

ACC

10000/142/918

ALLIED IN
MAR. - JUN

10000/142/918

ALLIED IMMUNITY TO ITALIAN TAXES
MAR. - JUN. 1945

TO: Finance S/C (1), Food S/C (2). 1.

1. Folio 2A raises the question of the right of provincial authorities to impose taxes on canned rationed goods imported by the Allies for civilian consumption.

2. So far as occupied territory is concerned, there is no express mention of this question in the Armistice Terms. Under international law the tax laws of the country remain in force unless for administrative reasons it is necessary to modify them. DILL No. 62 of 6 March 1945 has been implemented in AMG Territory and upon the face of that decree there is no reason why taxes should not be charged on imported canned Allied goods. However, in Italian Government territory such a tax is clearly illegal since under the terms of restoration the Italian Government has from time to time agreed that the Allies shall have the right to import and export and to control and supervise the distribution to the civilian population of such civilian supplies ~~and~~ the Allied Forces may determine without the payment of any impost, tax, charge or duty of any kind whatsoever either to the Italian Government or to any of its political sub-divisions or agencies except as may from time to time be agreed by SAC.

3. It appears to be undesirable that taxes should be charged in AMG territory on these imported goods, particularly since they cannot legally be so charged in Italian Government Territory.

4. Folio 2A makes reference to Executive Memorandum No. 83 but that memorandum deals exclusively with customs duties and is not I think relevant to this question.

5. It appears to me that in AMG territory it may be necessary, if this course is desired, to issue a short order forbidding the imposition of any tax on these goods notwithstanding the terms of DILL No. 62.

6. May I have your views please.

W. E. B. BERPENS.

W. E. BERPENS,
Colonel,
Chief Legal Advisor.

LEGAL S/C
13 June 1945
WEB/rlp.

To:

Food S/C (1)
Legal S/C (2)

1. However Taxes have been charged on imported goods in both AMG and Italian Govt Territory.

(5-4-45) 18/6/45

3. It appears to be undesirable that taxes should be charged in AMG territory on these imported goods, particularly since they cannot legally be so charged in Italian Government Territory.

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Colonel,
Chief Legal Advisor.

LEGAL S/C
13 June 1945
WEB/rfp.

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To: Food S/C (1)
Legal S/C (2)

1. *Turnover Taxes have been charged on imported goods in both AMG and Italian Govt Territory.*

2. *If Food S/C has any questions as to the amount of tax, perhaps they will discuss with Finance?*

W. E. HEPBENS

To: Legal S/C

1. *The view of Para. 1. of Finance S/C. Memo. we should prefer continuance of payment of tax. Last sentence of you Para. 2 above implies that this may be agreed to by S.A.C.*

2. *In any case, essential to have uniformity i.e. if tax cannot be imposed in S. Govt. Territory then we should like order to prevent its application in AMG Territory.*

W. E. HEPBENS

Moving to scope of King (Treasurer's clear 13 June 1945)

HEADQUARTERS ALLIED COMMISSION
APO 394
LEGAL SUB-COMMISSION

4A

AC/4190/L.

14 June 1945.

SUBJECT : Italian taxes.

TO : Regional Commissioner (Attn: Regional Legal Officer),
TOSCANIA Region.

1. Your letter RVIII/19/2011 of 5 June 45 raises a question on the operation of D.L. No 72 of 8 March 1945 and the authority of the Italian Government to impose taxes on Allied personnel.

2. The Armistice terms themselves contain no reference to the payment of duties and taxes. It is clear however, that in occupied territory troops of the occupying power are not subject to the laws of the occupied country, even if such laws are made applicable (e.g. by implementation) to the occupied territory for the benefit of the inhabitants.

3. Moreover the Italian Government has expressly undertaken that no duties, taxes or imposts of any kind will be imposed directly or indirectly on the Allied Forces or members thereof.

4. Strictly therefore, any attempt by the Italian Government to impose, through D.L. No 72, what amounts to a tax on drinks is, in occupied territory, unenforceable and in Italian Government territory, a breach of the above undertaking.

5. Nevertheless it is clear that any attempt to differentiate, in a public bar, between sales to allied personnel and sales to civilians would lead to great difficulties and is most undesirable. Specifically it should be considered that it may often be difficult to distinguish between allied personnel and Italians in allied uniform, that the proposed practice will facilitate wholesale tax evasion and that it may lead to considerable ill feeling between military and civilians.

