

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2264

S.P. 888

In Senate, February 1, 1990

Reported by Senator ANDREWS of Cumberland for the Committee on Taxation pursuant to Joint Rule 19.

Reference to the Committee on Taxation suggested and ordered printed pursuant to Joint Rule 19.

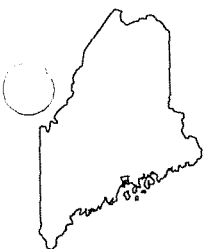
A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Establish the Taxpayer Bill of Rights.



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

2
4 **Sec. 1. 36 MRSA §112, sub-§3**, as enacted by PL 1981, c. 364, §7, is amended to read:

6 **3. Examination of witnesses.** The State Tax Assessor may
8 summon ~~before--him~~ and examine under oath any person whose
10 testimony ~~he deems~~ is deemed necessary to the proper discharge of
12 his the State Tax Assessor's duties and may require the
14 production of all books or other documents in the custody or
16 control of that person which relate to any matter which the State
18 Tax Assessor has authority to investigate or determine. This
20 examination may be conducted by an agent designated by the State
22 Tax Assessor and ~~shall--be--deemed~~ is considered an "official
24 proceeding" within the meaning of that term in Title 17-A,
26 section 451. The State Tax Assessor or that agent may administer
28 all oaths required under this Title and may, in his the State Tax
Assessor's discretion, reduce any examination under oath to
writing. Any person summoned under this section is entitled to
receive at the same time a copy of the Taxpayer Bill of Rights
statement required to be prepared under subsection 7-A.

Any justice of the Superior Court and, with respect to the taxes
imposed under Part 6, any judge of probate, upon application of
the State Tax Assessor, may compel the attendance of witnesses
and the giving of testimony before the State Tax Assessor in the
same manner, to the same extent and subject to the same penalties
as if before the court over which that justice or judge presides.

30 **Sec. 2. 36 MRSA §112, sub-§7-A** is enacted to read:

32 **7-A. Taxpayer Bill of Rights.** The State Tax Assessor shall
34 prepare a statement describing in simple and nontechnical terms
36 the rights of a taxpayer and the obligations of the Bureau of
38 Taxation during an audit. The statement must also explain the
40 procedures by which a taxpayer may appeal any adverse decision of
42 the State Tax Assessor, including the informal conference and
judicial appeals. This statement must be distributed by the
Bureau of Taxation to any taxpayer contacted with respect to the
determination or collection of any tax, excluding the normal
mailing of tax forms.

44 **Sec. 3. 36 MRSA §151, first and 2nd ¶¶**, as amended by PL 1981,
c. 364, §9, are further amended to read:

46 Any person who is entitled by law to receive notice of a
48 determination of the State Tax Assessor and who is aggrieved by
50 that determination may petition in writing, within 15 30 days
after receipt of notice of that determination, for
reconsideration by the State Tax Assessor of that determination.

2 If a petition for reconsideration is filed within the
3 specified time period, the State Tax Assessor shall reconsider
4 his the determination. If the petitioner has so requested in his
5 the petition, the State Tax Assessor shall hold an informal
6 conference with the petitioner to receive additional information
7 and to hear argument regarding the protested determination and
8 shall give the petitioner ~~10-days'~~ 10 working days' notice of the
9 time and place of the conference. However, the conference may be
10 held with less than 10 working days' notice if a mutually
11 convenient time and place can be arranged between the petitioner
12 and the State Tax Assessor. The reconsideration, with or without
13 an informal conference, ~~shall not be deemed to be~~ is not an
14 "adjudicatory proceeding" within the meaning of that term in the
15 Maine Administrative Procedure Act as defined in Title 5, section
16 8002.

17 Sec. 4. 36 MRSA §151-A is enacted to read:

18 §151-A. Additional safeguards

19 1. Recording of interviews. The State Tax Assessor, upon
20 advance request, shall allow a taxpayer to make an audio
21 recording of any in-person interview concerning the determination
22 and collection of any tax. The recording must be made at the
23 taxpayer's own expense and with that person's own equipment.

24 The State Tax Assessor may record the interview if the State Tax
25 Assessor:

26 A. Informs the taxpayer of the recording prior to the
27 interview; and

28 B. Upon request of the taxpayer, provides the taxpayer with
29 a transcript or copy of the recording, but only if the
30 taxpayer provides reimbursement for the cost of the
31 transcription and reproduction of the transcript or copy.

32 2. Representative of taxpayer. The taxpayer may bring to
33 any interview or informal conference any attorney, certified
34 public accountant, enrolled agent, enrolled actuary or any other
35 person permitted to represent the taxpayer. If the taxpayer does
36 not bring anyone to the conference but clearly states at any time
37 during the informal conference that the taxpayer wishes to
38 consult with an attorney, certified public accountant, enrolled
39 agent, enrolled actuary or any other person permitted to
40 represent the taxpayer, the State Tax Assessor shall suspend the
41 interview. The suspension must occur even if the taxpayer has
42 answered one or more questions before that point in the
43 interview. The conference must be rescheduled to be held within
44 10 working days.

STATEMENT OF FACT

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4 This bill implements the recommendations of the Taxpayer
6 Bill of Rights Commission. It requires the State Tax Assessor to
8 create a document that states in simple and nontechnical terms
 all of the rights of a taxpayer and provide this information to
 anyone contacted with respect to the determination or collection
 of any tax.