlement. Therefore, we expect that the Tribes, unlike other municipalities, will not maintain assessment records. In anticipation of this reality, Chapter 732 provides in Section 6211(1) that the municipal property value for Indian Territory is to be prepared by the State Tax Assessor.

I hope this answers your questions. If you need further guidance, please feel free to contact us.

Very truly yours,


JAMES E. TIERNEY
Attorney General

JET:mfe