6. For these reasons it has been and is the policy of the Finance Sub-Commission, of which AMIQ has been advised, that relief from tax cannot be granted to individual members of the allies in public places to which civilians are freely admitted.

By command of Rear Admiral STONE:

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Copy to: Finance Sub-Commission

W. E. BRYAN,
Colonel,
Chief Legal Advisor.

HEADQUARTERS ALLIED COMMISSION

APO 394

FINANCE SUB-COMMISSION

13133/F

12 June 1945

SUBJECT : Allied immunity from Italian taxation.

TO : Legal Sub-Commission. ✓

1. This Sub-Commission has followed the policy that relief from tax cannot be granted to individual members of the Allies, military or civilian. This policy was adopted after careful consideration of the administrative problems involved. It was decided that it would be impracticable to devise any method of applying relief to individual Allied personnel, purchasing in shops, bars, restaurants, etc. open to the general public without throwing the door wide open to uncontrollable tax evasion by the Italian sellers.

2. This policy (in reference to the Fund of National Solidarity) was stated to A.F.H.Q., G-5 Section in our letter 13133/F dated 24 Mar. '45, a copy of which is attached. The Quintieri undertaking referred to therein reads :-

" In tema de jure condendo il Ministro non ha difficoltà a confermare che il Governo Italiano nè direttamente nè indirettamente tenterà di imporre dazi, imposte e tasse di qualsiasi natura a carico delle Forze Alleate o dei membri di esse o di organizzazioni al seguito o servizio delle Forze Alleate."

The Italian Government has never attempted to repudiate the principle of this undertaking but the Minister of Finance has expressed concern as to the scope for tax evasion given by its application generally to individual Allied personnel.

3. The specific question of the sale of drinks to Allied personnel in public bars has been raised. "The Fund of National Solidarity" (D.L.L. 8 Mar. 1945, n. 72, G.U. 24 Mar. '45, n. 36), Art. 21 imposes a tax of lire 3 for every 25 lire spent in bars, cafés, inns and similar places on wines and spirituous liquors. Art. 24 requires the issue of special stamped tickets to the amount of the tax paid. The possibility of dispensing with the issue of tickets and so of waiving this tax to Allied personnel will be discussed

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*A.R. Snodgrass with
Brig*

Joint Director
Finance Sub-Commission.

RESTRICTED

HEADQUARTERS ALLIED COMMISSION

APO 394

FINANCE SUB-COMMISSION

13133/F

24 March 1945

SUBJECT: Allied immunity from Italian taxation.

TO: A.F.H.Q. G-5 Section.

With reference to your letter of the 17 March 1945 (G-5/012.313), frequent opportunities have been taken to keep before the Italian Government its pledge of Allied Immunity from taxation. It must be said that in every case in which it has been administratively practical to exempt Allied organizations or individual members of the Allied Forces from taxation the Ministry of Finance has co-operated without hesitation to give effect to the pledge.

During last month when the draft decree of the "Fund of National Solidarity" was under discussion and in particular the clause under which a selling tax is imposed on luxury goods it was pointed out that the tax would be borne by individuals of the Allied Forces. An attempt was made to find some method by which exemption could be granted. Finally, it was decided that any method would lead to such wholesale evasion on the part of Italian citizens as practically to nullify the intention of the decree. In a letter dated the 10th February 1945 (our file number 13202/F) in which the Minister of Finance confirms the points discussed, he writes: "I propose not to put a clause in the draft, remaining always the principle of the exemption of the Allied organizations members".

In our acknowledgment of this letter (13 Feb. 1945, 13202/F) we took the opportunity of reiterating that the decision taken was without prejudice to the undertaking given by the Italian Government and then continued by repeating the undertaking word for word as signed by Sig. Quinto Quintieri at Salerno on the 13th of May 1944 (Italian reference 546 SEQR).

As we have so recently called the attention of the Italian Government to the pledge and furthermore have never met the slightest opposition to its implementation, it is suggested that action on the lines mentioned in the letter under reply be not taken at the moment.

However, the next time an occasion arises, and they do so frequently,

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As we have so recently called the attention of the Italian Government to the pledge and furthermore have never met the slightest opposition to its implementation, it is suggested that action on the lines mentioned in the letter under reply be not taken at the moment.

However, the next time an occasion arises, and they do so frequently, we will take the opportunity of reminding the Italian Government that the Allied Forces, in order not to create administrative difficulties, are paying very considerable amounts by way of indirect taxation and the fact that claims to refund or adjustment have not been presented is without prejudice to our rights in this respect.

