

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 182, L.D. 596, Bill, "An Act Concerning Technical Changes to the Tax Laws"

Amend the bill by inserting after the enacting clause the following:

'Sec. 1. 33 MRSA §203, first ¶, as amended by PL 1983, c. 635, is further amended to read:

Deeds and all other written instruments before recording in the registries of deeds, except those issued by a court of competent jurisdiction and duly attested by the proper officer thereof, and excepting plans and notices of foreclosure of mortgages and certain financing statements as provided in Title 11, section 9-401, and excepting notices of liens for internal revenue taxes and certificates discharging such liens ~~as provided in section 664~~ and excepting notices of liens for taxes assessed pursuant to Title 36, Part 1 and Parts 3 to 8 and Title 26, chapter 13, and releases discharging such liens, shall ~~must~~ be acknowledged by the grantors, or by the persons executing any such written instruments, or by one of them, or by their attorney executing the same, or by the lessor in a lease or one of the lessors or his lessor's attorney executing the same, before a notary public in the State, or before an attorney-at-law duly admitted and eligible to practice in the courts of the State, if within the State; or before any clerk of a court of record having a seal, notary public or commissioner appointed by the Governor of this State for the purpose, or a commissioner authorized in the State where the acknowledgment is taken, within the United States; or before a minister, vice-consul or consul of the United States or notary public in any foreign country.'

A.O.S.
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Further amend the bill in section 1 in that part designated
2 "§151." in the 2nd indented paragraph in the last line (page 2,
line 45 in L.D.) by inserting after the following: "Act." the
4 following: 'If the requested reconsideration involves a denial or
6 deemed denial of a refund claim, a refund claim with respect to
8 which a conference has been requested under section 5280 or an
10 assessment that is paid in full or part and the State Tax
12 Assessor fails to mail to the taxpayer a decision on the
14 reconsideration within 9 months after the reconsideration request
16 was filed, the taxpayer may elect but is not obligated to deem
18 the request for reconsideration denied. The taxpayer elects to
20 deem the reconsideration denied by filing in Superior Court a
22 petition for review of the deemed denial. The deemed denial
24 constitutes final agency action and is subject to court review as
26 otherwise provided in this section. The taxpayer may not make
28 the deemed denial election after either the State Tax Assessor's
30 reconsideration decision has been received by the taxpayer or the
32 expiration of 9 years following the filing of the reconsideration
34 request, whichever occurs first.'

Further amend the bill by striking out all of section 2.

Further amend the bill in section 3 in subsection 1 in the
24 2nd line (page 2, line 46 in L.D.) by inserting after the
26 following: "due" the following: 'and no further administrative
28 or judicial review of the assessment is available pursuant to the
30 Maine Administrative Procedure Act or section 151'

Further amend the bill in section 3 in subsection 1 in the
30 20th line (page 3, line 14 in L.D.) by striking out the
32 following: 'is made or deemed to be made' and inserting in its
34 place the following: 'becomes final'

Further amend the bill in section 3 in subsection 1 in the
34 22nd line (page 3, line 16 in L.D.) by striking out the
36 following: 'belonging to the taxpayer' and inserting in its
38 place the following: 'then owned or thereafter acquired by that
40 person in the period before the expiration of the lien'

Further amend the bill in section 3 in subsection 1 in the
40 23rd and 24th lines (page 3, lines 17 and 18 in L.D.) by striking
42 out the following: 'purchaser or judgment creditor' and
44 inserting in its place the following: 'purchaser, judgment
46 creditor or holder of a properly recorded security interest'

Further amend the bill in section 4 in paragraph B in the
46 first sentence (page 4, line 4 in L.D.) by striking out the
48 following: 'real'

Further amend the bill in section 4 in paragraph B in the
50 last 2 lines (page 4, lines 12 and 13 in L.D.) by striking out
52 the following: '20% per annum' and inserting in its place the

following: '20%--per--annum interest established pursuant to section 186'

Further amend the bill by inserting after section 8 the following:

'Sec. 9. 36 MRSA §271, sub-§3, as enacted by PL 1985, c. 764, §8, is amended to read:

~~3. Procedures. Requests for appeals shall be mailed to the chairman of the Appeals to the board must be commenced by filing a petition for appeal with the board, with a . A copy of the petition must be mailed to the State Tax Assessor and to the assessor of the municipality where the property subject to appeal is located.~~

Sec. 10. 36 MRSA §271, sub-§3-A is enacted to read:

3-A. Filing. Petitions for appeal and all other papers required or permitted to be filed with the board must be filed with the secretary of the board. Filing with the secretary may be accomplished by delivery to the office of the board or by mail addressed to the secretary of the board. All papers to be filed that are transmitted by the United States Postal Service are deemed filed on the day the papers are deposited in the mail as provided in section 153.

