

Leg. Finance - Finance Comte Files (1971-72) 8879

HB 115 cont., 119

1955)

(§ 26-1-23 MCHA 1949; am § 2 on 10 STA 1951; § 1 on 12 STA
any to perform the act in respect to which the violation occurs.
person, when as officer, agent, employee, or member, is under
force of a corporation or a member, agent, or employee of a part-

(2) In this section "person" includes an officer, agent, or em-
ployee.
and
delinquency (in addition to the delinquency) shall be assessed and
tent to evade the tax, then 50 per cent of the total amount of the
(1) If a part of a delinquency in the tax is due to fraud with in-
the penalties provided for perjury under the laws of the state.
matter is guilty of a felony, and upon conviction is subject to
he does not believe to be true and correct as to every material
(a) A person who willfully makes and subscribes a return which

procurement
for not less than one year, or by both, together with the cost of
punishable by a fine of not more than \$1,000, or by imprisonment
provided by law, either of a misdemeanor, and upon conviction is
required by law or regulations; in addition to other penalties
required records, or supply the required information at the time
or person, but the owner may make a return, keep or display the
by the chapter who wishes to obtain the license certificate
company, assessment, or collection of the entire tax imposed
return, keep or display records, or supply information for the
(2) A person required under this chapter to pay a tax, make
to whom the taxes on which the taxes were not paid were sold,
of liquor during in the possession of the vendor or other buyer
may sell, consume, and sell an equal quantity of the same kind
found, if the liquor are not found or not identified, the state
without regard to where or in whose possession the liquor are
pay the payment of the taxes and the costs of the proceedings;
upon the liquor, and may sell, consume, and sell them to sell-
inexpensive liquor which are sold to him. The state has a lien
(a) The holder of liquor is severally liable for the taxes on

for liquors of state or foreign
of or within the state or without having complied with other
not continue possession to sell intoxicating liquors in the state
and on liquor from the department, the license certificate was
and the holder of the license shall be liable for the taxes on
to sell or consume, and sell an equal quantity of the same kind
found, if the liquor are not found or not identified, the state
without regard to where or in whose possession the liquor are
pay the payment of the taxes and the costs of the proceedings;
upon the liquor, and may sell, consume, and sell them to sell-
inexpensive liquor which are sold to him. The state has a lien
(a) The holder of liquor is severally liable for the taxes on

Introduced: 1/29/71
Referred: State Affairs and
Finance

BY FISCHER, BANFIELD, BARBER, BOWMAN,
FARRELL, FERGUSON, FINK, HILLSTRAND,
HOLM, HUBER, KERTTULA, MCGILL, E. MILLER,
M. MILLER, MOORE, MOSES, NAUGHTON,
PERATROVICH, REED, ROSE, SPECKING,
SWANSON, TILLION, WARWICK, WHITTAKER
AND WRIGHT

1 IN THE HOUSE

2 HOUSE BILL NO. 115

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to excise tax credits on alcoholic
7 beverages; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 43.60.020(c), (d) and (e) are repealed.

10 * Sec. 2. This Act takes effect on May 1, 1971.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

OPINION

STATE OF NORTH DAKOTA
Office of Attorney General
BISMARCK

Leslie R. Burgum
Attorney General

August 21, 1959

DEPT. OF REVENUE
RECEIVED
JAN 6 10 37 AM '60
JOURNAL, ALASKA
FILE _____

Mr. John R. Erickson
State Treasurer
Bismarck, North Dakota

Dear Mr. Erickson:

We have received your letter of July 16, wherein you ask the following questions:

1. Are officers and non-commissioned officers clubs on military bases in this state exempt from payment of our state beer and liquor tax?
2. Is the North Dakota National Guard exempt from state beer and liquor taxes?

In answer to your first question it should be noted that we have no statute exempting officers clubs and non-commissioned officers clubs from the payment of state beer and liquor taxes. Legislation has been introduced at the last two legislative sessions in this state seeking tax exemption from beer and liquor taxes on the air bases in Minot and Grand Forks, but no exemption was authorized by the legislature. It should further be noted that all military installations in this state are on deeded land with the exception of Fort Lincoln south of Bismarck and the federal government has not claimed exclusive jurisdiction thereon. It should perhaps also be mentioned that while post exchanges and other such government outlets are generally considered instrumentalities of the federal government, officers and non-commissioned officers clubs are not.

Many states have passed statutes exempting all outlets on military bases or installations from payment of beer and liquor taxes and in those states, of course, there is no problem. However, in most of the states where no exemption has been granted, officers and non-commissioned officers clubs are required and do pay beer and liquor taxes.

8/21/55

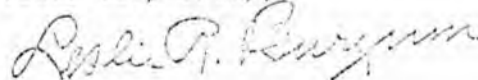
Subsection 2 of the Twenty-first Amendment to our federal constitution provides, "The transportation or importation into any state, territory or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof is hereby prohibited."

While it is true that a state relinquishes jurisdiction over land areas in which military installations are established the state does not lose control of alcoholic beverages thereon because of the right given the states in that respect by the Twenty-first Amendment. Only an act of the state legislature can grant tax exemption on alcoholic beverages.

For the above stated reasons it is our opinion that officers and non-commissioned officers clubs located on military bases in this state are not exempt from the payment of state beer and liquor taxes.

In answer to your second question, we can only say that the National Guard of North Dakota is state controlled and could not be defined as an instrumentality of the federal government, and thus cannot without legislative enactment be granted tax exemption from state taxes on beer and liquor.

Yours very truly,



Leslie R. Burgum
Attorney General

LRB:L

STATE OF ALASKA
DEPARTMENT OF REVENUE

ALASKA REVENUE DEPARTMENT

Form 10 - 1963 (REV)

September 24, 1968

Colonel Frank C. House
Attn: J-1
Headquarters, Alaskan Command
Elmendorf Air Force Base, Alaska 99506

Dear Colonel House:

Reference is made to our conversation held here back at the Base concerning a letter dated August 14, 1968 from Mr. G. A. Morrison, Commissioner of Revenue, State of Alaska addressed to Lt. General R. A. Breitwieser, Commander in Chief, Headquarters, Alaskan Command and a letter dated August 19, 1968 from Lt. General R. A. Breitwieser to Mr. G. A. Morrison, Commissioner of Revenue regarding an examination of the purchase orders, invoices and such records relative to alcoholic beverages purchased by military clubs or other authorized beverage dispensers on military, naval, or air force reservations in the State of Alaska.

Alaska Statutes Section 43.05.020 (c) provides as follows:

"When brewer, distiller, bottler, jobber, wholesaler, retailer, importer, or consignor is entitled to a credit for tax on alcohol paid on alcoholic beverages which have been sold and delivered to a United States governmental operation, vessel for ship's stores, ship's service stores, and to a post exchange, officers club, non-commissioned officers club, or club maintained for enlisted personnel, and to other authorized beverage dispensers on a military, naval, air force or governmental reservation in the State when furnishing proof in the form of signed and certified inventory evidencing sales to a military, naval, air force or governmental liquor dispensary"

For the fiscal year 1967-68 total credits allowed on sales of liquor in Alaska amounted to the sum of \$336,731.11 based on gallonage sales of alcoholic beverages. The total credit allowed on such sales to the military in Alaska is about 15.04 or 1/3 by comparison to the total amount liquor excise tax of \$3,326,533.17 involved on all taxable sales.



INVOICE

A 36747

W&L DISTRIBUTORS, INC.

WHOLESALE



Importers and Exporters of Fine Liquors

2000 E. WARD WAY SO
PHONO PARKWAY 3-0000
SEATTLE WASHINGTON 98134

3000 1st Ave, Seattle

TERMS: NET CASH

F.O.B. SEATTLE, WASHINGTON

DATE	QUANTITY	UNIT PRICE	AMOUNT	DESCRIPTION	CODE	UNIT PRICE	AMOUNT
2-2-57	20	45.00	900.00	Scotch Whisky			
	2	4.50	9.00	Tomato Sauce			
			909.00				
			19.50				

WIG	13	83.75
W.D.		
WINE		
DATE	1-15-57	12.75

I hereby certify that this is a true and correct copy of invoice for Alaska Tax Purposes.

[Signature]

Date:

A 36747

NO CLAIMS ALLOWED AFTER 10 DAYS. INTEREST AT THE RATE OF 3% WILL BE CHARGED ON ALL PAST DUE ACCOUNTS.

ALASKA TAX COPY

HEADQUARTERS, ALASKAN COMMAND

APO SEATTLE 98742



9 OCT 1968

Mr. R. D. Stevenson
Chief, Excise Tax Section
Department of Revenue, State of Alaska
Pouch SA, Juneau, Alaska 99801

Dear Mr. Stevenson

This is in response to your letter of 24 September 1968 outlining the difficulties your Department would have in verifying the tax credits claimed by Alaska liquor wholesalers if you were not permitted to audit the records of our open messes. You accordingly ask that the Commander in Chief, Alaskan Command, reconsider his decision of 19 August 1968.

Your request has been given very careful consideration. It appears that if the Alaska wholesalers were required to strictly comply with Section 43.60.020(c), Alaska Statutes, there would be no need for your Department to examine the records of our military facilities. The statute requires that you be furnished signed and certified invoices evidencing sales to military facilities before the wholesaler may be awarded the tax credit. The burden would seem to be on the wholesaler to provide these necessary documents. While we must respectfully decline to permit the audit of the books of the federal instrumentalities involved, the Commander in Chief, Alaskan Command has authorized me to reaffirm his offer to furnish a copy of the purchase order or invoice concerning any specific transaction which you should question.

Similarly, if you desire to occasionally forward a copy of an invoice for verification to insure that the goods were actually received, we will be pleased to respond.

Sincerely

FRANK O. HOUSE
Colonel, USAF
Staff Judge Advocate

MEMORANDUM

State of Alaska

TO:

Nadine Williams
 Special Assistant
 House Finance Committee
 Alaska State Legislature
 Juneau, Alaska

DATE : February 5, 1971

FROM:

R. D. Stevenson
 R. D. Stevenson
 Deputy Commissioner
 Department of Revenue

SUBJECT: House Bill No. 115
 Excise Tax Credits on
 Alcoholic Beverages

Attached is a copy of the material that was furnished to the State Affairs Committee on the subject bill. In addition, I am transmitting a copy of Alaska Statutes Section 43.60.010 through 43.60.040. You will note in the underlined material that the exemption for military sales established by the 1953 amendment to AS 43.60.020 could be removed without any risk of having the amendment declared invalid as levying a tax on an instrumentality of the Federal government (1960 Op. Atty. Gen.'s No. 3).

Through 1967 the Department of Revenue made annual audits on the military bases to determine that each sale claimed by Alaskan wholesalers to the military was actually received at a military post exchange, officers' club, non-commissioned officers' club, etc. When the Department of Revenue made its annual request in 1968 the Headquarters, Alaskan Command, would not permit the Department to examine in total the records of the military facilities. Attached is a copy of a letter dated October 9, 1968 from Headquarters, Alaskan Command, concerning this matter. From that date we have been unable to physically audit the records of the military facilities.

Attached is a copy of a letter from the writer dated September 24, 1968 wherein it was requested that designated representatives of the Department of Revenue be allowed to make the annual audit of the purchase orders, invoices and records maintained by the military in Alaska as concerns alcoholic beverages purchased to verify the correctness of the credits allowed on such purchases. Attached is a copy of an opinion, while somewhat ancient, from the Office of the Attorney General in the State of North Dakota. On page 2 of such opinion it is to be noted that while it is true that a state relinquishes jurisdiction over land area on which military installations are established, the state does not lose control of the alcoholic beverages therein because of the right given the states in that respect by the 21st amendment. Only an act of the state legislature can grant tax exemptions on alcoholic beverages.

Likewise, an act of the state legislature could remove the tax exemption on alcoholic beverages.

RDS:ek

Attachments

February 5, 1960

Senator Al Owen,
Chairman, Senate Finance Committee
Federal Office Building
Juneau, Alaska

Re: Repeal of the exemption to 35-4-31,
ACLA 1949, established by Chapter 79,
SLA 1953, and extending the liquor ex-
cise tax to sales made to military agencies.

Dear Senator Owen:

We are of the opinion that the exemption to Section 35-4-31, ACLA 1949, established by Chapter 79, SLA 1953, can be removed from our present statutes without any risk of having the amendment declared invalid as levying a tax on an instrumentality of the federal government.

Section 35-4-31, ACLA 1949 as amended, provides as follows:

"Every brewer, distiller, bottler, jobber, retailer, wholesaler or manufacturer, who sells intoxicating liquors in the Territory of Alaska or consigns shipments of same into the Territory of Alaska, regardless of whether such liquors are brewed, distilled, bottled, or manufactured within or without Alaska, shall pay on all malt beverages . . . wines and hard or distilled liquors, the following prescribed taxes . . ." (Emphasis added.)

Section 35-4-32, ACLA 1949 as amended by Chapter 79, SLA 1953, prescribes the following procedure for claiming an excise tax credit where the sale is to one of the mentioned agencies:

"Provided, however, that each such brewer, distiller, bottler, jobber, wholesaler, manufacturer or other consignor shall be entitled to a credit for any and all excise taxes paid on such alcoholic beverages as may have been sold and delivered to any U.S. Government operated vessel for ships stores, ships service stores, and to any post exchange, officers club, non-commissioned officers club, or any club maintained for

Senator Al Owen

-2-

February 5, 1960

Chairman, Senate Finance Committee

(re: Repeal of exemption to 35-4-31,
ACLA 1949, established by Chapter
79, SLA 1953, etc.)

enlisted personnel, and to any and all other authorized beverage dispensers on any military, naval, air force or Governmental reservation within the Territory of Alaska upon furnishing proof in the form of signed and certified invoices evidencing such sales to such military, naval, air force or Governmental liquor dispensary."

The clear wording of Section 35-4-31, ACLA 1949, leaves little room for interpretation. The tax is levied upon "every brewer, distiller, jobber, retailer, wholesaler or manufacturer who sells intoxicating liquors . . . or consigns shipments of the same into the Territory of Alaska" and not levied upon any agency of the federal government.

However, in determining whether a tax is actually levied upon the United States or its property in violation of the federal government's constitutional immunity, the United States Supreme Court has looked to the substance rather than the form of the particular statute in order to determine whether the incidence of the tax was on a federal instrumentality. Detroit v. Murray Corp. of America, 355 US 489, 78 S.Ct. 458, 2 L. ed. 2d 441 (1957); United States v. Detroit, 355 US 466, 78 S.Ct. 474, 2 L. ed. 2d 474 (1957).

