

MAINE STATE LEGISLATURE

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January 12, 1940

Hon. James H. Mack
East Millinocket
Maine

Dear Mr. Mack:

I have just been down talking with Mr. Crawford in the Auditing Department and we are in agreement as to the method of handling transactions arising under Chapter 60, Public Laws of 1939, the Act providing for set-offs.

The law provides that the treasurer, or disbursing official of any city or town may withhold payment of any money due to any person, or corporation, whose taxes are unpaid in whole or in part. It is apparent, of course, that the treasurer would not know about unpaid taxes unless the collector had furnished him with a list of the names and the amounts of unpaid taxes. When the treasurer has this list and the collector has requested him to withhold payment, then it is the treasurer's definite obligation to make the off-set and, as you and I agreed, if he did not he would be liable for the loss or damage suffered by the town or the tax collector.

The law also provides definitely that the treasurer shall pay such sums as are withheld to the collector. This, we assume, was inserted so that the collector would have a record of the transaction so that he could also send his tax receipt to the person from whom the money was withheld and, probably, so that the collector would be entitled to his fees for collection in those places where the collector is paid by percentage.

Now, as to the problem that was disturbing your treasurer. We both agree that in the case of a single transaction it would be best for the treasurer to draw a check to the collector and then write in the lower left hand corner words to this effect: "Taxes withheld from John Jones.". Mr. Crawford assures me that if this is done

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it will present no difficulties to the auditors and will make a complete transaction.

Most of these off-sets will occur in cases where the person has been employed on road work and, with the possibility that you may not have been using or seen the form which was prepared under the direction of the Auditor's office and which is in use in many of the towns of the State, I am enclosing a set of these forms as made out, in the first instance, by the road commissioner. The pink copy is kept by him for his records; the selectmen keep the yellow copy for their records, and the original goes to the treasurer who, of course, completes that part of the form which has not been made out by the road commissioner or selectman, putting in the deductions for taxes and the amount to be paid in the last two columns. Then the person entitled to the pay either signs on the line at the right, if payment is made in cash, or the number of the check can be inserted by the treasurer if payment is made by check. When this goes from the selectman to the treasurer it would, of course, be accompanied by the usual warrant. When this form is used the treasurer needs to make up but one check to the tax collector for the total of all moneys deducted and when he sends this check to the tax collector he should send a list of the individual items withheld as shown on his record total of which makes up the amount of the check given to the collector, which list he should head:

"Taxes deducted by the Treasurer and
covered by check Number _____ dated
_____ to _____ Collector."

The auditors felt that three copies were about all that could be made up at one time or they would have added a fourth copy to be sent to the collector. The making of the list is now the only way to take care of this.

I hope this explanation is of some assistance to you, and if I have not covered the matter as you requested will you drop me a line, or telephone me again, and I will try to cover any matters that I have omitted here.

With kindest personal regards,

Very truly yours,

Franz U. Burkett
Attorney General

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Enc.