

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA

April 10, 1934

Honorable George S. Foster  
Treasurer of State  
Augusta, Maine

Dear Sir:

You have recently called my attention to Chapter 235,  
Section 1 of the Public Laws (Special Session) 1933,  
which provides as follows:

"When a state tax is ordered by the legislature, the treasurer of state shall forthwith send his warrants directed to assessors of each town or other place, requiring them to assess upon the polls and estates of each, its proportion of such state tax for the succeeding year, forthwith upon the expiration of 1 year from the time such tax is so ordered. The tax for each year shall be separately ordered and apportioned; and the amount of such proportion shall be stated in the warrants. On the 1st day of January, first occurring after any 1st day of December on which taxes are due to the state from cities, towns and plantations, interest at 6% shall begin to run on such unpaid balances as are due to the state. All provisions of law that relate to the collection of taxes by the state shall apply to the collection of the interest due on over-due taxes."

You ask whether the foregoing statute is retroactive so as to enable you to collect interest on unpaid taxes assessed in 1933,--

"It is a fundamental rule for the construction of statutes that they will be considered to have a prospective operation only unless the legislative intent to the contrary is clearly expressed or necessarily implied from the language used.

Deposit Company, Appellant  
103 Me., 384



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Treasurer of State, Page 2.

In the case of Dyer v. Belfast, 88 Me. 140 the Court said,--

"Statutes are always to have a prospective operation unless the intention of the legislature is clearly expressed or clearly to be implied from their provisions, that they shall apply to past transactions."

In the case of Lombard, Appellant, 86 Me., 587, the Court said,--

"It is undoubtedly a well settled general rule that acts of the legislature will not be so construed as to have a retrospective operation unless the legislature has explicitly declared its intention that they should have that effect; or such intention clearly appears by necessary implication from the terms employed considered in relation to the subject matter, the present state of the law, the object sought to be accomplished, and the effect upon existing rights and obligations."

Applying this rule of construction to the statute under consideration, which became effective March 20, 1934, it is plain that it should not have a retroactive operation. In the language used the Legislature has not "explicitly declared its intention" that the amendment should apply to taxes previously assessed. Neither does such intention clearly appear by necessary implication from the language used. It follows, therefore, that interest on the 1933 tax is not collectable.

Very truly yours,

SLF H

Deputy Attorney General