Even in view of the above cited Supreme Court cases, we are of the opinion that an analysis of the substance of Section 35-4-31, ACLA 1949 as amended, will only reveal that the liquor excise tax is not imposed on any agency or other instrumentality of the federal government. Persuasive evidence that this conclusion is correct is found in the actions of nine other jurisdictions which have levied liquor excise taxes upon sales of alcoholic beverages made to officers' clubs, messes and post exchanges located on federal reservations. Those jurisdictions which have levied such a liquor excise tax are: California, Florida, Kansas, New Mexico, Tennessee, Texas, Wisconsin, Wyoming and the District of Columbia. See Summary State Laws and Regulations Relating to Distilled Spirits, (15th ed., Oct. 1959), compiled and edited by the Distilled Spirits Institute, Inc., of Washington, D.C.

It is unlikely that any court would construe the form of the provisions of Section 35-4-31, ACLA 1949, as a tax on an instrumentality of the federal government. Even in the event that such an interpretation is made, however, the repeal of the excise tax credit allowed by Chapter 79, SLA 1953, can still be

Senator Al Owen
Chairman, Senate Finance Committee
(Re: Repeal of exemption to 35-4-31,
ACLA 1949, established by Chapter
79, SLA 1953, etc.)

-3-

February 5, 1960

sustained. An examination of the law concerning the power of the state to tax federal instrumentalities is necessary in order to set forth the basis for this decision.

As a general rule, the taxing power of a state is limited to persons and property located and acts performed within its jurisdiction. A state's power to tax is further limited by the general rule which exempts property owned by a public governmental body or a governmental agency and devoted to governmental uses. Therefore, it necessarily follows that a state and its subordinate taxing units are without power to subject to taxation the property of the Federal Government or the means, instrumentalities, and agencies which it employs to carry out its functions, unless Congress expressly confers a right upon the state to tax such agencies, instrumentalities or property. Mayo v. United States, 319 U.S. 441, 63 S.Ct. 1137, 87 L. ed. 1504 (1944); Pannhandle Oil Co. v. Mississippi, 277 U.S. 218, 48 S.Ct. 451, 72 L. ed. 857 (1927) as modified by Alabama v. King & Boozer, 314 U.S. 1, 62 S.Ct. 43, 86 L. ed. 3 (1941); Helvering v. Barrrell, 303 U.S. 218, 58 S.Ct. 539, 82 L. ed. 758 (1937).

All activities of the government constitutionally authorized by Congress stand on a parity in this respect. It is subversive of the powers of the Federal Government, and repugnant to its paramount authority in this field, for a state to attempt to lay a tax upon the instrumentalities of the Federal Government. Macallen Co. v. Massachusetts, 279 U.S. 620, 280 U.S. 513, 49 S.Ct. 432, 50 S.Ct. 14, 73 L. ed. 874, 74 L. ed. 535 (1929); Johnson v. Maryland, 254 U.S. 51, 41 S.Ct. 16, 65 L. ed. 126 (1920).

However, the present view is that a tax is not objectionable unless it is a direct and substantial burden upon the government or upon the exercise of its legitimate functions. Generally, taxes which are indirect or remote in their impact are not objectionable. Helvering v. Mountain Producers Corporation, 303 U.S. 376, 58 S.Ct. 623, 82 L. ed. 907 (1937). This appears to be true even though the economic burden of the tax finally falls upon the Federal Government. Penn Daries v. Milk Control Commission, 318 U.S. 261, 63 S.Ct. 617, 87 L. ed. 745 (1943); Alabama v. King and Boozer, 314 U.S. 1, 62 S.Ct. 86 L. ed. 3 (1941); Craves v. Texas Co., 298 U.S. 393, 56 S.Ct. 818, 80 L. ed. 1236 (1936); Oklahoma Tax Commission v. Texas Co., 336 U.S. 342, 69 S.Ct. 561, 93 L. ed. 721 (1948).

Senator Al Olson
Chairman, Senate Finance Committee

-4-

February 5, 1960

(Re: Repeal of exemption to 35-4-31,
AGLA 1949, established by Chapter
79, SLA 1953, etc.)

This immunity rests on the sovereign right of the Federal Government to hold property tax free, and it grows out of the supremacy of the Federal Government and the necessity that it be able to deal with its own property free from any interference. Statutory provisions are not necessary in order to establish such immunity. The laws of the United States, and not the laws of the state, are determinative of the issue as to immunity of the United States from state taxation.

The repeal of the exemption established by Chapter 79, SLA 1953, will almost certainly result in an increase of prices on all alcoholic beverages sold to post exchanges and service clubs or other military agencies, since the wholesaler of alcoholic beverages will probably pass on such tax to those military agencies which purchase from him.

The repeal of this exemption provision, therefore, must be examined to see if its practical effect would be to lay a direct tax on a governmental instrumentality which would be invalid because of the constitutional prohibitions against such a tax.

Service Clubs and Military Post Exchanges were determined to be instrumentalities of the United States Government because they are established and controlled under regulations of the Department of Defense and are deemed by it to be essential for the performance of governmental function. Therefore, these agencies have the same immunities from state taxation as does the Department of Defense. Standard Oil Company v. Johnson, 316 U.S. 481, 62 SOT. 1168, 60 L. ed. 1511 (1941) (Army post exchange was declared to be an instrumentality of the Federal Government.); Maynard & Child, Inc., v. Shearer, 290 S.W. 2d 790 (Ky 1955) (Officer's Club at Fort Knox is an instrumentality of the Federal Government and thus exempt from a Kentucky excise tax.)

Even in those cases where it has been determined that the tax was in fact levied upon a federal instrumentality, courts have sustained the validity of such a tax because the actual affect of the tax was too indirect. In Penn Daries v. Milk Control Commission, 318 U.S. 261, 63 SOT. 617, 67 L. ed. 748 (1943), the Pennsylvania Milk Authority fixed minimum prices for milk including milk sold to the United States Government. The United States Supreme Court made the following observations on pages 269 and 270 of its opinion:

Senator Al Owen
Chairman, Senate Finance Committee
(Re: Repeal of exemption to 35-4-31,
ACIA 1949, established by Chapter
79, SLA 1953, etc.)

-5-

February 5, 1960

"The mere fact that non-discriminatory taxation or regulation of the contractor imposes an increased economic burden on the government is no longer regarded as bringing the contractor within any implied immunity of the government from state taxation or regulation

...

"Here the state regulation imposes no prohibition on the national government or its officers As in the case of state taxation of the seller, the government is affected only as the state's regulation may increase the price which the government must pay for milk. . . . But in this burden, if Congress has not acted to forbid it, we can find no different or greater impairment of federal authority than in the tax on sales to a government contractor sustained in Alabama v. King & Boozer, supra, or the state regulation of the operations of a trading company . . . upheld in Baltimore & Annapolis R. Co. v. Lichtenberg, supra, or the local building regulations applied to a contractor engaged in constructing a post office building for the Governor, sustained in Stewart & Co. v. Sandakala, 309 U.S. 94."

Trinity Farm Co. v. Grosban, 291 U.S. 466, 54 S.Ct. 469, 78 L. ed. 913 (1933) is an earlier United States Supreme Court case which also held that the burden of taxation on a federal instrumentality is too remote when said burden of the tax only consequentially or remotely falls upon the federal government. This view was stated on page 470 of the court's opinion as follows:

"Appellant had contracts with the United States for the construction of levees in Louisiana to control the waters of the Mississippi River. It consumes much gasoline in the operation of machinery employed to do the work . . . Appellee, an officer of Louisiana, is required to enforce the provisions of its statute that impose an excise tax of five cents per gallon in respect to such gasoline so imported and used. The State Supreme Court has held that the exaction is an excise tax levied upon all gasoline or motor fuel sold, used or consumed in the state . . . and we accept that characterization."

Chairman, Senate Finance Committee

(Re: Repeal of exemption to 35-4-31,

ACLA 1949, established by Chapter

79, SLA 1953, etc.)

Justice Butler stated further on page 472:

" . . . If the payment of state taxes imposed on the property and operations of the appellant affects the federal government at all, it at most gives rise to a burden which is consequential and remote and not to one that is necessary, immediate or direct."

In United States v. Detroit, 355 U.S. 466, 78 S.Ct. 474, 2 L. ed. 2d 424 (1957), the Supreme Court also held the impact of the tax was too remote to be a tax on the United States. The facts as quoted in that case are set out as follows:

"The United States was the owner of an industrial plant in Detroit, Michigan. It leased a portion of the plant to the Borg-Warner Corporation at a stipulated rental fee for use in the latter's private manufacturing business. The lease provided that Borg-Warner could deduct from the agreed rental any taxes paid by it under Public Act 180 or similar state statutes enacted during the term of the lease, but the Government reserved the right to contest the validity of such taxes. . . .

"On Jan. 1, 1954, a tax was assessed against Borg-Warner based on the value of the property leased and computed at the rate used for calculating real property taxes. Borg-Warner and the government protested payment on the ground this was a levy on the government property."

On page 469 of his opinion, Justice Black states:

"The Michigan statute challenged here imposes a tax on private lessees and users of tax-exempt property who use such property in a business conducted for profit. Any taxes due under the statute are the personal obligation of the private lessee or user. The owner is not liable for their payment nor is the property itself subject to any lien if they remain unpaid. So far as the United States is concerned as the owner of the exempt property used in this case it seems clear that there was no attempt to levy against its property or treasury.

Senator Al Owen

-7-

February 5, 1960

Chairman, Senate Finance Committee

(Re: Repeal of exemption to 35-4-31,
ACLA 1949, established by Chapter
79, SEA 1953, etc.)

"Nevertheless the government urges that since the tax is measured by the value of the property used it should be treated as nothing but a contrivance to lay a tax on that property. We do not find this argument persuasive. . . ."

Further, on page 472, Justice Black wrote:

" . . . the imposition of an increased financial burden on the government does not, by itself, violate a state tax . . . " (Emphasis added.)

We conclude that the repeal of the exemption provision of Section 35-4-32, ACLA 1949 as added by Chapter 79, SEA 1953, can be sustained upon the reasoning of the above cited Supreme Court cases. The incidence of the tax levied under the provisions of Section 35-4-31, ACLA 1949, will rest on those persons who purchase alcoholic beverages from service clubs and post exchanges and not on these federal instrumentalities themselves. The only possible economic effect or detriment which would flow to a federal instrumentality might possibly be an increase in the cost of alcoholic beverage in cases where no resale was intended. Such a detriment is consequential and remote and would therefore not affect the validity of Alaska's imposing an excise tax on sales of alcoholic beverages to federal instrumentalities.

Very truly yours,

JOHN L. RADER,
Attorney General

By:
Gary Thurlow,
Deputy Attorney General
Chief, Tax Division

RE:GT:jeb

cc: Hon. William A. Egan,
Governor of Alaska

Hon. Peter Gatz,
Commissioner, Dept. of Revenue.

AS. 43.60.010-040

ALCOHOLIC BEVERAGES SHIPPED INTO ALASKA

Alaska's Fiscal Year Ended June 30, 1970

	DISTILLED SPIRITS			WINE			BEER		
	Taxable Gallons	Military Gallons	Total Gallons	Taxable Gallons	Military Gallons	Total Gallons	Taxable Gallons	Military Gallons	Total Gallons
July 1969	66,468	11,319	77,787	24,185	2,665	26,868	505,654	20,795	526,449
August 1969	63,991	12,125	76,116	27,818	3,492	31,310	407,987	33,524	441,511
September 1969	73,775	19,121	92,896	31,638	3,469	35,107	343,229	*115,486	458,715
October 1969	74,322	10,760	85,082	32,749	3,836	36,585	287,343	37,307	324,650
November 1969	99,451	18,342	117,793	32,128	4,771	36,899	275,520	7,396	282,916
December 1969	44,367	8,538	52,905	20,921	2,552	23,473	224,337	** (22,267)	202,070
January 1970	58,677	9,987	68,664	29,289	2,822	32,111	343,993	6,581	350,574
February 1970	39,750	5,646	45,396	21,696	2,007	23,703	289,092	11,686	300,778
March 1970	50,522	7,344	57,866	33,791	2,999	36,790	300,395	81,909	382,304
April 1970	72,946	8,362	81,308	37,567	3,303	40,870	513,862	64,735	578,597
May 1970	87,846	8,415	96,261	38,394	2,498	40,892	650,290	47,775	698,065
June 1970	60,445	9,935	70,380	27,867	3,155	31,022	520,058	***114,390	634,448
Total Gallons	<u>792,560</u>	<u>129,894</u>	<u>922,454</u>	<u>358,043</u>	<u>37,587</u>	<u>395,630</u>	<u>4,621,760</u>	<u>499,136</u>	<u>5,120,896</u>

Tax Rates

@ \$4.00 per gallon

@ \$.60 per gallon

@ \$.25 per gallon

Tax Amounts

\$3,170,240

\$519,576

\$3,689,816

\$214,826

\$22,552

\$237,378

\$1,167,940

\$124,784

\$1,292,720

Summary of Total Credits Allowed on Military Sales:

Distilled Spirits	\$ 519,576
Wine	22,552
Beer	124,784
Total Credits	\$ 666,912

* Includes July, August & September 1969 direct shipments made by Anheuser-Busch.

** May 1969 Shipments diverted to Seattle by Anheuser-Busch.

*** Includes 99,446 gallons for December 1969, January, March, April, May & June 1970 direct shipments made by Jos. Schlitz Brewing Co.

