prices it must pay for the goods or services being taxed does not invalidate the tax; "legal incidence" is the test. *Polar Ice Cream & Creamery Co. v. Andrews*, 375 U.S. 361, 11 L.Ed.2d 389, 84 S.Ct. 378 (1964); *Kern-Limerick, Inc. v. Scurlock*, supra. *See also Alabama v. King & Boozer*, 314 U.S. 1, 86 L.Ed.3, 62 S.Ct. 43, 140 A.L.R. 615 (1941). The legal incidence of Nevada's liquor excise tax falls upon the importer, for NRS 369.370(1) reads: "For the privilege of importing, processing, storing or selling liquors, all licensed importers and manufacturers of liquor in this state shall pay the excise tax imposed and established by this chapter." Since there are no manufacturers of liquor at present in Nevada, the legal liability for the tax falls upon the liquor importer. "Importer" is defined by NRS 369.030 as "* * * any person who, in the case of liquors which are brewed, fermented or produced outside the state, is first in possession thereof within the state after completion of the act of importation."

Attorney General's Opinion No. 40, dated June 7, 1963, answered a virtually identical question as is herein being discussed by concluding that: "The Navy Commissioned Officers Mess at the Naval Auxiliary Air Station, Fallon, Nevada, may not be required to pay the Nevada excise tax on liquor." Certainly the conclusion is correct to the extent that it means that the legal liability for payment of the tax may not be imposed directly on the mess as a tax upon the purchase of liquor by the mess. However, it is erroneous to the extent that it implies that the excise tax may not be imposed on a licensed importer as to liquor then sold to the mess. The fact that the economic burden of the tax would be passed along to the mess in the form of higher prices for the liquor does not affect the validity of the tax, as discussed above. Said Attorney General's Opinion relies upon the case of *Federal Land Bank of St. Paul v. Bismarck Lumber Co.*, 314 U.S. 95, 86 L.Ed. 65, 62 S.Ct. 1 (1941), as calling for a conclusion that the legal incidence of Nevada's excise tax on liquor falls upon the purchaser. However, said case dealt with a North Dakota sales tax act which specifically declared the tax to be a debt from the purchaser to the retailer. In fact, the Supreme Court of North Dakota already had held that the legal liability for the sales tax was laid upon the purchaser, by reason of said statutory provision. As discussed above, the legal incidence of Nevada's liquor tax falls upon the licensed importer, rather than the purchaser. Therefore, Attorney General's Opinion No. 40, dated June 7, 1963, is superseded by this opinion. For an example of another state's courts upholding a liquor tax imposed upon the seller, even when the economic burden of the tax would be passed on to the United States, who was the purchaser, see *National Distillers Products Corp. v. Board of Equalization*, 187 P.2d 821 (Calif. 1948).

CONCLUSION

Liquor other than beer, sold by a licensed Nevada wholesaler to an Armed Forces instrumentality is not exempted or excepted from the State's liquor excise tax.

Respectfully submitted,

ROBERT LIST
Attorney General

By: Irwin Aarons
Deputy Attorney General

OPINION NO. 71-55 VOTING—REGISTRATION—County clerks and voter registrars are required to accept the registration of 17-year-olds who will have reached their 18th birthday on or before the next succeeding primary, general or other election in which they

wish to vote, if these potential voters meet the other constitutional or statutory requirements to qualify as electors.

Carson City, December 21, 1971

James H. Bilbray, Esq., University of Nevada Board of Regents, 302 East Carson Avenue, Las Vegas, Nevada 89101

Dear Mr. Bilbray:

This opinion is in response to your letter of December 3, 1971 in which you ask for an opinion on the following:

QUESTION

Are the various county clerks and voter registrars of the State of Nevada required to accept the registration of 17-year-olds if the 17-year-olds will have reached their 18th birthday by the election for which they are attempting to register?

ANALYSIS

As noted in Attorney General's Opinion No. 48, dated October 20, 1971, the primary consideration in the enforcement of election laws is that all statutes and regulations pertaining to registration and voting should be evenly and fairly applied. As noted at page 12 of the original of this opinion, it has always been the position of the courts of the State of Nevada that election laws should be construed and interpreted in such a manner as to permit the greatest number of citizens to exercise the right to vote.

It is obvious that the Legislature had this philosophy in mind when they enacted Chapter 585 of the 1971 Statutes of Nevada (Assembly Bill No. 569). Section 4 of this chapter, which became effective June 29, 1971, amends NRS 293.485 and provides in paragraph 2 when commenting on the right to vote:

> This section shall not be construed to exclude the registration of eligible persons whose 18th birthday * * * occurs on or before the next succeeding primary, general or other election.

This amendment to Nevada Revised Statutes, coupled with the earlier judicial determinations, indicates clearly that it was the intent of the Legislature that 17-year-olds who will have become 18 by the election for which they are registering and who meet the other constitutional and statutory requirements should be permitted to register and vote, although they have not achieved the age of 18 at the time of their registration.

CONCLUSION

County clerks and voter registrars are required to accept the registration of 17-year-olds who will have reached their 18th birthdays on or before the next succeeding primary, general or other election in which they wish to vote if these potential voters meet the other constitutional or statutory requirements to qualify as electors.

Respectfully submitted,

ROBERT LIST