

LDIR#179

LIQUOR

EXCISE

TAX

STUDY FILE

MILITARY

CREDIT

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BOX 2170—JUNEAU

May 14, 1963

CONFIDENTIAL MEMORANDUM

TO: R.D. Stevenson, Commissioner
Department of Revenue

FROM: Avrum M. Gross
Assistant Attorney General

Re: Alcohol tax on imported liquors

You have requested an opinion as to whether the State of Alaska may impose an excise tax on alcoholic beverages imported from a foreign country. If such a tax is valid, you have asked under what conditions the tax may be imposed and a description of the incident of the tax. For reasons which will appear below, we will not issue a formal opinion on this subject.

Article I, Sec. 10 of the United States Constitution provides:

No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws;

The import clause above quoted has had substantial interpretation by the Supreme Court. It is well established that a state tax on goods imported for sale until that sale has been completed and the goods are sufficiently intermingled with domestic goods of the importer as to make the property indistinguishable from the domestic goods is valid. *Wheat*, 419 (1827); Note, 38 HARV. L. REV. 858 (1925). If the goods are sold by the importer, a state tax on the goods in the hands of the person to whom they are sold is valid. *Mayor*, 8 FILL. 10 (1868).

Mr. Clayton B. ...
Alcoholic Tax Division
Department of Revenue
State of Alaska

Dear Mr. ...

Concerning the ...
State of Alaska ...
the ...
July 8, 1951 ...
the ...

SEA 1951 ...

July 7, 1960

-4-

**STATUS OF CLUBS AND BUSINESSES
LOCATED WITHIN MILITARY RESERVATIONS**

Under Sec. 105 of Title 4, United States Code, the State of Alaska may levy taxes on sales of intoxicating beverages by business establishments located within military reservations to the same extent and with the same effect as though such area were not a federal area if the seller is not the United States or any instrumentality thereof, including "commissaries, ship stores, voluntary unincorporated organizations of personnel of any branch of the Armed Forces of the United States, under regulations promulgated by the Department of the Secretary having jurisdiction over such branch," as described in 4 U.S.C., §107.

In other words the State of 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 U.S.C., §107.

The Alcoholic Beverage Control Board may also regulate the sale of intoxicating beverages on such 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 the State 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.

Section 11(b) of the Alaska Statehood Act (Act of July 7, 1958, 72 Stat. 339) provides in part:

... the reservation of authority in the United States for the exercise by the Congress of the United States of the power of exclusive legislation over the lands aforesaid (My note) McKinley National Park, military, naval, and air reservations) shall not be construed to prevent such lands from being a part of the State of Alaska,

October 16, 1968

Dear Mr. [Name]
[Address]
[City, State, Zip]

My [Name] [Address]

[The body of the letter contains several paragraphs of text that are extremely dark and illegible due to the quality of the scan. The text appears to be a standard letter format with multiple lines of body text.]

Sincerely,
[Signature]

Repeal tax

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

FEDERATION OF TAX ADMINISTRATORS
1313 East Sixtieth Street
Chicago 37, Illinois

February 2, 1962

Mr. R. D. Stevenson
Deputy Commissioner
Department of Revenue
State of Alaska
Juneau, Alaska

Dear Bob:

The information given here relates only to the license states. According to the material we have, the following states do not permit a licensed manufacturer, distributor, or wholesaler to take an exemption from the excise tax with respect to sales of distilled spirits to officers' clubs and similar voluntary unincorporated associations which are authorized and governed under regulations of the Department of Defense:

Arizona	Kansas	Tennessee
California	Minnesota	Texas
Colorado	New Mexico	Wisconsin
Florida	South Carolina (partial)	Wyoming.

In Wyoming, the state liquor commission is the vendor for wholesale purposes.

These states permit sales of liquor to be made on a tax exempt basis to organizations of the type described above:

Delaware	Maryland
Georgia (limited)	Nevada
Illinois	New Jersey
Indiana	Rhode Island.