CREDITS ALLOWED ON
Military Sales

	DISTILLED SPIRITS	WINE	BEER	TOTAL
Fiscal Year ending June 30, 1970	\$519,576.00	\$22,552.00	\$124,784.00	\$666,912.00
June 30, 1969	462,176.00	18,324.00	102,969.00	583,469.00
June 30, 1968	497,647.40	19,630.09	119,476.11	636,753.60
June 30, 1967	476,261.56	16,335.85	86,362.25	578,959.66
June 30, 1966	506,549.00	16,093.86	43,215.45	565,858.31

HARD LIQUOR GALLONAGE CONSUMPTION FOR 1967

<u>RANK</u>	<u>STATE</u>	<u>GALLONAGE per CAPITA</u>
1	District of Columbia	7.55
2	Nevada	5.20
3	New Hampshire	4.10
4	Alaska	3.24
5	Delaware	2.88
6	Vermont	2.82
7	Florida	2.55
8	Connecticut	2.54
9	Massachusetts	2.35
10	New Jersey	2.34
11	New York	2.32
12	California	2.29
13	Illinois	2.24
14	Maryland	2.18
15	Minnesota	2.09
16	Colorado	2.03
17	Wisconsin	2.01
18	Rhode Island	1.97
19	Wyoming	1.88
20	South Carolina	1.81
21	Washington	1.80
22	Virginia	1.68
23	Michigan	1.67
23	North Dakota	1.67
24	Missouri	1.65
25	Maine	1.63
26	Nebraska	1.62
27	Arizona	1.59
28	Montana	1.58
29	Oregon	1.55
30	South Dakota	1.54
31	Georgia	1.53
32	North Carolina	1.48
33	Louisiana	1.41
34	New Mexico	1.38
35	Ohio	1.36
36	Pennsylvania	1.35
37	Kentucky	1.34
38	Oklahoma	1.33
39	Texas	1.21
40	Idaho	1.16
41	Indiana	1.14
42	Iowa	1.12
43	Alabama	1.05
	West Virginia	1.05
	Kansas	1.04
45	Tennessee	1.01
46	Mississippi	.99
47	Arkansas	.89
48	Utah	.83



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James D. Smith
Signature of Camera Operator

4/4/89
Date

Committee Report

S E N A T E

_____ Date

Mr. President:

The Committee on _____ has had _____
under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____ and that
CS for _____ do pass
- (and) recommends it be referred to the _____
committee
- reports it back without recommendation
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:

CHAIRMAN

MEMORANDUM**State of Alaska**

TO: [Honorable John Butrovich, Chairman
Senate Finance Committee
Alaska State Legislature
Juneau, Alaska

FROM: *R. D. Stevenson*
R. D. Stevenson
Deputy Commissioner
Department of Revenue
Juneau, Alaska

DATE : April 1, 1971

SUBJECT: House Bill No. 115
Excise Tax Credits on
Alcoholic Beverages

Attached is a copy of the material that was furnished to the Senate State Affairs Committee on the subject bill. In addition, I am furnishing a copy of Alaska Statutes Section 43.60.010 through 43.60.040. You will note in the underlined material that the exemption for military sales, established by the 1953 amendment to AS 43.60.020, could be removed without any risk of having the amendment declared invalid as levying a tax on an instrumentality of the Federal government (1960 Op. Atty. Gen.'s No. 3).

Attached is a copy of an opinion from the Office of the Attorney General of the State of North Dakota. On page 2 of such opinion it is to be noted that while it is true that a state relinquishes jurisdiction over land area on which military installations are established, the state does not lose control of the alcoholic beverages thereon because of the right given the states in that respect by the 21st amendment. Only an act of the state legislature can grant tax exemptions on alcoholic beverages.

Likewise, an act of the state legislature could remove the tax exemption on alcoholic beverages.

From the schedule that was presented to the Senate State Affairs Committee concerning House Bill No. 115, credits allowed on military sales of alcoholic beverages during the past five fiscal years are as follows:

<u>Fiscal Year</u>	<u>Total Credits Allowed</u>
June 30, 1970	\$666,912.00
June 30, 1969	583,469.00
June 30, 1968	636,753.60
June 30, 1967	578,959.66
June 30, 1966	565,858.31

Through 1967 the Department of Revenue made annual audits on the military bases in Alaska to determine that each sale claimed by Alaskan wholesalers to the military was actually received at a military post exchange.

Attached is a copy of a letter from the writer dated September 24, 1968 wherein it is requested that designated representatives of the Department of Revenue be allowed to make the annual audit of the purchase orders, invoices and records maintained by the military in Alaska as concerns alcoholic beverages

Honorable John Butrovich

-2-

April 1, 1971

purchased from Alaskan wholesalers in order to verify the correctness of the credits allowed on such purchases.

Attached is a copy of a letter dated October 9, 1968 from Headquarters, Alaskan Command, constituting a reply to our letter of September 24, 1968 wherein the military would not permit the Department to examine in total the records of the military facilities as concerns purchasing and receipt of alcoholic beverages. The limited access to military records proposed by Headquarters, Alaskan Command would not provide for a total audit of military credits.

From 1968 to date the Department of Revenue has not been able to verify accurately the total military credits allowed Alaskan wholesalers for sales to the military of alcoholic beverages.

RDS:eh

Attachments

ALCOHOLIC BEVERAGES SHIPPED INTO ALASKA

Alaska's Fiscal Year Ended June 30, 1970

	DISTILLED SPIRITS			WINE			BEER		
	Taxable Gallons	Military Gallons	Total Gallons	Taxable Gallons	Military Gallons	Total Gallons	Taxable Gallons	Military Gallons	Total Gallons
July 1969	66,468	11,319	77,787	24,185	2,683	26,868	505,654	20,794	526,448
August 1969	63,991	12,125	76,116	27,818	3,492	31,310	407,987	33,524	441,511
September 1969	73,775	19,121	92,896	31,638	3,469	35,107	343,229	*115,486	458,715
October 1969	74,322	10,760	85,082	32,749	3,836	36,585	287,343	37,307	324,650
November 1969	99,451	18,342	117,793	32,128	4,771	36,899	275,520	7,396	282,916
December 1969	44,367	8,538	52,905	20,921	2,552	23,473	224,337	** (22,247)	202,090
January 1970	58,677	9,987	68,664	29,289	2,822	32,111	343,993	6,581	350,574
February 1970	39,750	5,646	45,396	21,696	2,007	23,703	289,092	11,486	300,578
March 1970	50,522	7,344	57,866	33,791	2,999	36,790	300,395	81,909	382,304
April 1970	72,946	8,362	81,308	37,567	3,303	40,870	513,862	44,735	558,597
May 1970	87,846	8,415	96,261	38,394	2,498	40,892	650,290	47,775	698,065
June 1970	60,445	9,935	70,380	27,867	3,155	31,022	530,058	***114,390	644,448
Total Gallons	<u>792,560</u>	<u>129,894</u>	<u>922,454</u>	<u>358,043</u>	<u>37,587</u>	<u>395,630</u>	<u>4,671,760</u>	<u>499,136</u>	<u>5,170,896</u>
Tax Rates	@ \$4.00 per gallon			@ \$.60 per gallon			@ \$.25 per gallon		
Tax Amounts	<u>\$3,170,240</u>	<u>\$519,576</u>	<u>\$3,689,816</u>	<u>\$214,826</u>	<u>\$22,552</u>	<u>\$237,378</u>	<u>\$1,167,940</u>	<u>\$124,784</u>	<u>\$1,292,724</u>

Summary of Total Credits Allowed on Military Sales:

Distilled Spirits	\$ 519,576
Wine	22,552
Beer	124,784
Total Credits	<u>\$ 666,912</u>

* Includes July, August & September 1969 direct shipments made by Anheuser-Busch.

** May 1969 Shipments diverted to Seattle by Anheuser-Busch.

*** Includes 99,446 gallons for December 1969, January, March, April, May & June 1970 direct shipments made by Jos. Schlitz Brewing Co.

HARD LIQUOR GALLONAGE CONSUMPTION FOR 1969

<u>RANK</u>	<u>STATE</u>	<u>GALLONAGE per CAPITA</u>
1	District of Columbia	7.55
2	Nevada	5.20
3	New Hampshire	4.10
4	Alaska	3.24
5	Delaware	2.88
6	Vermont	2.82
7	Florida	2.55
8	Connecticut	2.54
9	Massachusetts	2.35
10	New Jersey	2.34
11	New York	2.32
12	California	2.29
13	Illinois	2.24
14	Maryland	2.18
15	Minnesota	2.09
16	Colorado	2.03
17	Wisconsin	2.01
18	Rhode Island	1.97
19	Wyoming	1.88
20	South Carolina	1.81
21	Washington	1.80
22	Virginia	1.68
23	Michigan	1.67
23	North Dakota	1.67
24	Missouri	1.65
25	Maine	1.63
26	Nebraska	1.62
27	Arizona	1.59
28	Montana	1.58
29	Oregon	1.55
30	South Dakota	1.54
31	Georgia	1.53
32	North Carolina	1.48
33	Louisiana	1.41
34	New Mexico	1.38
35	Ohio	1.36
36	Pennsylvania	1.35
37	Kentucky	1.34
38	Oklahoma	1.33
39	Texas	1.21
40	Idaho	1.16
41	Indiana	1.14
42	Iowa	1.12
43	Alabama	1.05
43	West Virginia	1.05
44	Kansas	1.04
45	Tennessee	1.01
46	Mississippi	.99
47	Arkansas	.89
48	Utah	.88

Fiscal Year ending June 30, 1970

June 30, 1969

June 30, 1968

June 30, 1967

June 30, 1966

CREDITS ALLOWED ON
Military Sales

DISTILLED SPIRITS	WINE	BEER	TOTAL
\$519,576.00	\$22,552.00	\$124,784.00	\$666,912.00
462,176.00	18,324.00	102,969.00	583,469.00
497,647.40	19,630.09	119,476.11	636,753.60
476,261.56	16,335.85	86,362.25	578,959.66
506,549.00	16,093.86	43,215.45	565,858.31

(4) "oil" means petroleum, crude oil, mineral oil, and casinghead gasoline;

(5) "quarter" and "quarterly" mean quarter annual periods of three calendar months each, the first quarter having begun on August 1, 1955. (§ 1 ch 7 ESLA 1955)

Chapter 60. Excise Tax on Intoxicating Liquors.

Section	Section
10. Liquor tax	40. Administration and enforcement of tax
20. Monthly statement and payments	
30. Delinquency	

Sec. 43.60.010. Liquor tax. Every brewer, distiller, bottler, jobber, retailer, wholesaler, or manufacturer who sells intoxicating liquors in the state or who consigns shipments of intoxicating liquors to the state whether or not the liquors are brewed, distilled, bottled or manufactured in the state, shall pay on all malt beverages (alcoholic content of one per cent or more by volume), wines, and hard or distilled liquors, the following taxes: (1) malt beverages at the rate of 25 cents a gallon, or fraction of a gallon; (2) wine or other liquor of 21 per cent alcohol by volume or less, at the rate of 60 cents a gallon, or fraction of a gallon; and (3) other liquors having a content of more than 21 per cent alcohol by volume at the rate of four dollars a gallon. (§ 35-4-31 ACILA 1949; am § 1 ch 73 SLA 1957; am § 1 ch 61 SLA 1961)

The clear wording of this section leaves little room for interpretation. 1960 Op. Atty. Gen., No. 3.

Taxation and regulation of liquor stores on military reservations.—Alaska can tax retail liquor stores and beverage dispensaries located within military reservations if they do not fall within the exemptions set forth in 4 USC 107. 1960 Op. Atty. Gen., No. 16.

The Alcoholic Beverage Control Board may regulate the sale of intoxicating beverages on military reservations by businesses which are not instrumentalities of the federal government, may require such businesses to obtain retail store or beverage dispensary licenses, may inspect them to determine if they are operating in compliance with the liquor laws of Alaska (subject to restrictions for security reasons), and may take any action authorized by Alaska liquor statutes if they are not doing business in compliance with state liquor laws and regulations. 1960 Op. Atty. Gen., No. 16.

Status of national guard members.

—Members of the national guard of Alaska enjoy no different status than other civilian residents of Alaska as far as Alaska liquor laws are concerned unless they or their units shall have been called into the active service of the United States. 1960 Op. Atty. Gen., No. 16.

Seller of national guard encampment must be licensed.—Intoxicating beverages may only be sold or dispensed at a national guard encampment or installation in Alaska by a licensed beverage dispensary or licensed retail liquor store. 1960 Op. Atty. Gen., No. 16.

Civilian clubs are subject to state liquor laws and regulations and are subject to state revenue laws. 1960 Op. Atty. Gen., No. 16.

Substance of statute determines whether incidence of tax is on federal instrumentality.—In determining whether a tax is actually levied upon the United States or its property in violation of the federal government's constitutional immunity, the United States Supreme Court has looked to the substance

rather than the form of the particular statute in order to determine whether the incidence of the tax was on a federal instrumentality. 1960 Op. Atty. Gen., No. 3.

Tax not imposed on agency or instrumentality of federal government.

—An analysis of the substance of this section will only reveal that the liquor excise tax is not imposed on any agency or other instrumentality of the federal government. 1960 Op. Atty. Gen., No. 3.

Exemption for sales to federal in-

strumentalities.—The exemption to this section established by the 1953 amendment to AS 43.00.020 could be removed without any risk of having the amendment declared invalid as levying a tax on an instrumentality of the federal government. 1960 Op. Atty. Gen., No. 3.

Am. Jur. and C.J.S. references.—
20 Am. Jur., Intoxicating Liquors, §§ 187 to 203; 51 Am. Jur., Taxation, § 33 et seq.

43 C.J.S. Intoxicating Liquors §§ 40, 41, 182, 222, 385.

Sec. 43.00.020. Monthly statement and payments. (a) Each brewer, distiller, bottler, jobber, wholesaler, manufacturer, or other consignor shall send a statement by airmail, postage prepaid, to the Department of Revenue on or before the last day of each calendar month. The statement shall contain an account of the liquors sold or consigned to buyers or consignees in the state during the preceding month, setting out (1) the total number of gallons, including fractional gallons sold or consigned; (2) the names and Alaska address of each buyer and consignee; and (3) the gallonage of each kind of liquor sold or consigned to the respective buyers or consignees.

(b) The brewer, distiller, bottler, jobber, wholesaler, manufacturer, or other consignor shall pay monthly to the department, all taxes, computed at the rates prescribed in this chapter, on the respective total quantities of the classes of liquor sold or consigned during the preceding month. The monthly return shall be filed and the tax paid on or before the last day of each month to cover the preceding month.

(c) Each brewer, distiller, bottler, jobber, wholesaler, manufacturer, or other consignor is entitled to a credit for excise taxes paid on alcoholic beverages which have been sold and delivered to a United States government operated vessel for ship's stores, ship's service stores, and to a post exchange, officers club, noncommissioned officers club, or club maintained for enlisted personnel, and to other authorized beverage dispensers on a military, naval, air force or governmental reservation in the state upon furnishing proof in the form of signed and certified invoices evidencing sales to a military, naval, air force or governmental liquor dispensary.

