

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

No ✓
June 18, 1965

Eben L. Elwell, State Treasurer

Treasury

George C. West, Deputy

Attorney General

**Withholding Money from State Employee's Check for Account
owed State**

FACTS:

A State employee is indebted to the State for some service rendered to him.

QUESTION #1:

May the State Treasurer withhold a portion of the employee's pay in satisfaction of the debt?

QUESTION #2:

If the answer to #1 is in the affirmative, to what extent may money be withheld from the employee's pay?

ANSWER:

For both questions see opinion below.

OPINION:

It is necessary to examine the law relating to the State Treasurer's duties concerning the collection of accounts due the State. These are found in 5 M.R.S.A., sections 132 and 133.

Section 132 sets forth his duties to collect accounts as follows:

"It shall be the duty of the Treasurer of State to receive and keep a record of all items of income accruing to the State not paid within 90 days, including taxes levied by the State, and all such items shall be promptly certified to the Treasurer of State at the close of each month by the department, bureau, institution or agency of State Government where such items of income originate or by which such taxes are assessed. He shall promptly collect all taxes and accounts due the State and certified to him. In cases of neglect or refusal to pay he shall institute through the Attorney General such court actions as may be necessary to enforce payment.

This section shall not apply to the Maine Employment Security Commission, or to those taxes collected by the State Tax Assessor."

From this section it can be seen that his duty to collect begins when an account is more than 90 days overdue. He must then "promptly collect all taxes and accounts due the State and certified to him." If he cannot collect them he then refers them to the Attorney General for court action.

As a matter of practice some departments, having one or more Assistant Attorneys General assigned to them, assume the function of collections. When all means of collections have been unsuccessfully used, the department then certifies the accounts as uncollectible and recommends they be written off.

Section 133 provides that the Treasurer may withhold moneys due a town or county when such political subdivision owes the State money and does not pay. If the political subdivision denies liability, then funds may not be withheld.

There is no other provision for withholding by the State Treasurer of funds due to debtors of the State. Any withholding would have to be on a voluntary agreement basis worked out by the State Treasurer or the Attorney General and the debtor.

We conclude that the State Treasurer may only withhold money from a State employee's pay in accordance with a voluntary agreement entered into between the employee and the State Treasurer or Attorney General.

George C. West
Deputy Attorney General

GCW:H