There is another group of states whose status in this respect I cannot determine from the information we have here. Of these I would be inclined to say that

Connecticut, Kentucky, Massachusetts, Nebraska, North Dakota, Oklahoma, and South Dakota

do not allow an exemption. However, I just don't have the full text of any regulations applicable to this point, for these states, and it may be that, although

LICENSED
BEVERAGE
INDUSTRIES, INC.

NEWSLETTER

1 2 3 4 5 6 7 8
ALASKA LEGISLATIVE COUNCIL
Staff Routing

115 East 4th Street, New York 17, N. Y.

The National Public Relations Organization of the Distilled Spirits Industry

No. 219



*Letter of inquiry
sent.
May 9, 1962*

April, 1962

N.Y. Senator Says Study May Suggest Lower Drinking Age In Border States

The possibility that further study will develop information suggesting that states bordering New York should lower their legal drinking age from 21 to 18 as a solution to the so-called inter-state minimum age drinking problem has been voiced publicly by State Senator John J. Marchi, chairman of the New York State Joint Legislative Committee for the Study of Alcoholic Beverage Control Laws.

Sen. Marchi's statement was in direct response to an editorial in a New York newspaper that stated his committee "was stumped by conflicting testimony" and for that reason was delaying an urgently needed recommendation on the problem.

His reply to the newspaper said:

"While there is much truth in your characterization of the situation now confronting the committee it should be pointed out that a positive policy has been set in motion to resolve the controversial subject of the legal drinking age.

"The program provides for selection of an advisory group, an independent research agency and public hearings devoted exclusively to the subject. The committee expects to make a firm recommendation to the Legislature before the end of this year.

"Many groups, including the State Council of Churches, who have and are still requesting immediate consideration of legislation designed to raise the drinking age from 18 to 21, have endorsed this approach. It should be clearly understood that the committee was charged by the Legislature with the task of recodifying the Alco-

(Continued on page 2)

LBI Exhibit Wins Press Plaudit As Sign Of Better Science Education In Schools

The LBI educational exhibit, which has just completed a tour of major educational conventions, was mentioned publicly as an indication of shifting trends in science teaching that are leading to improved education of youth.

The *San Francisco Chronicle*, reporting on the annual meeting of the National Science Teachers Association in that city, said:

"The great national changeover in school science teaching is a long way from finished, it was made clear at the opening sessions of the National Science Teachers Association convention here.

"The point was made not only by the day's major speaker but even more clearly by the exhibits and by the association's election of its new officers."

The report listed as an example of the "major exhibits" that of "the Licensed Beverage Industries, Inc.—'Accurate and unbiased information about alcoholic beverages is essential to the total education of youth'."

This acceptance of the industry message to educators—that adequate, accurate and scientific material is as

essential to alcohol education as to any other subject — was typical of the reception the exhibit received from teachers and educators across the country.

In addition to the San Francisco event, the exhibit was manned by LBI personnel in St. Louis at the meeting of the National Association of Secondary School Principals; at the Las Vegas convention of the Association of Supervision and Curriculum Development; and at the Boston meeting of the Eastern District Association of the American Association of Health, Physical Education and Recreation.

The exhibit has available for the professional visitors packets of the LBI-assembled scientific reprints on alcohol and alcohol education, representing authoritative viewpoints of outstanding authorities on a variety of subjects relating to alcohol, alcohol education and alcoholism. It also gives educators the opportunity to go on the mailing list of LBI's Division of Educational Studies for additional reprints as they are republished from scientific journals.

September 19, 1960

The Honorable Peter Gatz
Commissioner of Revenue
Department of Revenue
Alaska Office Building
Juneau, Alaska

Re: Application of the Alaska Cigarette Tax
Act to Cigarettes Sold by Vending Machine
on Military Reservations.

Dear Mr. Gatz:

The question presented is:

"Is the Alaska cigarette tax
applicable to cigarettes sold by
vending machines on military reser-
vations?"

The answer is "Yes."

This opinion was requested by the Department of
Revenue because certain firms operating vending machines
on military reservations have claimed that they are not
liable for the taxes imposed under the Alaska Cigarette
Tax Act, Chapter 187, SLA 1955.