(d) Upon receipt of the monthly statement, the department shall promptly allow credit to the account of, and issue a notice showing the amount of credit allowed to, the brewer, distiller, bottler, jobber, wholesaler, manufacturer, or other consignor for that portion of the excise taxes which have been paid on sales which are exempted under (c) of this section.

(e) To obtain the excise tax credit provided for in this section,

the claimant shall certify in the monthly statement as to the truthfulness of the invoice and quantities upon which the claim to the credit is based. No credit may be claimed or allowed on account of sales made to civilian clubs or stores located on military, naval, air force, or governmental reservations. (§ 35-4-32 ACLA 1949; am § 1 ch 70 SLA 1951; am § 1 ch 79 SLA 1953; am § 1 ch 42 SLA 1957)

State may not tax instrumentalities of federal government.—It is subversive of the powers of the federal government, and repugnant to its paramount authority in this field, for a state to attempt to lay a tax upon the instrumentalities of the federal government. 1960 Op. Atty. Gen., No. 3.

But taxes which are indirect or remote in their impact are not objectionable. 1960 Op. Atty. Gen., No. 3.

A tax on the instrumentalities of the federal government is not objectionable unless it is a direct and substantial burden upon the government or upon the exercise of its legitimate functions. 1960 Op. Atty. Gen., No. 3.

Exemption for sales to federal instrumentalities can be removed.—The exemption to AS 42.60.010 established by the 1953 amendment to this section can be removed without any risk of having the amendment declared invalid as levying a tax on an instrumentality of the federal government. 1960 Op. Atty. Gen., No. 3.

Construction of "authorized."—By the word "authorized," in this section, the legislature intended instrumentalities of the federal government authorized by laws of Congress and did not intend to include all stores and dispensaries which happen to be located within military reservations. 1960 Op. Atty. Gen., No. 16.

Sec. 42.60.030. Delinquency. In the case of a failure to make and file a return and remit the tax within the time prescribed by law or prescribed by the department according to law, unless the failure is due to reasonable cause and not due to wilful neglect, there is added to the tax five per cent for each 30 days or fraction of 30 days during which the failure continues, not exceeding 25 per cent in the aggregate. The amount added to the tax shall be collected at the same time, in the same manner, and as a part of the tax. If the tax has been paid before the discovery of the neglect, the amount added shall be collected in the same manner as the tax. In all cases of delinquency the legal rate of interest shall be assessed. (§ 35-4-32 ACLA 1949; am § 1 ch 70 SLA 1951; § 1 ch 79 SLA 1953; am § 1 ch 42 SLA 1957)

Sec. 42.60.040. Administration and enforcement of tax. (a) Each brewer, distiller, bottler, jobber, wholesaler, or manufacturer is primarily liable for the payment of the excise taxes on liquors sold, and shall furnish a good and sufficient surety bond of \$25,000 payable to the Department of Revenue and approved by the Department of Law. If a wholesaler fails to pay the tax to the state he forfeits the bond and his license shall be revoked. The department, in its discretion, may issue permits in place of bonds to resident holders of wholesale, malt beverage, and wine licenses doing business wholly in the state who pay the tax before shipment.

(b) Upon receipt of the bond and its subsequent approval, the

Department shall issue a license certificate authorizing the brewer, distiller, bottler, jobber, wholesaler, or manufacturer, liable for the payment of the tax, to sell intoxicating liquors in the state or to consign shipments of intoxicating liquors to the state. It is unlawful for a brewer, distiller, bottler, jobber, wholesaler, or manufacturer to sell intoxicating liquors in the state or to consign shipments of intoxicating liquors into the state without first furnishing the required bond and obtaining the license certificate or permit from the department. The license certificate does not constitute permission to sell intoxicating liquors in the state or to consign them to the state without having complied with other requirements of state or federal law.

(c) The retailer or buyer is secondarily liable for the taxes on intoxicating liquors which are sold to him. The state has a lien upon the liquors, and may seize, confiscate, and sell them to satisfy the payment of the taxes and the costs of the proceedings, without regard to where or in whose possession the liquors are found. If the liquors are not found or not identifiable, the state may seize, confiscate, and sell an equal quantity of the same kind of liquor found in the possession of the retailer or other buyer to whom the liquors on which the taxes were not paid were sold.

(d) A person required under this chapter to pay a tax, make a return, keep or display records, or supply information for the computation, assessment, or collection of the excise tax imposed by this chapter, who wilfully fails to obtain the license certificate or permit, pay the excise tax, make a return, keep or display the required records, or supply the required information at the time required by law or regulations is, in addition to other penalties provided by law, guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not less than one year, or by both, together with the cost of prosecution.

(e) A person who wilfully makes and subscribes a return which he does not believe to be true and correct as to every material matter is guilty of a felony, and upon conviction is subject to the penalties prescribed for perjury under the laws of the state.

(f) If a part of a deficiency in the tax is due to fraud with intent to evade the tax, then 50 per cent of the total amount of the deficiency (in addition to the deficiency) shall be assessed and collected.

(g) In this section "person" includes an officer, agent, or employee of a corporation or a member, agent, or employee of a partnership, who, as officer, agent, employee, or member, is under duty to perform the act in respect to which the violation occurs. (§ 25-4-33 ACLA 1949; am § 2 ch 70 SLA 1951; § 1 ch 72 SLA 1955)

Applied in Territory of Alaska v. tax on distilled spirits, 165 ALR
 Five Gallons of Alcohol, 10 Alaska L. 1293.
 ALR reference.—Lien of Federal

Chapter 65. Mining License Tax.

Section	Section
10. Mining license	40. Limitation
20. Taxpayer's duties	50. Violations and penalties
30. Application for renewals	60. Definitions

Sec. 43.65.010. Mining license. (a) A person prosecuting or attempting to prosecute, or engaging in the business of mining in the state shall obtain a license from the Department of Revenue. All new mining operations are exempt from the tax levied by this chapter for three and one-half years after production begins. The tax exemption granted to new mining operations does not extend or apply to the mining of sand and gravel.

(b) The Department of Natural Resources shall certify to the Department of Revenue the date upon which production begins, and the Department of Revenue shall issue a certificate of exemption to the producer accordingly.

(c) The license tax on mining is as follows: Upon the net income of the taxpayer from the property in the state, computed with allowable depletion, plus royalty received in connection with mining property in the state.

Over \$40,000 and not over \$50,000	3 per cent
Over \$50,000 and not over \$100,000	\$1,500 plus
	5 per cent of the excess over \$50,000
Over \$100,000	\$4,000 plus
	7 per cent of the excess over \$100,000

(d) Where mining operations are conducted in two or more places by one person the operations are considered a single mining operation and the tax under this chapter is computed upon the aggregate income derived from all the mining operations. The lessor of a mine operated under a lease is considered to be engaged in mining within this chapter, and the royalties received by him are considered to be the net income of his mining operations. If the lessor receives royalties from more than one mine or mining operation, the tax payable under this chapter by the lessor is computed upon the aggregate royalties received by the lessor from all the mines or mining operations as though they were a single mining operation.

(e) The allowance for depletion included as an allowable deduction from gross income is a percentage of the gross income from the property during the taxable year, excluding from the gross income an amount equal to the rents or royalties paid by the taxpayer in respect to the property, as follows: (1) coal mines: 10 per cent; (2) metal mines, fluorspar, flake graphite, vermiculite,

OPINION

STATE OF NORTH DAKOTA
Office of Attorney General
BISMARCK

Leslie R. Surgum
Attorney General

August 21, 1959

DEPT. OF REVENUE
RECEIVED
JAN 6 10 37 AM '60
JUNEAU, ALASKA
FILE. _____

Mr. John R. Erickson
State Treasurer
Bismarck, North Dakota

Dear Mr. Erickson:

We have received your letter of July 16, wherein you ask the following questions:

1. Are officers and non-commissioned officers clubs on military bases in this state exempt from payment of our state beer and liquor tax?
2. Is the North Dakota National Guard exempt from state beer and liquor taxes?

In answer to your first question it should be noted that we have no statute exempting officers clubs and non-commissioned officers clubs from the payment of state beer and liquor taxes. Legislation has been introduced at the last two legislative sessions in this state seeking tax exemption from beer and liquor taxes on the air bases in Minot and Grand Forks, but no exemption was authorized by the legislature. It should further be noted that all military installations in this state are on deeded land with the exception of Fort Lincoln south of Bismarck and the federal government has not claimed exclusive jurisdiction thereon. It should perhaps also be mentioned that while post exchanges and other such government outlets are generally considered instrumentalities of the federal government, officers and non-commissioned officers clubs are not.

Many states have passed statutes exempting all outlets on military bases or installations from payment of beer and liquor taxes and in those states, of course, there is no problem. However, in most of the states where no exemption has been granted, officers and non-commissioned officers clubs are required and do pay beer and liquor taxes.

Mr. John R. Erickson

-2-

8/21/59

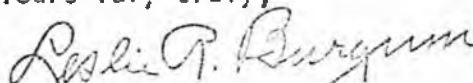
Subsection 2 of the Twenty-first Amendment to our federal constitution provides, "The transportation or importation into any state, territory or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof is hereby prohibited."

While it is true that a state relinquishes jurisdiction over land areas in which military installations are established the state does not lose control of alcoholic beverages thereon because of the right given the states in that respect by the Twenty-first Amendment. Only an act of the state legislature can grant tax exemption on alcoholic beverages.

For the above stated reasons it is our opinion that officers and non-commissioned officers clubs located on military bases in this state are not exempt from the payment of state beer and liquor taxes.

In answer to your second question, we can only say that the National Guard of North Dakota is state controlled and could not be defined as an instrumentality of the federal government, and thus cannot without legislative enactment be granted tax exemption from state taxes on beer and liquor.

Yours very truly,



Leslie R. Burgum
Attorney General

LRB:L

STATE OF ALASKA

DEPARTMENT OF REVENUE

WALTER J. HICHEL, GOVERNOR

POUCH SA - JUNEAU 99001

September 24, 1968

Colonel Frank O. House
Attn: J-1
Headquarters, Alaskan Command
Eielson Air Force Base, Alaska 99506

Dear Colonel House:

Reference is made to our conversation held last week at the Base concerning a letter dated August 14, 1968 from Mr. G. A. Morrison, Commissioner of Revenue, State of Alaska addressed to Lt. General R. A. Breitweiser, Commander in Chief, Headquarters, Alaskan Command and a letter dated August 19, 1968 from Lt. General R. A. Breitweiser to Mr. G. A. Morrison, Commissioner of Revenue regarding an examination of the purchase orders, invoices and stock orders relative to alcoholic beverages purchased by military clubs and other authorized beverage dispensers on military, naval, or air force reservations in the State of Alaska.

Alaska Statutes Section 43.60.020 (c) provides as follows:

"Each brewer, distiller, bouncer, jobber, wholesaler, manufacturer, or consignor is entitled to a credit for the amount of tax paid on alcoholic beverages which have been sold and delivered to a United States government operated vessel for ship's stores, ship's services stores, and to a post exchange, officers club, non commissioned officers club, or club maintained for enlisted personnel, and to other authorized beverage dispensers on a military, naval, air force or governmental reservation in the state upon furnishing proof in the form of signed and certified invoices evidencing sales to a military, naval, air force or governmental liquor dispensary."

During the fiscal year 1967-68 total credits allowed on such sales to the military in Alaska amounted to the sum of \$636,753.17 based on gallonage sales of alcoholic beverages. This sum of total credit allowed on such sales to the military in Alaska is about 13.5% or 1/6 by comparison to the total amount of liquor excise tax of \$3,826,533.17 involved on all taxable sales.



September 24, 1968

ments into Alaska during the same fiscal year.

When Alaska wholesalers sell alcoholic beverages from their warehouses in Alaska to the military, the Department of Revenue receives a copy of the invoice evidencing sale with a stamped certification as shown on the attached sample.


When Alaska wholesalers ship direct from their Seattle warehouses to a military location in Alaska the Department of Revenue receives a copy of the shipment order and military location. Due to the fact that the final consignee does not physically receive the shipment in Seattle at the port of embarkation, the shipment advice does not contain the stamped certification of receipt as is done in the Alaska warehouse deliveries.

In order to check the validity of the stamped certifications that appear on Alaska warehouse sales to the military and to determine the physical receipt by the military of direct shipments made from Seattle to the military in Alaska, the Department of Revenue has found the only avenue to verify and audit the correctness of military credits is on the Alaska military bases from records and documents maintained on such bases in Alaska.

Accordingly in behalf of Commissioner Morrison who is temporarily absent from his desk in Juneau, it is respectfully requested that Lt. General R. A. Breitweiser be advised to reconsider the material contained in Commissioner Morrison's letter of August 14, 1968 and permit designated representatives of the Department of Revenue to make their annual audit of the purchase orders, invoices and records maintained by the military in Alaska as concerns alcoholic beverages purchased to verify the correctness of credits allowed on such purchases.

Thanking you for your cooperation in this matter of importance to the Department of Revenue of the State of Alaska, I remain,

Respectfully yours,


R. D. Stevenson
Chief, Excise Tax Section

cc: G. A. Morrison
Commissioner of Revenue
Department of Revenue
Alaska Office Building
Juneau, Alaska

RDS:pr

HEADQUARTERS, ALASKAN COMMAND

APO SEATTLE 98742



IN REPLY
REFER TO

RECEIVED
9 OCT 1968

Mr. R. D. Stevenson
Chief, Excise Tax Section
Department of Revenue, State of Alaska
Pouch SA, Juneau, Alaska 99801

Dear Mr. Stevenson

This is in response to your letter of 24 September 1968 outlining the difficulties your Department would have in verifying the tax credits claimed by Alaska liquor wholesalers if you were not permitted to audit the records of our open messes. You accordingly ask that the Commander in Chief, Alaskan Command, reconsider his decision of 19 August 1968.

Your request has been given very careful consideration. It appears that if the Alaska wholesalers were required to strictly comply with Section 43.60.020(c), Alaska Statutes, there would be no need for your Department to examine the records of our military facilities. The statute requires that you be furnished signed and certified invoices evidencing sales to military facilities before the wholesaler may be awarded the tax credit. The burden would seem to be on the wholesaler to provide these necessary documents. While we must respectfully decline to permit the audit of the books of the federal instrumentalities involved, the Commander in Chief, Alaskan Command has authorized me to reaffirm his offer to furnish a copy of the purchase order or invoice concerning any specific transaction which you should question.