Further amend the bill by striking out all of sections 10 to 13 and inserting in their place the following:

'Sec. 10. 36 MRSA §843, sub-§§1 and 2, as amended by PL 1985, c. 764, §17, are further amended to read:

~~1. Municipalities. Where the~~ If a municipality has adopted a board of assessment review, if and the assessors or the municipal officers refuse to make the abatement asked for, the applicant may apply in writing to the board of assessment review within 60 days after notice of the decision from which the appeal is being taken or after the application is deemed to have been denied, and, if the board thinks he the applicant is over-assessed, he--shall--be the applicant is granted such reasonable abatement as the board thinks proper. Except with regard to nonresidential property with an equalized municipal value of \$500,000 or greater, either party may appeal from the decision of the board of assessment review directly to the Superior Court, in accordance with Rule 80B of the Maine Rules of Civil Procedure. If the board of assessment review fails to give written notice of their its decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application shall-be is deemed denied and the applicant may appeal to Superior Court as if there had been a written denial or the applicant may appeal to the State Board of

Property Tax Review by ~~following the procedures specified in~~
subsection 2.

2. **Primary assessing areas.** If the chief assessor, municipal officer or the State Tax Assessor refuses to make the abatement asked for, the applicant may apply in writing to the State Board of Property Tax Review within 60 days after notice of the decision from which the appeal is being taken or after the application ~~shall be~~ is deemed to have been denied, and if the board thinks ~~he~~ the applicant is over-assessed, ~~he shall be~~ the applicant is granted such reasonable abatement as the board thinks proper. The decision of the State Board of Property Tax Review ~~shall be~~ is deemed final agency action by that board under the Maine Administrative Procedure Act. ~~Appeals to the State Board of Property Tax Review shall be directed to the Chairman of the State Board of Property Tax Review, who shall convene the board to hear the appeal and shall notify all parties of the time and place thereof.~~

Sec. 11. 36 MRSA §844, sub-§1, as amended by PL 1985, c. 819, Pt. A, §§38 and 39, is further amended to read:

1. **Municipalities without board of assessment review.** Except where when the municipality has adopted a board of assessment review or has been designated as a primary assessing area, if the assessors or the municipal officers refuse to make the abatement asked for, the applicant may apply to the county commissioners within 60 days after notice of the decisions from which the appeal is being taken or within 60 days after the application is deemed to have been denied. If the commissioners think that the applicant is over-assessed, the applicant ~~shall be~~ is granted such reasonable abatement as the commissioners think proper. If the applicant has paid the tax, ~~he shall~~ the applicant must be reimbursed out of the municipal treasury, with costs in either case. If the applicant fails, the commissioners shall allow costs to the municipality, taxed as in a civil action in the Superior Court, and issue their warrant of distress against ~~him~~ the applicant for collection of such amount as may be due the municipality. The commissioners may require the assessors or municipal clerk to produce the valuation by which the assessment was made or a copy of it. Either party may appeal from the decision of the county commissioners to the Superior Court, in accordance with the Maine Rules of Civil Procedure, Rule 80B. If the county commissioners fail to give written notice of their decision within 60 days of the date the application is filed, unless the applicant agrees in writing to further delay, the application ~~shall be~~ is deemed denied and the applicant may appeal to the Superior Court as if there had been a written denial or the applicant may appeal to the State Board of Property Tax Review ~~by following the procedures specified in~~
section 843, subsection 2.

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2 Further amend the bill in section 17 in paragraph C in
subparagraph 2 in the first and 2nd lines (page 8, lines 29 and
4 30 in L.D.) by striking out the following: "used directly and
primarily for commercial fishing; and" and inserting in its place
6 the following: 'used--directly--and--primarily--for--commercial
fishing;-and,'

8 Further amend the bill in section 17 in paragraph C in
subparagraph 2 and in the 3rd line (page 8, line 31 in L.D.) by
10 inserting after the following: "to" the following: 'and used
directly and primarily in'

12 Further amend the bill by inserting after section 18 the
14 following:

16 'Sec. 19. 36 MRSA §5142, sub-§3, as enacted by P&SL 1969, c.
154, §F, is amended to read:

18
20 3. Intangibles. Income from intangible personal property,
including annuities, dividends, interest and gains from the
22 disposition of intangible personal property, shall--~~constitute~~
constitutes income derived from sources within this State only to
24 the extent that such income is from property of the taxpayer
employed in a business, trade, profession, or occupation carried
on in this State.'

