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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

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Honorable Richard Pierce
Senate Chambers
State House
Augusta, Maine 04333

Dear Senator Pierce:

You have asked whether the act of registering to vote, and thereby asserting residence, in a municipality of the State of Maine gives rise to any obligations on the part of the registrant. Although framed in terms of students, your inquiry could obviously apply to any individual who registers to vote in Maine.

The general answer to your question is that by registering to vote, a person becomes potentially subject to any legal obligation which is conditioned upon residence or domicile in the State. Insofar as motor vehicle registration and licensing and tax liability are likely to be the two most common areas of concern, our response will focus on those subjects.

I. "Residence" under Maine Election Laws.

In order to qualify to register to vote, an applicant must establish that he satisfies certain prerequisites. See 21 M.R.S.A. § 102. The prerequisites are set out in 21 M.R.S.A. § 241 as follows:

A person who meets the following requirements may vote in any election in the municipality in which his residence is established.

1. Citizenship. He must be a citizen of the United States.

2. Age. He must be at least 18 years of age.
3. Residence. In order to vote in any election, he shall have established a residence in this State and in the municipality in which he resides.
(emphasis added)

In the context of this opinion, the critical requirement is that the applicant for registration prove that he or she is a resident of the State and of the municipality in which he or she seeks to register. For this purpose, the election laws define "residence" in the following language:

The residence of a person is that place in which his habitation is fixed, and to which, whenever he is absent, he has the intention to return. 21 M.R.S.A. § 242, sub-§ 1.

The above analysis reveals that by registering to vote an individual is asserting that his habitation is fixed in a particular municipality in Maine and that whenever he is absent therefrom, he has the intention to return to that municipality. It thus becomes necessary to examine the ramifications of that assertion for purposes of other state laws.

II. Motor Vehicle Laws

The law governing motor vehicle registration in the State of Maine essentially requires that anyone who owns or operates a motor vehicle on the highways of this State must register that vehicle in Maine unless the owner or operator is a non-resident who has complied with the registration laws of his place of residence. 29 M.R.S.A. §§ 102, 2243. The law governing operators' licenses states that "[n]o resident of the State shall operate a motor vehicle on any way, unless licensed by the State to operate such motor vehicle." 29 M.R.S.A. § 531. From the foregoing we conclude that a person, such as a student, physically located in this State who registers to vote and by that act claims Maine as his or her fixed habitation, is thereby precluded from claiming nonresident status so as to continue his or her exemption from Maine's registration and operator licensing laws. Thus it appears plain that anyone physically located in this State who registers to vote in a Maine municipality must register his or her motor vehicle in Maine and must obtain a Maine operator's license.

A prerequisite to motor vehicle registration is the payment of the excise tax on that vehicle to the municipality. This will be discussed in the next portion of this opinion in more detail.

III. Taxation Laws

The taxation laws are applied to persons who are domiciliaries of the State and of municipalities. Title 36 contains no definition of either domiciliary or domicile.* A long line of cases has held that both residence and intention to remain must concur in order to establish domicile. Belanger v. Belanger, Me., 240 A.2d 743, 746 (1968). Gilmartin v. Emery, 131 Me. 236, 160 A. 874 (1932). Domicile is made dependent upon intent as well as fixed habitation. It becomes clear, then, that the act of declaring one's residence for qualification for voting registration equates to declaring that place as a domicile for tax purposes.

Therefore, if a person states that a particular municipality is that place in which his habitation is fixed and to which whenever he is absent he intends to return for voter qualification, he is claiming that that municipality constitutes his domicile for tax purposes.

The fact that a person has become a domiciliary of this State and of a particular municipality subjects him or her to the following special tax liabilities:

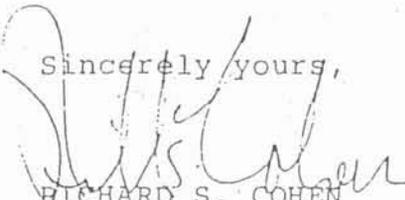
1. property tax - Once a person has become a Maine domiciliary, he or she ceases to benefit from certain personal property tax exemptions for nonresidents. See 36 M.R.S.A. §§ 603 and 655.
2. income tax - Generally speaking, all of the income of a Maine domiciliary is subject to the taxing jurisdiction of the State of Maine. See 36 M.R.S.A. § 5121.
3. excise tax - Excise tax need only be paid as a prerequisite to motor vehicle registration. Failure to pay the excise tax would expose the individual to personal property taxes on the vehicle. See 36 M.R.S.A. § 1485.

* Domicile is defined by Black's Law Dictionary as "That place where a man has his true, fixed and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning." Black's Law Dictionary, 5th ed., 1979.

4. estate and inheritance tax - An increased proportion of the domiciliary's estate would ordinarily be taxed by the State of Maine.

Tangentially, it should be noted that the act of registering to vote and becoming a domiciliary of the State does not carry the concomitant benefit of entitling an out-of-state student to an in-state tuition rate. The University of Maine Board of Trustees have promulgated rules governing residence in this state which require that an out-of-state student is eligible for resident classification in the University only after he or she has been a bona fide domiciliary of the State for a year prior to registration for the term for which resident status is claimed. For University purposes, a student does not acquire a domicile in this State until he or she has been here for at least a year primarily as a permanent resident and not merely as a student.

Sincerely yours,



RICHARD S. COHEN
Attorney General

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