In answering this problem, primary reference
must be made to what is commonly known as the "Buck Act"
which is codified in 4 U.S.C.A., Section 105 et seq. It
provides as follows:

"§105. State, and so forth,
taxation affecting federal areas;
sales or use tax

"(a) No person shall be relieved
from liability for payment of, collec-
tion of, or accounting for any sales
or use tax levied by any State, or by
any duly constituted taxing authority
therein, having jurisdiction to levy

Council approved study 4/8/62 re military exemption from liquor excise tax. See. S.B. #91.

SCR #29 failed but one subject revived in Council.

1 IN THE SENATE

BY RULES COMMITTEE

2 SENATE CONCURRENT RESOLUTION NO. 29

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - SECOND SESSION

5 Relating to an interim study of the
6 taxation, bonded warehousing, and
7 importation of intoxicating liquor.

8 BE IT RESOLVED BY THE SENATE IN SECOND LEGISLATURE, SECOND
9 SESSION ASSEMBLED, THE HOUSE CONCURRING:

10 WHEREAS, there are now before the Senate three bills relating
11 to the taxation, bonded warehousing, and importation of liquor;
12 and

13 WHEREAS, these related bills, Senate Bills Nos. 91, 92 and
14 94 are of sufficient importance to merit interim study and review
15 before a final legislative determination is made;

16 BE IT RESOLVED by the Senate in Second Legislature, Second
17 Session assembled, the House of Representatives concurring that
18 the subject matter of Senate Bills Nos. 91, 92 and 94 is referred
19 to the Legislative Council to be included in its program for
20 interim study and be made the subject of public hearings with the
21 cooperation of the Departments of Law and Revenue prior to the
22 issuance of a report of findings and recommendations to the
23 Legislature in 1963.

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1 IN THE SENATE

BY SENATOR MCNEES

2 SENATE BILL NO. 91

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to excise tax on intoxicat-
7 ing liquors; amending Sec. 35-4-32, ACLA
8 1949 as last amended by Ch. 42, SLA 1957;
9 and providing for an effective date."

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

11 Section 1. Sec. 35-4-32, ACLA 1949 as amended by Ch. 70, SLA
12 1951, Ch. 79, SLA 1953, and Ch. 42, SLA 1957 is amended to read:

13 Sec. 35-4-32. MONTHLY STATEMENT AS TO LIQUOR SOLD:
14 MONTHLY PAYMENTS: PENALTY AND INTEREST. Each such brewer,
15 distiller, bottler, jobber, wholesaler, manufacturer or other
16 consignor shall on or before the last day of each calendar
17 month, airmail, postage prepaid, to the [TERRITORIAL TAX]
18 Commissioner of Revenue at Juneau, Alaska, a statement con-
19 taining a true account of the total number of gallons, in-
20 cluding fractional gallons, together with the respective
21 names and Alaskan addresses of, and itemized as to the re-
22 spective gallonage of each such kind of liquor sold to, or
23 consigned to, the respective buyers or any consignee thereof
24 which such brewer, distiller, bottler, jobber, wholesaler, or
25
26 in Alaska during the immediately preceding calendar month

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22 issuance of a report of findings and recommendations to the
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24
25
26



Revenue	1961	1962	1963	#
Beverage Dispensary	281,462	311,000	313,750	
Club	17,644	14,000	15,000	
Common Carrier	1,625	1,625	3,000	
General Wholesale	67,250	64,750	65,000	
Misc. Wholesale	(150)	1,500	4,446	
Restaurant	9,493	9,450	9,450	
Retail	155,661	177,150	173,100	
Road House	4,125	3,825	3,375	
Wholesale Malt, Beverage & Wine	13,600	9,800	8,750	
	<u>545,710</u>	<u>597,600</u>	<u>595,871</u>	
Total Net Revenue				
Refund to Local Govt:	346,458	329,775	358,616	
Total ^{General Fund} State Revenue	199,252	267,825	237,255	1
Estimated State Revenue	322,700	306,525	243,875	2
^{General Fund}				

Terry
Ext 314

Terry:

The individual license figures for F.Y. 1961 do not agree with the figures as published by the Dept. of Revenue. I am unable to reconcile the differences at this time.

Dick Jean