

MAINE STATE LEGISLATURE

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June 26, 1975

To: S. W. Ramsay, Management Analyst Bureau of the Budget
From: Jerome S. Matus, Asst. Atty. Gen. Bureau of Taxation
Subject: Credits that may be taken by State against Maine
Income Tax Refunds

SYLLABUS:

CREDITS AGAINST A STATE OF MAINE INCOME TAX REFUND
DUE A TAXPAYER MUST BE LIMITED TO LIABILITIES IMPOSED ON THE
TAXPAYER BY TITLE 36 OF THE MAINE REVISED STATUTES.

FACTS:

By memorandum dated June 6, 1975 you pointed out that
outstanding tax liabilities due various divisions of the
Bureau of Taxation were charged against State of Maine income
tax refund amounts.

QUESTION & ANSWER:

In view of this practice, can bad debts due the State
of Maine by a debtor be credited against a State of Maine
income tax refund due the debtor? No, the only liability
due the State that can be credited against a State of Maine
income tax refund is a tax imposed under Title 36 of the
Maine Revised Statutes.

REASONS:

The practice of crediting tax liabilities of a taxpayer
against a State of Maine income tax refund due the taxpayer
is specifically authorized by statute as follows:

"The assessor within the applicable period
of limitations may credit an overpayment of
income tax and interest on such overpayment
against any liability in respect of any tax
imposed under this Title on the taxpayer who
made the overpayment, and the balance shall be
refunded by the treasurer out of the proceeds
of the tax retained by him for such general
purposes." 36 M.R.S.A. §5276 sub-§1

Unless the liability due the State of Maine is a tax
imposed under Title 36 of the Revised Statutes of Maine there
is no statutory authority for crediting a liability due the
State against a income tax refund due a taxpayer.

Jerome S. Matus
Assistant Attorney General

JSM:mb