

# MAINE STATE LEGISLATURE

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April 25, 1975

R. M. Rideout, Jr.  
State Auditor  
Department of Audit  
State Office Building  
Augusta, Maine

Dear Mr. Rideout:

The Attorney General has referred your letter of April 7, 1975, to me.

I understand your question to be whether or not the Department of Audit has access to Maine State Income Tax returns for investigatory purposes. The answer to your question is yes.

The information contained in State Income Tax returns is subject to statutory privilege. The Bureau of Taxation may not lawfully divulge the contents of those returns except as specifically allowed by statute. 36 M.R.S.A. § 5340.4.

Subject to the general requirement that State Income Tax returns be kept secret, section 5340 contains the following presently existing exceptions. Inspection may be allowed:

- (a) In accordance with a proper judicial order [§ 5340.4];
- (b) To a special interim legislative investigating committee, but only for the lawful purpose of the committee [§ 5340.4];
- (c) To the Secretary of the Treasury of the United States or the proper authority of any state imposing an income tax where the statutes of the United States or such other state grant substantially similar privileges to the assessor of this State [§ 5340.6]; and,

- (d) To other tax officials of this State only  
for purposes of enforcing a tax law [§ 5340.7].

Additionally, 5 M.R.S.A. § 242-A(3) provides the Fraud Investigation Division of the Audit Department with access to State Income Tax returns for use in connection with its official purposes.

Accordingly, State Income Tax returns are available to the Department of Audit for use in its fraud investigation of State AFDC payments.

If I may be of further assistance in this matter, please feel free to contact me.

Very truly yours,

ROBERT J. STOLT  
Assistant Attorney General

RJS/ec