Similarly, if you desire to occasionally forward a copy of an invoice for verification to insure that the goods were actually received, we will be pleased to respond.

Sincerely

A handwritten signature in cursive script that reads "Frank O. House".

FRANK O. HOUSE
Colonel, USAF
Staff Judge Advocate

(4) "oil" means petroleum, crude oil, mineral oil, and casinghead gasoline;

(5) "quarter" and "quarterly" mean quarter annual periods of three calendar months each, the first quarter having begun on August 1, 1955. (§ 1 ch 7 ESLA 1955)

Chapter 60. Excise Tax on Intoxicating Liquors.

Section
10. Liquor tax
20. Monthly statement and payments
30. Delinquency

Section
40. Administration and enforcement of tax

Sec. 43.60.010. Liquor tax. Every brewer, distiller, bottler, jobber, retailer, wholesaler, or manufacturer who sells intoxicating liquors in the state or who consigns shipments of intoxicating liquors to the state whether or not the liquors are brewed, distilled, bottled or manufactured in the state, shall pay on all malt beverages (alcoholic content of one per cent or more by volume), wines, and hard or distilled liquors, the following taxes: (1) malt beverages at the rate of 25 cents a gallon, or fraction of a gallon; (2) wine or other liquor of 21 per cent alcohol by volume or less, at the rate of 60 cents a gallon, or fraction of a gallon; and (3) other liquors having a content of more than 21 per cent alcohol by volume at the rate of four dollars a gallon. (§ 35-4-31 ACLA 1949; am § 1 ch 73 SLA 1957; am § 1 ch 61 SLA 1961)

The clear wording of this section leaves little room for interpretation. 1960 Op. Atty. Gen., No. 3.

Taxation and regulation of liquor stores on military reservations.—Alaska can tax retail liquor stores and beverage dispensaries located within military reservations if they do not fall within the exemptions set forth in 4 USC 167. 1960 Op. Atty. Gen., No. 13.

The Alcoholic Beverage Control Board may regulate the sale of intoxicating beverages on military reservations by businesses which are not instrumentalities of the federal government, may require such businesses to obtain retail store or beverage dispensary licenses, may inspect them to determine if they are operating in compliance with the liquor laws of Alaska (subject to restrictions for security reasons), and may take any action authorized by Alaska liquor statutes if they are not doing business in compliance with state liquor laws and regulations. 1960 Op. Atty. Gen., No. 16.

Status of national guard members.

—Members of the national guard of Alaska enjoy no different status than other civilian residents of Alaska as far as Alaska liquor laws are concerned unless they or their units shall have been called into the active service of the United States. 1960 Op. Atty. Gen., No. 16.

Seller at national guard encampment must be licensed.—Intoxicating beverages may only be sold or dispensed at a national guard encampment or installation in Alaska by a licensed beverage dispensary or licensed retail liquor store. 1960 Op. Atty. Gen., No. 16.

Civilian clubs are subject to state liquor laws and regulations and are subject to state revenue laws. 1960 Op. Atty. Gen., No. 16.

Substance of statute determines whether incidence of tax is on federal instrumentality.—In determining whether a tax is actually levied upon the United States or its property in violation of the federal government's constitutional immunity, the United States Supreme Court has looked to the substance

rather than the form of the particular statute in order to determine whether the incidence of the tax was on a federal instrumentality. 1960 Op. Atty. Gen., No. 3.

Tax not imposed on agency or instrumentality of federal government.—An analysis of the substance of this section will only reveal that the liquor excise tax is not imposed on any agency or other instrumentality of the federal government. 1960 Op. Atty. Gen., No. 3.

Exemption for sales to federal in-

strumentalities.—The exemption to this section established by the 1953 amendment to AS 43.60.020 could be removed without any risk of having the amendment declared invalid as levying a tax on an instrumentality of the federal government. 1960 Op. Atty. Gen., No. 3.

Am. Jur. and C.J.S. references.—
20 Am. Jur., Intoxicating Liquors, §§ 187 to 203; 51 Am. Jur., Taxation, § 33 et seq.

48 C.J.S. Intoxicating Liquors §§ 40, 41, 182, 222, 386.

Sec. 43.60.020. Monthly statement and payments. (a) Each brewer, distiller, bottler, jobber, wholesaler, manufacturer, or other consignor shall send a statement by airmail, postage prepaid, to the Department of Revenue on or before the last day of each calendar month. The statement shall contain an account of the liquors sold or consigned to buyers or consignees in the state during the preceding month, setting out (1) the total number of gallons, including fractional gallons sold or consigned; (2) the names and Alaska address of each buyer and consignee; and (3) the gallonage of each kind of liquor sold or consigned to the respective buyers or consignees.

(b) The brewer, distiller, bottler, jobber, wholesaler, manufacturer, or other consignor shall pay monthly to the department, all taxes, computed at the rates prescribed in this chapter, on the respective total quantities of the classes of liquor sold or consigned during the preceding month. The monthly return shall be filed and the tax paid on or before the last day of each month to cover the preceding month.

(c) Each brewer, distiller, bottler, jobber, wholesaler, manufacturer, or other consignor is entitled to a credit for excise taxes paid on alcoholic beverages which have been sold and delivered to a United States government operated vessel for ship's stores, ship's service stores, and to a post exchange, officers club, noncommissioned officers club, or club maintained for enlisted personnel, and to other authorized beverage dispensers on a military, naval, air force or governmental reservation in the state upon furnishing proof in the form of signed and certified invoices evidencing sales to a military, naval, air force or governmental liquor dispensary.

(d) Upon receipt of the monthly statement, the department shall promptly allow credit to the account of, and issue a notice showing the amount of credit allowed to, the brewer, distiller, bottler, jobber, wholesaler, manufacturer, or other consignor for that portion of the excise taxes which have been paid on sales which are exempted under (c) of this section.

(e) To obtain the excise tax credit provided for in this section,

the claimant shall certify in the monthly statement as to the truthfulness of the invoice and quantities upon which the claim to the credit is based. No credit may be claimed or allowed on account of sales made to civilian clubs or stores located on military, naval, air force, or governmental reservations. (§ 35-1-32 ACLA 1949; am § 1 ch 70 SLA 1951; am § 1 ch 79 SLA 1953; am § 1 ch 42 SLA 1957)

State may not tax instrumentalities of federal government.—It is subversive of the powers of the federal government, and repugnant to its paramount authority in this field, for a state to attempt to lay a tax upon the instrumentalities of the federal government. 1960 Op. Atty. Gen., No. 3.

But taxes which are indirect or remote in their impact are not objectionable. 1960 Op. Atty. Gen., No. 3.

A tax on the instrumentalities of the federal government is not objectionable unless it is a direct and substantial burden upon the government or upon the exercise of its legitimate functions. 1960 Op. Atty. Gen., No. 3.

Exemption for sales to federal instrumentalities can be removed.—The exemption to AS 42.60.010 established by the 1958 amendment to this section can be removed without any risk of having the amendment declared invalid as laying a tax on an instrumentality of the federal government. 1960 Op. Atty. Gen., No. 3.

Construction of "authorized."—By the word "authorized," in this section, the legislature intended instrumentalities of the federal government authorized by laws of Congress and did not intend to include all stores and dispensaries which happen to be located within military reservations. 1960 Op. Atty. Gen., No. 16.

Sec. 43.60.030. Delinquency. In the case of a failure to make and file a return and remit the tax within the time prescribed by law or prescribed by the department according to law, unless the failure is due to reasonable cause and not due to wilful neglect, there is added to the tax five per cent for each 30 days or fraction of 30 days during which the failure continues, not exceeding 25 per cent in the aggregate. The amount added to the tax shall be collected at the same time, in the same manner, and as a part of the tax. If the tax has been paid before the discovery of the neglect, the amount added shall be collected in the same manner as the tax. In all cases of delinquency the legal rate of interest shall be assessed. (§ 35-1-32 ACLA 1949; am § 1 ch 70 SLA 1951; § 1 ch 79 SLA 1953; am § 1 ch 42 SLA 1957)

Sec. 42.60.040. Administration and enforcement of tax. (a) Each brewer, distiller, bottler, jobber, wholesaler, or manufacturer is primarily liable for the payment of the excise taxes on liquors sold, and shall furnish a good and sufficient surety bond of \$25,000 payable to the Department of Revenue and approved by the Department of Law. If a wholesaler fails to pay the tax to the state he forfeits the bond and his license shall be revoked. The department, in its discretion, may issue permits in place of bonds to resident holders of wholesale, malt beverage, and wine licenses doing business wholly in the state who pay the tax before shipment.

(b) Upon receipt of the bond and its subsequent approval, th

department shall issue a license certificate authorizing the brewer, distiller, bottler, jobber, wholesaler, or manufacturer, liable for the payment of the tax, to sell intoxicating liquors in the state or to consign shipments of intoxicating liquors to the state. It is unlawful for a brewer, distiller, bottler, jobber, wholesaler, or manufacturer to sell intoxicating liquors in the state or to consign shipments of intoxicating liquors into the state without first furnishing the required bond and obtaining the license certificate or permit from the department. The license certificate does not constitute permission to sell intoxicating liquors in the state or to consign them to the state without having complied with other requirements of state or federal law.

(c) The retailer or buyer is secondarily liable for the taxes on intoxicating liquors which are sold to him. The state has a lien upon the liquors, and may seize, confiscate, and sell them to satisfy the payment of the taxes and the costs of the proceedings, without regard to where or in whose possession the liquors are found. If the liquors are not found or not identifiable, the state may seize, confiscate, and sell an equal quantity of the same kind of liquor found in the possession of the retailer or other buyer to whom the liquors on which the taxes were not paid were sold.

(d) A person required under this chapter to pay a tax, make a return, keep or display records, or supply information for the computation, assessment, or collection of the excise tax imposed by this chapter, who wilfully fails to obtain the license certificate or permit, pay the excise tax, make a return, keep or display the required records, or supply the required information at the time required by law or regulations is, in addition to other penalties provided by law, guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not less than one year, or by both, together with the cost of prosecution.

(e) A person who wilfully makes and subscribes a return which he does not believe to be true and correct as to every material matter is guilty of a felony, and upon conviction is subject to the penalties prescribed for perjury under the laws of the state.

(f) If a part of a deficiency in the tax is due to fraud with intent to evade the tax, then 50 per cent of the total amount of the deficiency (in addition to the deficiency) shall be assessed and collected.

(g) In this section "person" includes an officer, agent, or employee of a corporation or a member, agent, or employee of a partnership, who, as officer, agent, employee, or member, is under duty to perform the act in respect to which the violation occurs. (§ 35-4-33 ACIA 1949; am § 2 ch 70 SLA 1951; § 1 ch 72 SLA 1955)

Applied in Territory of Alaska v. tax on distilled spirits, 105 ALR
 Five Gallons of Alcohol, 10 Alaska L. 1263.
 ALR reference.—Lien of federal

Chapter 65. Mining License Tax.

Section	Section
10. Mining license	40. Idiotation
20. Taxpayer's duties	50. Violations and penalties
30. Application for renewals	60. Definitions

Sec. 43.65.010. Mining license. (a) A person prosecuting or attempting to prosecute, or engaging in the business of mining in the state shall obtain a license from the Department of Revenue. All new mining operations are exempt from the tax levied by this chapter for three and one-half years after production begins. The tax exemption granted to new mining operations does not extend or apply to the mining of sand and gravel.

(b) The Department of Natural Resources shall certify to the Department of Revenue the date upon which production begins, and the Department of Revenue shall issue a certificate of exemption to the producer accordingly.

(c) The license tax on mining is as follows: Upon the net income of the taxpayer from the property in the state, computed with allowable depletion, plus royalty received in connection with mining property in the state.

Over \$40,000 and not over \$50,000	3 per cent
Over \$50,000 and not over \$100,000	\$1,500 plus
	5 per cent of the excess over \$50,000
Over \$100,000	\$4,000 plus
	7 per cent of the excess over \$100,000

(d) Where mining operations are conducted in two or more places by one person the operations are considered a single mining operation and the tax under this chapter is computed upon the aggregate income derived from all the mining operations. The lessor of a mine operated under a lease is considered to be engaged in mining within this chapter, and the royalties received by him are considered to be the net income of his mining operations. If the lessor receives royalties from more than one mine or mining operation, the tax payable under this chapter by the lessor is computed upon the aggregate royalties received by the lessor from all the mines or mining operations as though they were a single mining operation.

(e) The allowance for depletion included as an allowable deduction from gross income is a percentage of the gross income from the property during the taxable year, excluding from the gross income an amount equal to the rents or royalties paid by the taxpayer in respect to the property, as follows: (1) coal mines: 10 per cent; (2) metal mines, fluorspar, flake graphite, vermiculite,

OPINION

STATE OF NORTH DAKOTA
Office of Attorney General
BISMARCK

Leslie R. Burgum
Attorney General

August 21, 1959

DEPT. OF REVENUE
RECEIVED
JAN 6 10 37 AM '60
JUNEAU, ALASKA
FILE _____

Mr. John R. Erickson
State Treasurer
Bismarck, North Dakota

Dear Mr. Erickson:

We have received your letter of July 15, wherein you ask the following questions:

1. Are officers and non-commissioned officers clubs on military bases in this state exempt from payment of our state beer and liquor tax?
2. Is the North Dakota National Guard exempt from state beer and liquor taxes?

In answer to your first question it should be noted that we have no statute exempting officers clubs and non-commissioned officers clubs from the payment of state beer and liquor taxes. Legislation has been introduced at the last two legislative sessions in this state seeking tax exemption from beer and liquor taxes on the air bases in Minot and Grand Forks, but no exemption was authorized by the legislature. It should further be noted that all military installations in this state are on deeded land with the exception of Fort Lincoln south of Bismarck and the federal government has not claimed exclusive jurisdiction thereon. It should perhaps also be mentioned that while post exchanges and other such government outlets are generally considered instrumentalities of the federal government, officers and non-commissioned officers clubs are not.

Many states have passed statutes exempting all outlets on military bases or installations from payment of beer and liquor taxes and in those states, of course, there is no problem. However, in most of the states where no exemption has been granted, officers and non-commissioned officers clubs are required and do pay beer and liquor taxes.

