

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 2031

H. P. 1952

Office of the Clerk of the House

Governor's Bill. The Committee on Taxation suggested.

EDWIN H. PERT, Clerk

Presented by Mr. Carey of Waterville

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-EIGHT

**AN ACT to Establish a Uniform Confidentiality Statute for Tax Information and to Update
the Maine Income Tax Law with Respect to the Internal Revenue Code.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 36 MRSA § 57, sub- §§ 2 and 3, as enacted by PL 1977, c. 477, § 3-A, are repealed.

Sec. 2. 36, c. 7 is enacted to read:

CHAPTER 7

UNIFORM ADMINISTRATIVE PROVISIONS

§ 191. Confidentiality of tax records

1. Basic prohibition. Except as otherwise provided by law, it shall be unlawful for any person who, pursuant to this Title, has been permitted to receive or view any portion of the original or copy of any report, return or other information provided pursuant to this Title to divulge or make known in any manner any information set forth in any of those documents or obtained from examination or inspection under this Title of the premises or property of any taxpayer. This prohibition applies to both state tax information and federal tax information filed as part of a state tax return.

2. Exemptions. This section shall not be construed to prohibit:

A. The delivery to a taxpayer or his duly authorized representative of a certified copy of any return, report or other information filed by the taxpayer pursuant to this Title;

B. The publication of statistics so classified to prevent the identification of particular reports or returns and the items thereof;

C. The inspection by the Attorney General of information filed by any taxpayer who has requested review of any tax under this Title or against who an action or proceeding for collection of tax has been instituted; or the production in court on behalf of the State Tax Assessor or any other party to an action proceeding under this Title of so much and no more of the information as is pertinent to the action or proceeding;

D. The disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States and of the provinces of Canada for use in administration and enforcement of the tax laws of those jurisdictions. The information may be given only on written request of the duly authorized officer when the officer's government permits a substantially similar exchange of information with the taxing officials of this State and when the government provides for the secrecy of information in a manner substantially similar to the manner set out in this section;

E. The disclosure of information to a special interim legislative investigating committee or its agent upon written demand from the chairman of the committee or any member of the committee designated by him. The information, records or files may be used only for the lawful purpose of the committee and in any action arising out of investigations conducted by it;

F. The provision of information, pursuant to a contract for administrative services, to a person retained on an independent contract basis or the authorized employees of that person or the provision of information to state employees outside the Bureau of Taxation for the purpose of acquiring assistance in the administration of this Title and the return to employees of the Bureau of Taxation of the information provided and additional information generated as a product of the technical services provided;

G. The transmission of information among employees of the Bureau of Taxation for the purposes of enforcing the tax laws of this State and the delivery by a register of deeds of the State Tax Assessor or delivery by the State Tax Assessor to the appropriate assessor of "declarations of value" as provided by section 4641-D;

H. The disclosure to the Attorney General of information relating to any person under criminal investigation;

I. The disclosure by the state Tax Assessor of the fact that a business or individual is or is not registered as a seller under section 1754 or section 1756 or disclosure of both the fact that a registration under either section has been revoked in accordance with section 1757 or section 1923 and the reasons for revocation; and

J. The disclosure of information acquired pursuant to Part 2.

3. Additional restrictions for information provided by Internal Revenue Service. Federal returns and federal return information provided to the State by the Internal Revenue Service shall not be disclosed to other states, districts and territories of the United States or provinces of Canada, to legislative committees or the agents of the committees, to any person retained on an independent contract basis or the employee of that person, or to the Attorney General for the purpose of criminal investigations. These restrictions are in addition to those imposed by subsection 1.

4. Penalties. Any person who willfully violates this section shall be guilty of a Class E crime. If the offender is an officer or employee of the State he shall be dismissed from office and be ineligible to hold any public office in this State or to be employed by this State for a period of 5 years after his conviction. If the offender is a person retained on an

independent contract basis or an authorized employee of that person, the independent contractor and the authorized employee, if any, shall be ineligible to contract with the State for a period of 5 years after his conviction.

Sec. 3. 36 MRSA § 2062, as amended by PL 1969, c. 584, § 2 is repealed.

Sec. 4. 36 MRSA §§ 3024, 3403 and 4309 are repealed.

Sec. 5. 36 MRSA § 4641-M, as enacted by PL 1975, c. 572, § 1 and as last amended by PL 1977, c. 509, § 32, is repealed.

Sec. 6. 36 MRSA § 5102, sub-§ 11, last 2 sentences, as last amended by PL 1977, c. 477, § 15, are further amended to read:

Any reference in this Part to the laws of the United States shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto and other provisions of the laws of the United States relating to federal income taxes as of December 31, ~~1976~~ 1977. This subsection shall be effective as to items of income, deductions, loss or gain accruing in taxable years ending on or after January 1, ~~1976~~ 1977 but only to the extent such items have been earned, received, incurred or accrued on or after such effective date.

Sec. 7. 36 MRSA § 5340, sub-§ § 4, 6 and 7, as enacted by P & SL 1969, c. 154, § F and as amended, are repealed.

Sec. 8. 36 MRSA § 6121, as enacted by Pl 1975, c. 765, § 31 and as amended by PL 1977, c. 345, is repealed.

STATEMENT OF FACT

The purpose of this bill is to establish uniform requirements respecting the confidentiality of information filed in compliance with the state tax laws and to provide a clear definition of the protection of federal tax information.

Federal law requires that after December 31, 1978, states must have a law providing confidentiality for all federal returns and federal return information which is submitted to the state if they are to continue receiving federally supplied information.

This bill provides uniform confidentiality provisions for all tax information except property tax information which is now public information.

Additionally, it updates the reference in Maine income tax law to provisions of the Internal Revenue Code as of the end of 1977.