

# MAINE STATE LEGISLATURE

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December 19, 1934

Hon. Frank H. Holley  
State Tax Assessor  
Augusta, Maine

Dear Sir:

In line with the letter to you from Mr. Hinds the Chairman of the Board of Assessors of Portland, under date of October 31, and the supplementary letter of December 13, I am pleased to advise you that after a careful reading of section 73 of chapter 13, R. S., I can find therein no ambiguity. The second sentence of the section provides, --

If after two years from the date of assessment a collector is satisfied that a poll tax or tax upon person property, or any portion of any tax, committed to him or to any of his predecessors in office for collection, cannot be collected by reason of the death, absence, poverty, insolvency, bankruptcy, or other inability of the person assessed to pay, he shall notify the assessors thereof in writing, under oath, stating the reason why such tax cannot be collected."

Obviously, if the tax payer is in bankruptcy the tax collector may, in writing, under oath, submit the fact to the assessors. The assessors then, according to the next sentence of the section, are to make inquiry and if as a result of that inquiry they are of the opinion that the tax should be abated, they may abate it.

As Mr. Hinds points out in his letter, it would seem that the legislature, in providing as it has, has been more lenient with the tax payer than was the Federal Congress in the enactment of the bankruptcy act, but that fact has no bearing upon the interpretation which we are bound to place upon the words of the legislature. If the legislature saw fit to be more lenient in a certain instance than Congress, that was the privilege of the legislature. I assume that the assessors in some instances might find worthy cases for abatement where a man had forfeited all of his property upon his adjudication in bankruptcy, and that in other cases the assessors might find that it was no injustice to insist upon a tax payer continuing liable for his tax in spite of his bankruptcy. The discretion appears to be entirely with the Board of Assessors.

Most cordially yours,

Attorney General