For the Chief Commissioner

Signed: *[Signature]*
Commander (NCC)

Joint Director
Finance Sub-Commission.

AJB/mv

HEADQUARTERS
ALLIED MILITARY GOVERNMENT
TOSCANA REGION
SUPPLY DIVISION

Legal (2A)

R/VIII/AD/8

7 June 1945

SUBJECT: Commerce's Tax on Imported Rationed
Feedstuffs

TO : Reg. Legal Officer Toscana Region

1. The question has been raised in several provinces of this Region as to the legality of imposing a consumers tax on canned rationed goods imported by the Allied for civilian consumption.
2. It is the opinion of the Finance Officer that this tax is not properly chargeable.
3. It is also the belief of this Division that when the maximum price to consumer was fixed no such tax was levied.
4. On the one hand there is operative decree N°62 issued by the Italian Government in March 45 in which no exception appeared to tax be made in the imposition of this tax.
5. On the other hand, there is Memorandum N°83 of 23 Jan 45 which clearly states that no customs duties, taxes, imposts or fees of any kind are chargeable on the class of goods referred to above. This appears to refer however to the customs only.
6. It would be appreciated if a legal ruling could be had on this question.

H. DRING
Major
R30

RVIII/19/4001

1st. Indl

JKW/eg.

Regional Legal Office, Headquarters Toscana Region, AMG- 8 June 1945.

TO: Officer i/c Italian Branch HQ. A.C.

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1. Herewith is copy of letter received from the Regional Supply Officer raising questions upon decree No. 62.

2. As this appears to be quite an important point, your helpful advice and opinion will be greatly valued.

For the Regional Commissioner:

JOHN K. WEBER,
Colonel, Infantry,
Regional Legal Officer.

HEADQUARTERS
FLORENCE PROVINCE
ARMED MILITARY GOVERNMENT

RL Legal
(1A)

FL/17

4 June 1945

SUBJECT: Exemption from surtax on drinks served
to military personnel.

15 JUN 1945
FILE
H. H. H.
H. H. H.
H. H. H.

TO : R.L.O. HQ., AMG, Toscana Region

1. I annex a copy of a communication to the P.C. of Florence. He has requested a ruling from you before a reply is made to the Florence Command but I have discussed this matter with the P.F.C., Florence Province, and he points out that the matter of the applicability of exemption from the surtax imposed by the Italian decree of 8 March 1945, no. 72, is a matter which should be taken up on a country wide basis and not on a Provincial and legal basis. He proposes, therefore, to write the Finance Sub-Commission through the R.F.C.

2. However, in view of the fact that a question of construction of Italian law, as well as possibly the construction of the armistice terms is involved, I suggest that you also take up this question with the Legal Sub-Commission so that the two Sub-Commissions may agree upon a decision.

Henry L. Green
HENRY L. GREEN,
Major, JAGD.,
P.L.O.

LEGAL SUB-COMMISSION
LEG/17

CLO ←

DCLO

Chief Counsel

CLO

Relation Section

CLERKS

RVIII/19/2011

1st. Ind.

JKW/eg.

Regional Legal Office, Headquarters, Toscana Region, AMG-5 June 1945.

TO: Legal Sub-Commission, Headquarters, A.C.

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1. Forwarded.

For the Regional Commissioner

HEADQUARTERS
9 JUN 1945
A. C.

John K. Weber
JOHN K. WEBER,
Colonel, Infantry,
Regional Legal Officer.

8 JUN 1945

SUBJECT: Bar "La Vigna"

A 107/21

Provincial Commissioner,
AMG Florence Province

1. An application has been received from the proprietor of the Bar "La Vigna," 14 Via Vigna Nuova, regarding exemption from surtax on drinks served to military personnel.

2. This bar has been placed "In Bounds" to British WOs and Sergeants who are permitted to go there in company with their civilian friends. Under Decree No. 72 passed by Italian law on 8 March 45, a surtax of 3 lire has to be charged on each drink up to 25 lire. The proprietor now asks if he is required to charge this surtax on drinks purchased by military purchasers.

3. It is thought by this Headquarters that a regulation exists rendering military personnel exempt from such surtaxes. May this please be confirmed and the Bar Proprietor informed accordingly.

(signed) A. Mayre, Major

For Colonel
Commander
Florence Command.

CMT

31 May 45

AJT/AL Copy to: Walters (Wet/13/6 of 22 May 45 refers).

1077