Mr. John R. Erickson

-2-

6/21/59

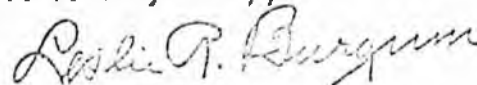
Subsection 2 of the Twenty-first Amendment to our federal constitution provides, "The transportation or importation into any state, territory or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof is hereby prohibited."

While it is true that a state relinquishes jurisdiction over land areas in which military installations are established the state does not lose control of alcoholic beverages thereon because of the right given the states in that respect by the Twenty-first Amendment. Only an act of the state legislature can grant tax exemption on alcoholic beverages.

For the above stated reasons it is our opinion that officers and non-commissioned officers clubs located on military bases in this state are not exempt from the payment of state beer and liquor taxes.

In answer to your second question, we can only say that the National Guard of North Dakota is state controlled and could not be defined as an instrumentality of the federal government, and thus cannot without legislative enactment be granted tax exemption from state taxes on beer and liquor.

Yours very truly,



Leslie R. Burgum
Attorney General

LRB:L

STATE OF ALASKA

DEPARTMENT OF REVENUE

WALTER J. HIGEL, DIRECTOR

POUCH 5A - JUNEAU 99501

September 24, 1968

Colonel Frank C. House
Attn: J-1
Headquarters, Alaskan Command
Elmendorf Air Force Base, Alaska 99506

Dear Colonel House:

Reference is made to our conversation held last week at the Base concerning a letter dated August 14, 1968 from Lt. G. A. Morrison, Commissioner of Revenue, State of Alaska addressed to Lt. General R. A. Breitweiser, Commander in Chief, Headquarters, Alaskan Command and a letter dated August 19, 1968 from Lt. General R. A. Breitweiser to Lt. G. A. Morrison, Commissioner of Revenue regarding an examination of the purchase orders, invoices and stock records relative to alcoholic beverages purchased by military clubs and other authorized beverage dispensers on military, naval, or air force reservations in the State of Alaska.

Alaska Statutes Section 43.60.020 (c) provides as follows:

"Each brewer, distiller, bottler, jobber, wholesaler, manufacturer, or consignor is entitled to a credit for tax on sales paid on alcoholic beverages which have been sold and delivered to a United States governmental vessel for ship's stores, ship's services stores, and to a post exchange, officers club, non-commissioned officers club, or club maintained for enlisted personnel, and to other authorized beverage dispensers on a military, naval, air force or governmental reservation in the state who, furnishing proof in the form of signed and certified invoices evidencing sales to a military, naval, air force or governmental liquor dispensary"

During the fiscal year 1967-68 total credits allowed to the military in Alaska amounted to the sum of \$636,753.17 based on gallonage sales of alcoholic beverages. This sum of total credit allowed on such sales to the military in Alaska is about 15.5% or 1/6 by comparison to the total amount of liquor excise tax of \$3,826,533.17 involved on all taxable sales.



September 24, 1968

nents into Alaska during the same fiscal year.

When Alaska wholesalers sell alcoholic beverages from their warehouses in Alaska to the military, the Department of Revenue receives a copy of the invoice evidencing sale with a stamped certification as shown on the attached sample.


When Alaska wholesalers ship direct from their Seattle warehouses to a military location in Alaska the Department of Revenue receives a copy of the shipment order and military location. Due to the fact that the final consignee does not physically receive the shipment in Seattle at the port of embarkation, the shipment advice does not contain the stamped certification of receipt as is done in the Alaska warehouse deliveries.

In order to check the validity of the stamped certifications that appear on Alaska warehouse sales to the military and to determine the physical receipt by the military of direct shipments made from Seattle to the military in Alaska, the Department of Revenue has found the only avenue to verify and audit the correctness of military credits is on the Alaska military bases from records and documents maintained on such bases in Alaska.

Accordingly in behalf of Commissioner Morrison who is temporarily absent from his desk in Juneau, it is respectfully requested that Lt. General R. A. Breitweiser be advised to reconsider the material contained in Commissioner Morrison's letter of August 14, 1968 and permit designated representatives of the Department of Revenue to make their annual audit of the purchase orders, invoices and records maintained by the military in Alaska as concerns alcoholic beverages purchased to verify the correctness of credits allowed on such purchases.

Thanking you for your cooperation in this matter of importance to the Department of Revenue of the State of Alaska, I remain,

Respectfully yours,


R. D. Stevenson
Chief, Excise Tax Section

cc: W. A. Morrison
Commissioner of Revenue
Department of Revenue
Alaska Office Building
Juneau, Alaska

RDS:pr

HEADQUARTERS, ALASKAN COMMAND

APO SEATTLE 96742



IN REPLY
REFER TO

RECEIVED
9 OCT 1968
DEPARTMENT OF REVENUE

Mr. R. D. Stevenson
Chief, Excise Tax Section
Department of Revenue, State of Alaska
Pouch SA, Juneau, Alaska 99801

Dear Mr. Stevenson

This is in response to your letter of 24 September 1968 outlining the difficulties your Department would have in verifying the tax credits claimed by Alaska liquor wholesalers if you were not permitted to audit the records of our open messes. You accordingly ask that the Commander in Chief, Alaskan Command, reconsider his decision of 19 August 1968.

Your request has been given very careful consideration. It appears that if the Alaska wholesalers were required to strictly comply with Section 43.60.020(c), Alaska Statutes, there would be no need for your Department to examine the records of our military facilities. The statute requires that you be furnished signed and certified invoices evidencing sales to military facilities before the wholesaler may be awarded the tax credit. The burden would seem to be on the wholesaler to provide these necessary documents. While we must respectfully decline to permit the audit of the books of the federal instrumentalities involved, the Commander in Chief, Alaskan Command has authorized me to reaffirm his offer to furnish a copy of the purchase order or invoice concerning any specific transaction which you should question.

Similarly, if you desire to occasionally forward a copy of an invoice for verification to insure that the goods were actually received, we will be pleased to respond.

Sincerely

A handwritten signature in cursive script, appearing to read "Frank O. House".

FRANK O. HOUSE
Colonel, USAF
Staff Judge Advocate

file HB 115

TELEGRAM

HAVE TRIED UNSUCCESSFULLY TO PHONE MILT ODOM AT ANATONE AND
WISH TO ADVISE THAT HOUSE BILL TAXING MILITARY LIQUOR SALES
WILL BE UP FOR SENATE ACTION MONDAY. PLEASE ADVISE BROOKS
HANFORD AND MR. ODOM.

SENATOR JOHN BUTROVICH

Sent 4/15/71, 8:45 a.m.

IMPORTANT MESSAGE

FOR _____
DATE _____ TIME _____ A.M.
P.M.

OF Milt Odom - AC 509
PHONE NO. Anatone, Wn.

TELEPHONED	<input type="checkbox"/>	PLEASE CALL	<input type="checkbox"/>
CALLED TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RUSH	<input type="checkbox"/>

MESSAGE 256-3377 —

call around
dinner time -
(at his ranch)

SIGNED _____



1258 First Avenue South
Seattle, Washington 98134

MAIn 3-3256 (Area Code 206)

April 8, 1971

Personal

Senator John Butrovich
The Baranof Hotel
Juneau, Alaska 99801

Dear John:

I talked with you on the phone Monday night. I don't know whether you have this memo from the Army. I certainly hope that you had a chance to talk to the Governor and have been able to explain this situation to him in detail. Rest assured, John, that if I thought this would work to the State of Alaska's benefit rather than its detriment, I would be one of the first ones to be in favor of the Bill.

I certainly hope by this time you have completely recovered from your very severe cold.

Kindest regards,

A handwritten signature in cursive script, appearing to read 'M. W. ODOM'.

M. W. ODOM

MWO:mc
Enc.

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.

PHONE 586-7477

JUNEAU, ALASKA 99801

#V

VPRB199 CTA240 WE216

WW SNA186 FW GOVT PDB NF WASHINGTON DC 13 654P EST

1971 APR 13 PM 6 27

THE HON. JOHN BUTROVICH STATE SENATOR

STATE CAPITOL BLDG JUNEAU ALASKA 99801

I HAVE BEEN ADVISED BY THE DEPARTMENT OF THE DEFENSE THAT IT DOES NOT FAVOR PASSAGE OF THE MILITARY LIQUOR TAX BILL. IT WILL ABIDE BY THE LAW ONCE IT IS IN EFFECT. IN EACH OF THE STATES WHICH HAVE CONSIDERED SIMILAR LEGISLATION THE MILITARY HAS OPPOSED PASSAGE BUT HAS ABIDED BY THE TERMS OF THE ACT.

I CAN ASSURE YOU THAT IF THE BILL PASSES IN ALASKA AND IF THE MILITARY ATTEMPTS TO EVADE THE PROVISIONS THAT I AND THE OTHER MEMBERS OF THE CONGRESSIONAL DELEGATION WILL DO EVERYTHING POSSIBLE TO HELP ENFORCEMENT EVEN THOUGH THE MILITARY HAS TRIED TO CONVINCE ME THAT SUCH ACTION WOULD NOT BE NECESSARY.

MIKE GRAVEL U S SENATOR

(726).

TV

VPRE 199 CIA240 WE216

WM 58A186 FM GOVT PDB WF WASHINGTON DC 13 654P EST

1971 APR 13 PM 6 27

THE HON. JOHN BUTROVICH STATE SENATOR

STATE CAPITOL BLDG JUNEAU ALASKA 99801

I HAVE BEEN ADVISED BY THE DEPARTMENT OF THE DEFENSE THAT IT DOES NOT FAVOR PASSAGE OF THE MILITARY LIQUOR TAX BILL. IT WILL ABIDE BY THE LAW ONCE IT IS IN EFFECT. IN EACH OF THE STATES WHICH HAVE CONSIDERED SIMILAR LEGISLATION THE MILITARY HAS OPPOSED PASSAGE BUT HAS ABIDED BY THE TERMS OF THE ACT.

I CAN ASSURE YOU THAT IF THE BILL PASSES IN ALASKA AND IF THE MILITARY ATTEMPTS TO EVADE THE PROVISIONS THAT I AND THE OTHER MEMBERS OF THE CONGRESSIONAL DELEGATION WILL DO EVERYTHING POSSIBLE TO HELP ENFORCEMENT EVEN THOUGH THE MILITARY HAS TRIED TO CONVINCE ME THAT SUCH ACTION WOULD NOT BE NECESSARY.

MIKE GRAVEL U S SENATOR

(726).

0V

VPRB199 CTA240 WE216

WW SNA186 FW GOVT PDB NF WASHINGTON DC 13 654P EST
1971 APR 13 PM 6 27

THE HON. JOHN BUTROVICH STATE SENATOR

STATE CAPITOL BLDG JUNEAU ALASKA 99801

I HAVE BEEN ADVISED BY THE DEPARTMENT OF THE DEFENSE THAT IT DOES NOT FAVOR PASSAGE OF THE MILITARY LIQUOR TAX BILL. IT WILL ABIDE BY THE LAW ONCE IT IS IN EFFECT. IN EACH OF THE STATES WHICH HAVE CONSIDERED SIMILAR LEGISLATION THE MILITARY HAS OPPOSED PASSAGE BUT HAS ABIDED BY THE TERMS OF THE ACT.

I CAN ASSURE YOU THAT IF THE BILL PASSES IN ALASKA AND IF THE MILITARY ATTEMPTS TO EVADE THE PROVISIONS THAT I AND THE OTHER MEMBERS OF THE CONGRESSIONAL DELEGATION WILL DO EVERYTHING POSSIBLE TO HELP ENFORCEMENT EVEN THOUGH THE MILITARY HAS TRIED TO CONVINC ME THAT SUCH ACTION WOULD NOT BE NECESSARY.

MIKE GRAVEL U S SENATOR

(726).

47.

VPRE 129 CTA242 WE216

WM 584186 FW GOVT PDS WF WASHINGTON DC 13 654P EST

1971 APR 17 PM 6 07

THE HON. JOHN PUTROVICH STATE SENATOR

STATE CAPITAL BLDG JUNEAU ALASKA 99801

I HAVE BEEN ADVISED BY THE DEPARTMENT OF THE DEFENSE THAT IT DOES NOT FAVOR PASSAGE OF THE MILITARY LIQUOR TAX BILL. IT WILL ABIDE BY THE LAW ONCE IT IS IN EFFECT. IN EACH OF THE STATES WHICH HAVE CONSIDERED SIMILAR LEGISLATION THE MILITARY HAS OPPOSED PASSAGE BUT HAS ABIDED BY THE TERMS OF THE ACT.

I CAN ASSURE YOU THAT IF THE BILL PASSES IN ALASKA AND IF THE MILITARY ATTEMPTS TO EVADE THE PROVISIONS THAT I AND THE OTHER MEMBERS OF THE CONGRESSIONAL DELEGATION WILL DO EVERYTHING POSSIBLE TO HELP ENFORCEMENT EVEN THOUGH THE MILITARY HAS TRIED TO CONVINCE ME THAT SUCH ACTION WOULD NOT BE NECESSARY.

MIKE GRAVEL U S SENATOR

(726).

4V

VPRB199 01243 47210

WW SNA136 5 GOVT PDB WF WASHINGTON DC 13 6547 EXT

1971 APR 13 PM 6 27

THE HON. JOHN FUTROVICH STATE SENATOR

STATE CAPITOL BLDG JUNEAU ALASKA 99801

I HAVE BEEN ADVISED BY THE DEPARTMENT OF THE DEFENSE THAT IT DOES NOT FAVOR PASSAGE OF THE MILITARY LIQUOR TAX BILL. IT WILL ABIDE BY THE LAW ONCE IT IS IN EFFECT. IN EACH OF THE STATES WHICH HAVE CONSIDERED SIMILAR LEGISLATION THE MILITARY HAS OPPOSED PASSAGE BUT HAS ABIDED BY THE TERMS OF THE ACT.

I CAN ASSURE YOU THAT IF THE BILL PASSES IN ALASKA AND IF THE MILITARY ATTEMPTS TO EVADE THE PROVISIONS THAT I AND THE OTHER MEMBERS OF THE CONGRESSIONAL DELEGATION WILL DO EVERYTHING POSSIBLE TO HELP ENFORCEMENT EVEN THOUGH THE MILITARY HAS TRIED TO CONVINCE ME THAT SUCH ACTION WOULD NOT BE NECESSARY.

MIKE GRAVEL U S SENATOR

(726).

Introduced: 1/29/71
Referred: State Affairs and
Finance

BY FISCHER, BANFIELD, BARBER, BOWMAN,
FARRELL, FERGUSON, FINK, HILLSTRAND,
HOLM, HUBER, KERTTULA, MCGILL, E. MILLER,
M. MILLER, MOORE, MOSES, NAUGHTON,
PERATROVICH, REED, ROSE, SPECKING,
SWANSON, TILLION, WARWICK, WHITTAKER
AND WRIGHT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

IN THE HOUSE

HOUSE BILL NO. 115

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to excise tax credits on alcoholic
beverages; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 43.60.020(c), (d) and (e) are repealed.

* Sec. 2. This Act takes effect on May 1, 1971.

Introduced: 1/29/71
Referred: State Affairs and
Finance

BY FISCHER, BANFIELD, BARBER, BOWMAN,
FARRELL, FERGUSON, FINK, HILLSTRAND,
HOLM, HUBER, KERTTULA, MCGILL, E. MILLER,
M. MILLER, MOORE, MOSES, NAUGHTON,
PEPATROVICH, REED, ROSE, SPECKING,
SWANSON, TILLION, WARWICK, WHITTAKER
AND WRIGHT

1 IN THE HOUSE

2 HOUSE BILL NO. 115

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to excise tax credits on alcoholic
7 beverages; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 43.60.020(c), (d) and (e) are repealed.

10 * Sec. 2. This Act takes effect on May 1, 1971.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James D. Smith
Signature of Camera Operator

4/4/89
Date

HOUSE OF REPRESENTATIVES

4/22/71

_____ Date

Mr. Speaker:

The Committee on _____ has had _____

under consideration. A majority of the members of the Committee

recommends it do pass

recommends it do not pass

recommends it do pass with attached amendment(s)

recommends it be replaced with CS for _____ and that
CS for _____ do pass

(and) recommends it be referred to the _____
committee

reports it back without recommendation

(other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:
_____ recommends:

CHAIRMAN

#2

CS FOR HB 119



Contents

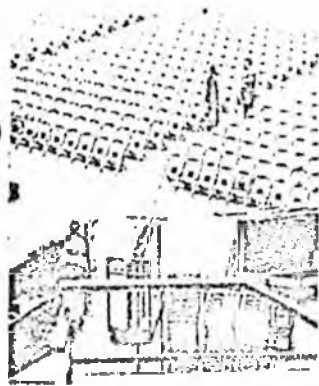
OPERATIONS SUMMARY
FOR ANAHEIM
CONVENTION CENTER
July 1, 1969 to June 30, 1970

Figures and Data From:
City of Anaheim Finance Director
City of Anaheim Auditor
Convention Center Accounting Office

Produced by City of Anaheim
Public Information Office

INTRODUCTION	1
Attendance	2
Statistical Summary	3
REVENUE PRODUCING AREAS	4
Food Service	5
Space Leasing	7
Parking Lot Operations	7
Recoverable Services	9
Room Occupancy Tax Revenues	11
THE FUTURE	13

COVER: Billy Graham's crusade came to Anaheim during the 1969-1970 year -- making maximum use of both Convention Center and Stadium facilities. Included in services provided by the Center was a banquet involving 11,000 lunches for women hosting the wife of the famed evangelist -- one of the largest luncheons ever served in this country.



Recoverable Services

Recoveries for rental of equipment, labor and skills, and commissions on electrical work are a major form of income to the Convention Center.

During the 1969-70 fiscal year \$72,000 was recovered from tenants – compared to \$82,000 the previous year. The difference is attributable to the increase in conventions and trade shows which have free use of many services and equipment items.

EQUIPMENT RENTALS

Items such as pianos, chairs, platforms, spotlights, and sound equipment are rented to non-convention tenants. Many of these items have completely paid for themselves and generated a profit since the center opened. For instance, two pianos purchased for \$1,300 two years ago have brought in nearly \$3,100 in rental fees. \$11,000 of portable staging returned \$22,000 – and many other items have made similar contributions to revenues.

Events during the present fiscal year – such as Disney on Parade and the Ringling Brothers-Barnum and Bailey circus – will add to the growing list of items that are “paid off” and generating excess revenues.

Total Equipment Rental Recoveries 1969-1970	\$32,300
Total Equipment Rental Recoveries since opening of center	\$94,500

SERVICES

Non-convention tenants also pay for all labor necessary to install and operate convention center equipment. This includes utility, electrical, and operating labor, damage repair, signmaking, and other services. Particularly large and complex events such as conventions require tremendous amounts of unrecoverable services. During 1969-1970, \$32,700 was recovered in this area. Miscellaneous recoveries added an additional \$7,000.

Direct convention and trade show revenue is important, but entertainment and social events actually pay the operating costs of the Center. Room occupancy tax revenues brought to the city are used to retire the bonds which financed the center. It is this "balance of use" that makes the Center pay its own way, unlike most others.

Increases due to the overall success of the Center were recorded in nearly every revenue producing area with a total increase of nearly twice that of the previous fiscal year. A healthy excess of \$101,000 in revenues over operating expenses was recorded. Adding this to room occupancy tax revenues means almost \$400,000 was returned to the City of Anaheim general fund after depreciation and interest payments.

The purpose of this report is to provide a summary of revenue producing activity for the 1969-1970 fiscal year plus highlights of operation. The report is all the more important in view of this milestone year which caps three years of operation showing results far above the visions of the planners. And a year that promises greater things to come. Our deepest appreciation and congratulations are extended to all of the many people who made it possible.

Tom Licgler, Stadium-Convention Center Director
Ed Stotereau, Operations Manager

ATTENDANCE

Overall attendance increased by 20% over the previous year during 1969-1970 — a result of the use of the Center for a tremendous variety of popular events.

Event Type	1968-1969	1969-1970
Conventions	175,318	263,002
Trade and Consumer Shows	337,973	430,489
Performances	232,452	245,576
Sporting Events	65,529	67,546
Socials	117,438	109,199
	<hr/>	<hr/>
	928,710	1,115,818

There was at least one event on 303 out of 365 days at the Convention Center, with as many as 6 events occurring at the same time on some days.

The overall number of events, and the tremendous increase in attendance speaks well of the overwhelming popularity of Anaheim Convention Center.

STATISTICAL SUMMARY

1969 -- 1970

Direct Revenues:

Space Leasing	\$441,000
Food Services	205,000
Parking Operat	172,000
Recoverable Services	72,000
Contractual Income	86,000

TOTAL DIRECT REVENUES	\$976,000
TOTAL OPERATING EXPENDITURES	\$872,000

EXCESS OF REVENUE OVER OPERATING EXPENSES	104,000
---	---------

Indirect Revenue: Room Occupancy Tax Revenue	1,038,600
--	-----------

COMBINED OPERATING EXCESS AND INDIRECT REVENUE	1,172,600
--	-----------

Interest on Bonds, Depreciation	777,000
---	---------

NET REVENUE OVER EXPENSES	\$395,600
-------------------------------------	-----------

In addition to the above revenue returned to the general fund, additional revenue for the city from increased attendance was gained from sales taxes, utility taxes, and other services. The economic impact of the center on the Anaheim area is measured in hundreds of million dollars in services and business activity.

Revenue Producing Areas

On the following pages direct and indirect revenues to the Convention Center are discussed in greater detail -- along with a general analysis of each.

Anaheim Convention Center's "success story" is apparent in the fact that the center is profitable -- both directly and indirectly in its effect on the area economy -- and because it serves both local and convention needs. With the increase in conventions the Center is exceeding its promise to the citizens of Anaheim . . . the promise for tomorrow is even greater.



Food Service

Food services are an integral, important phase of the Center's operations. Tenants prefer "everything under one roof" — the ability to provide high quality banquet meals for large numbers of people is an important selling point for the Center.

This past year food service revenues grew to \$1,139,800, up some \$163,000 from the previous year. This involved serving over 156,000 individual plate meals — including over 11,000 at one sitting to ladies hosting Mrs. Billy Graham. Plus innumerable hot dogs, sandwiches, and soft drinks.

The city's net percentage of the food service revenues amounted to \$205,000 during the 1969-1970 fiscal year. This represents an increase of over \$75,000 from revenues received the previous year.

In this area of revenue, the trend at conventions is towards bigger and better banquets at these events. In addition, large dinners of a social nature, plus heavy demands on concession stands at entertainment events add to the revenues.

July 1, 1968 - June 30, 1969			July 1, 1969 - June 30, 1970	
TOTAL GROSS	NET TO CITY	MONTH	TOTAL GROSS	NET TO CITY
\$ 46,016.24	-0-	July	84,591.49	14,656.94
13,264.31	-0-	August	14,881.12	-0-
67,722.94	667.41	September	71,291.17	7,689.96
112,506.84	20,367.64	October	115,678.36	22,846.07
76,193.02	9,471.03	November	132,695.87	22,789.27
87,482.83	11,892.91	December	86,874.75	13,195.79
57,047.86	3,833.54	January	64,856.16	4,481.30
88,021.53	18,864.59	February	166,836.66	40,981.93
106,899.99	16,519.16	March	127,917.35	24,868.61
92,081.14	16,449.58	April	77,805.47	6,657.57
53,679.80	2,253.85	May	84,160.47	11,414.98
125,740.70	24,080.56	June	112,208.94	35,771.43
<u>\$926,662.20</u>	<u>\$124,400.62</u>		<u>\$1,139,797.81</u>	<u>\$205,353.85</u>



Space Leasing

Revenues from room and space rentals for this past year are up \$31,000 over the previous year due to an overall increase in use of more facilities by both convention and non-convention tenants.

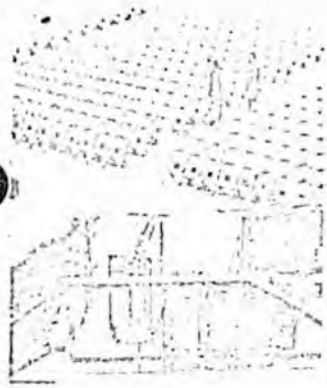
Facility	1968-1969	1969-1970
Arena	\$174,400	\$180,200
Exhibition Hall	195,000	219,300
Meeting Rooms	39,800	41,500
Total	<u>\$409,200</u>	<u>\$441,000</u>



Parking Lot Operations

Parking operations revenue showed an increase again in the 1969-1970 fiscal year. This is remarkable in view of the use of jitney and bus services by the increased convention attendance — many without cars. The increase over last year in the face of higher convention attendance is due to the balance between the two major categories of events — convention/trade show and local entertainment/social happenings. The large crowds gathered for the latter helped offset the lack of parking revenue from the former.

Gross parking revenues were up slightly — \$172,500 in 1969-1970 compared to \$170,000 the previous year. Higher labor costs kept net revenues at about the same level as 1968-1969.



Recoverable Services

Recoveries for rental of equipment, labor and skills, and commissions on electrical work are a major form of income to the Convention Center.

During the 1969-70 fiscal year \$72,000 was recovered from tenants — compared to \$82,000 the previous year. The difference is attributable to the increase in conventions and trade shows which have free use of many services and equipment items.

EQUIPMENT RENTALS

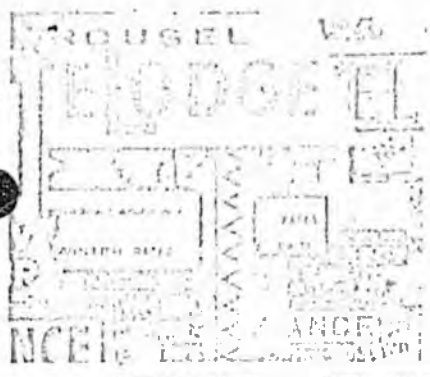
Items such as pianos, chairs, platforms, spotlights, and sound equipment are rented to non-convention tenants. Many of these items have completely paid for themselves and generated a profit since the center opened. For instance, two pianos purchased for \$1,300 two years ago have brought in nearly \$3,100 in rental fees. \$11,000 of portable staging returned \$22,000 — and many other items have made similar contributions to revenues.

Events during the present fiscal year — such as Disney on Parade and the Ringling Brothers-Barnum and Bailey circus — will add to the growing list of items that are "paid off" and generating excess revenues.

Total Equipment Rental Recoveries 1969-1970	\$32,300
Total Equipment Rental Recoveries since opening of center	\$94,500

SERVICES

Non-convention tenants also pay for all labor necessary to install and operate convention center equipment. This includes utility, electrical, and operating labor, damage repair, signmaking, and other services. Particularly large and complex events such as conventions require tremendous amounts of unrecoverable services. During 1969-1970, \$32,700 was recovered in this area. Miscellaneous recoveries added an additional \$7,000.



Room Occupancy Tax Revenue

Room occupancy tax revenues – though not a part of actual operating revenues of the Convention Center – are, nevertheless greatly increased as a direct result of the Center. This is particularly true for the 1969-1970 year where conventions and attendance at the Center were up -- 7 more conventions with a total increase in attendance of 180,000 over 1968-69.

Aside from direct revenue to the city from Center operations and the room occupancy tax, each convention injects about \$160 per delegate into Anaheim's economy. With 263,000 convention visitors to the center this year, that's \$44 million directly related to the Anaheim Convention Center.

July 1, 1968— June 30, 1969	MONTH	Twelve Months July 1, 1969— June 30, 1970
\$105,223.78	July	\$ 121,451.76
117,528.74	August	133,856.36
149,245.84	September	164,261.24
87,711.84	October	81,539.76
43,121.74	November	39,057.91
54,565.90	December	66,067.99
59,010.32	January	60,078.43
31,175.76	February	63,017.92
42,678.85	March	69,924.53
74,874.87	April	94,885.69
64,434.08	May	71,304.59
82,403.29	June	103,352.13
\$911,980.01	TOTALS	\$1,069,743.31



The Future...

THE NEAR FUTURE

Next fiscal year looks even brighter for Anaheim Convention Center with a great variety of events open to the public.

Events like the annual Cultural Carrousel of Anaheim, a 4,000 person dance of the Latter Day Saints Church (Mormon), the popular National Off Road Equipment and Racing Show, and a new entry for public enjoyment, the Ceramic and Hobbycraft Show.

Or "The Greatest Show on Earth" — Ringling Brothers, Barnum and Bailey Circus, — celebrating its 100th Anniversary. Plus a series of seven Roller Games which have been set by National Skating Derby for the autumn months.

Talent booked for the enjoyment of the public also includes; Neil Diamond, Burt Bacharach, Charlie Hride and Marty Robbins, and a spectacular import, "The Coldstream Guards and Black Watch".

Several new shows for the enjoyment of local citizens are included . . . the Recreational Vehicle Show and Sports and Vacation Show, the Harlem Globetrotters, and the Western National Boat and Marine Show. The entire building will be occupied by George Colouris' Home and Garden Show, which is one of the largest shows of this type held in America and always heavily attended.

The popular Orange County Auto Show will be held in the Exhibition Hall, followed by the thrilling RCA Pacific Indoor Rodeo. The Christmas Holiday High School Invitational Basketball Tournament will be held in the Arena, with many of the area's outstanding prep teams participating. Many more events are, or will be booked . . . like the popular color closed-circuit telecast of the "Indy 500"; and the Antique Show and Sale, which each year increases in size and attendance.

Interspersed between these events are a great number of national conventions and trade shows, the result of a most energetic Visitors & Convention Bureau. Several of the automotive giants have booked their new car dealer announcements throughout the facility. Repeat banquets, up to four or five thousand persons, will be held by such organizations as the Republican State Central Committee, North American Aviation, Ex-FBI Convention, and the Southern California Lutheran Convention. The list goes on and on . . . there's something happening everyday at the Anaheim Convention Center.

Last year's results — and next year's events — it all spells success, and an important contribution to the economy, culture, and happiness of Anaheim's citizens.

THE NEXT FEW YEARS . . .

These first years of Anaheim Convention Center have been tremendously successful . . . what about the next few years?

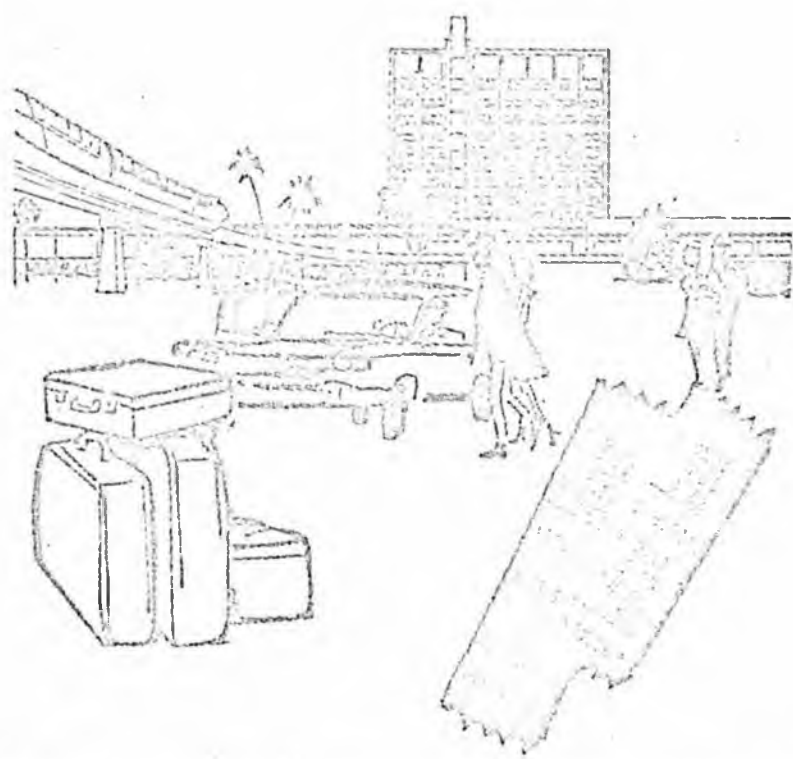
The Anaheim Area Visitor and Convention Bureau reports that it has already booked 34 conventions into the Anaheim Convention Center for calendar year 1971 . . . 20 for 1972 . . . 18 for 1973. In fact, they've registered advance bookings for 1979, 1980, and even 1982, with more conventions being added to the list everyday.

In terms of money and the economy, the V & C Bureau estimates that conventions already booked into the Center through 1975 will mean over \$100 million in delegate spending for the local economy — and there are many more still to be booked.

Anaheim Convention Center's success story is no accident. Planning and foresight brought it into being . . . acceptance is due to the attractions and "full service" capability it holds forth to prospective tenants. The attendance and dollar income already committed to our area by conventions from all over the world emphasize the success of today, and the promise of tomorrow.

CS FOR HB 119

#1



ECONOMIC IMPACT



IMPACT OF FACILITY OPERATIONS

The Stadium and Convention Center together attracted over 5 million patrons and visitors since beginning operations *Figure 18*. The impact on local economy as a result of this patron-visitor influx was, for the purposes of this study, measured by estimated gross sales generated outside the facilities, in-house gross sales, payrolls, City operating revenues and surveys. The impact generated by the operation of each facility is discussed in the following paragraphs.

Anaheim Stadium

From April 1966 when the Stadium opened through June 1968, nearly 4 million people attended events staged at that facility *Figure 18*. Of that number, 3.72 million attended major league baseball games. The balance of patrons attended junior college and high school (California Interscholastic Federation) football games and a recreational vehicle show.

Visitor/Patron Influx

Major league baseball was found to be supported primarily by patrons located in Orange and Los Angeles Counties as indicated in Table 1. However, mail order tickets were requested by patrons from as far away as Santa Barbara, Ventura, Bakersfield, San Diego and Phoenix. Business firms in Orange and Los Angeles Counties took advantage of the entertainment feature of major league baseball by ordering 85 percent of the 5400 season tickets sold during the 1968 season.

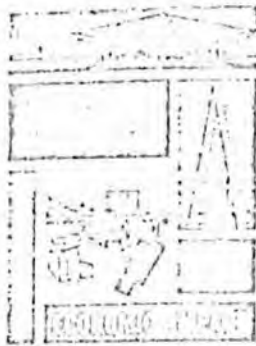
Baseball Impact on the Local Economy

In the absence of specific data concerning the impact on the local economy by major league baseball activity, a guide to such an impact was found in a 1964 report of a survey involving the Cleveland Indians and the Minnesota Twins baseball teams.* With an average annual attendance of 1.13 million fans for the Indians and 1.20 million for the Twins (comparable to the California Angels' 1.24 million average annual attendance**) a patron per capita local economy expenditure of \$9.28 (not including tickets, concessions, and other in-stadium purchases) was reported for the Indians and \$15.82 for the Twins. Thus for each one million persons, an average annual economic benefit of \$9,280,000 was produced by the Indians for the Cleveland community, and \$15,820,000 by the Twins for the Minneapolis-St. Paul complex.

It is recognized that individual baseball patron spending patterns are variable among different communities; however, it is also recognized that an annual average influx of over one million people which did not exist prior to 1966 when the Anaheim Stadium opened must necessarily affect local businesses favorably. This study made no attempt to derive specific economic figures as a result of Stadium operations for the Anaheim community by mathematical or other type of formula, however, it may be reasonably deduced in comparison with the Cleveland and Minnesota figures that the local business community has benefitted economically in the neighborhood of seven-figure dollar amounts annually for the first three years of Stadium operation.

*Cleveland Indians, Economic Impact of a Major League Baseball Stadium on the Local Community, 1964.

**3.73 million attendance (1966-1968) divided by 3.



CONVENTION CENTER

From July 1967, when the Convention Center opened, to June 30, 1968, the end of the 1967-68 fiscal year, the Center was host to 1.1 million patrons and visitors during trade shows, performances, socials, sports events, and conventions *Figure 18.*

Visitor/Patron Influx

As the result of local surveys, it was found that 24 to ⁴⁶~~39~~ percent of the attendees to national conventions and trade shows held at the Convention Center during the first year of operation originated from outside the Southern California area as indicated in Table 5. The significance of this lies in the fact that expenditures of delegates from outside a convention area are greater than for expenditures for local resident or regional delegates (see Table 7).

Impact of Conventions on the Local Economy

To provide a guide concerning individual spending patterns of conventioners and their economic impact on the community, a local survey was addressed to patrons of the Convention Center and used for the first time at the September 1968 convention of the National Sunday School Convention. From the data reduced from this survey, it was indicated that the convention resulted in an estimated economic benefit to Anaheim of almost \$350,000 as shown in Table 6.

TABLE 6
ESTIMATED TOTAL DELEGATE EXPENDITURES*
CITY OF ANAHEIM SURVEY

<u>Activities</u>	<u>Total Per Capita</u>	<u>Total Amount (Estimated)</u>
Hotel/Motel	\$24.70**	\$46,930***
Entertainment	7.41	74,100
Food/Beverages	10.01	100,100
Other	12.74	127,400
	<u>\$54.86</u>	<u>\$348,530</u>

* Survey, National Sunday School Association Convention, 25-28 September 1968, 10,000 attendance, 1,025 (10%) responding.

** Per capita expenditure of those reporting staying in hotels or motels one night or more. Nineteen percent (195 of 1,025 respondents) reported such expenditures.

*** Nineteen percent of 10,000 delegates (1900) at \$24.70 per capita.

The survey indicated that each delegate staying in a hotel or motel spent a total of \$54.86 for an average of four nights. For those staying at home or with friends in the area, the total per capita expenditures for the duration of the convention (25-29 September 1968) was \$30.16 (\$54.86 less \$24.70).

Expenditures by business and technical groups can be expected to be higher than expenditures by religious groups, and delegates from outside convention areas spend more than local or regional delegates. Based on a national survey, the International Association of Convention Bureaus reports delegate per capita expenditure by classes of business as shown in Table 7.

TABLE 7
CONVENTION DELEGATE TOTAL EXPENDITURES
BY CLASS OF BUSINESS

<u>Class of Business</u>	<u>Type of Conventions</u>		
	<u>State & Regional</u> (2.87 days avg. stay)	<u>National & International</u> (4.24 days avg. stay)	<u>All Types</u> (3.93 days avg. stay)
Hotel Rooms & Incidentals	\$26.97	\$ 50.87	\$ 45.37
Hotel Restaurants	11.18	19.17	17.37
Other Restaurants	11.72	18.56	16.98
Beverages	6.59	7.88	7.53
Retail Stores	15.17	16.55	16.05
Local Transportation	2.27	6.39	5.50
Theaters	.93	1.52	1.39
Sightseeing	.45	2.44	2.02
Night Clubs, Sports Events	4.80	7.12	6.59
Car, Oil, Gas, Service	2.56	9.55	8.07
Other	4.93	8.64	7.81
	<u>\$86.57</u>	<u>\$148.69</u>	<u>\$134.98</u>

Source: The International Association of Convention Bureaus, Convention Delegate Expenditures, National Survey Report, 1968. (734 conventions; 48 cities).



CONCLUSIONS AND PROJECTIONS

The results of this study indicate that Anaheim has made a sound investment in the present and an even sounder investment in the future.

Findings

Although no precise determination could be made on the Stadium and Convention Center total dollar impact on the local economy, the findings on increased gross sales and revenues, land values, and commercial floor space expansion indicate that those facilities have definitely benefited local visitor-oriented business. Business in Anaheim, primarily but not exclusively located in the impact area, and surrounding communities as well, now enjoy:

- A visitor season which has extended three months from the traditional May to September period to February through September.
- A gross visitor-oriented sales volume in the impact area which has increased \$38 million during the period 1964-1967.
- A combined hotel/motel room revenue volume in the impact area which has increased over \$5 million during the 1964-1967 period.

- A food and beverage sales volume in the impact area which has increased over \$5 million during the 1964-1967 period.
- An increased liquor sales volume in the impact area of over \$1 million from 1965 to 1967.
- An expansion of business because of an increase of hotel and motel floor space of 936,000 square feet (resulting in the current total availability of 4,084 rooms) during the period 1964 to August 1968, which represents a valuation increase of \$27.9 million; and an increase in eating and drinking establishment floor space of 89,000 square feet during the period 1965 to August 1968, which represents a valuation increase of \$1.38 million.
- A per acre land value increase from \$80,000 to over \$160,000 in the immediate vicinity of the Convention Center.

Operations of the Stadium and Convention Center since their opening have:

- Attracted over 5 million visitors and patrons to Anaheim.
- Injected an estimated \$11.9 million into the local community as a result of the Convention Center operations alone.
- Injected a total of \$24.7 million into the local economy as a result of gross sales inside the facilities (Stadium--\$20.46 million; Convention Center-\$4.250 million).
- Generated \$8.06 million in local economy impact as a result of wage and salary payments to employees (Stadium--\$7.08 million; Convention Center-\$.98 million).
- Generated \$5.421 million in operating revenues (Stadium-\$4.334 million; Convention Center-\$1.087 million).

Comparison with Stanford Research Institute Projections

The economic impact of the Stadium and Convention Center is substantial as indicated by the foregoing findings. Conventions and trade shows attracted by the Convention Center (and the ever-expanding facilities of local hotels) are especially providing an important source of income to the community. In 1962, the Southern California Laboratories of the Stanford Research Institute (SRI), in the work cited in the introduction of this study, anticipated that some 75,000 persons from outside the area could be expected to visit Anaheim during a normal year* -- 50,000 as delegates and an additional 25,000 as exhibitors and members of families of delegates. The delegate figures reported in this study, 40,845 for the initial year of operation, do not include exhibitors or families.

The SRI study also estimated total visitor expenditures attributable to conventions and trade shows held in the Center at \$9.5 million during the first normal year. This study indicates an estimated \$11.9 million were injected into the community during the initial year of operation of the Center.

Thus by comparison the Convention Center in its initial year of operation has exceeded the anticipations of the SRI study.

Secondary Benefits

The primary emphasis of this report has been on the expenditures of the visitor. However, in addition to visitor spending, the economy of the area received many secondary benefits as noted in a sub-committee report concerning the benefits of a Convention Center marketing program.** The major benefits were as follows:

- By the employees who work for the businesses which provide services to the visitor and who in turn spend a portion of their wages for current needs in the local area.
- By these same employees for the purchase of longer lasting consumer goods such as automobiles and homes.
- By the businesses themselves through expenditures and taxes.

*A 'normal' year is the third year of operation by SRI definition.

**Report to the In-Depth Study Committee of the Anaheim Visitor and Convention Bureau from the Sub-committee to Evaluate the Returns to the City as a Result of Using Best Possible Marketing Program for the Convention Center, 1966.