26 Further amend the bill by inserting after section 19 the
28 following:

30 'Sec. 20. 36 MRSA §5204-A, as repealed and replaced by PL
1987, c. 504, §28, is amended to read:

32 **§5204-A. Early distribution from qualified retirement**
34 **plans**

36 The tax imposed under this Part on any individual whose
federal income tax for any taxable year is increased pursuant to
38 the Code, ~~Section 72(t)~~, as a result of a an early distribution
from a qualified retirement plan shall must be increased by an
40 amount equal to 15% of the amount by which the individual's
federal income tax was increased pursuant to Section 72(t) of the
42 Code as a result of the early distribution.'

44 Further amend the bill by inserting after section 20 the
following:

46
48 'Sec. 21. 36 MRSA §5217-A, as amended by PL 1991, c. 591, Pt.
N, §16 and affected by §17, is further amended to read:

50 **§5217-A. Income tax paid to other taxing jurisdiction**

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2 A resident individual is allowed a credit against the tax
3 otherwise due under this Part, excluding the tax imposed by
4 section 5203-A, for the amount of income tax imposed on that
5 individual for the taxable year by another state of the United
6 States, a political subdivision of any such state, the District
7 of Columbia or any political subdivision of a foreign country
8 that is analogous to a state of the United States with respect to
9 income derived from sources in that taxing jurisdiction also
10 subject to tax under this Part; except that a tax imposed by
11 another jurisdiction on intangible income is eligible for the
12 credit only to the extent that such income is derived from
13 property of the taxpayer employed in a business, trade,
14 profession or occupation carried on in that jurisdiction. The
15 credit, for any of the specified taxing jurisdictions, may not
16 exceed the proportion of the tax otherwise due under this Part,
17 excluding the tax imposed by section 5203-A, that the amount of
18 the taxpayer's Maine adjusted gross income derived from sources
19 in that taxing jurisdiction bears to the taxpayer's entire Maine
20 adjusted gross income; provided that, when a credit is claimed
21 for taxes paid to both a state and a political subdivision of a
22 state, the total credit allowable for those taxes does not exceed
23 the proportion of the tax otherwise due under this Part,
24 excluding the tax imposed by section 5203-A, that the amount of
25 the taxpayer's Maine adjusted gross income derived from sources
26 in the other state bears to the taxpayer's entire Maine adjusted
27 gross income.'

28 Further amend the bill by inserting after section 21 the
29 following:

30 'Sec. 22. 36 MRSA §5276-A, as amended by PL 1991, c. 564, is
31 further amended to read:

32 **§5276-A. Setoff of debts against refunds**

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35
36 1. Generally. Any agency of the State, including the
37 University of Maine System or the ~~Maine--Vocational-Technical~~
38 ~~Institute~~ Maine Technical College System, which that is
39 authorized to collect from any individual or corporation a
40 liquidated debt greater than \$25 shall notify in writing the
41 State Tax Assessor and supply information necessary to identify
42 the debtor whose refund is sought to be set off. The State Tax
43 Assessor, upon any such notification, shall assist the requesting
44 agency by setting off that debt, pursuant to rules promulgated by
45 the State Tax Assessor, against any refund to which that
46 individual or corporation is entitled under this Part.
47 Liquidated child support debts that the Department of Human
48 Services has contracted to collect, pursuant to Title 19, section
49 448-A or 495, subsection 2, ~~shall--be~~ are eligible, under the
50 provisions of this section, for setoff against any refund due the
obligated individual. The State Tax Assessor shall provide the

creditor agency with the name, address and social security number of each debtor whose refund will be is subject to offset setoff.

2. **Notice and hearing.** Before At the time a setoff is made, the State Tax Assessor shall provide notice to the individual or corporate taxpayer of the intended setoff or setoffs and of the taxpayer's right to request, within 15 30 days of the taxpayer's receipt of that the notice, a hearing before the creditor agency or agencies. The hearing or hearings are held pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, but are limited to the issues of whether the debt or debts became liquidated and whether any postliquidation events have affected the liability.

~~3. -- Finalization of setoff. -- If, within 90 days of the notice to the taxpayer of the intended setoff or setoffs, the agency or agencies requesting setoff certify to the State Tax Assessor either that the taxpayer did not make a timely request for hearing or that a hearing was held and a liquidated debt was determined after hearing to be due to that agency, the State Tax Assessor shall set off the liquidated debt against the refund due to the taxpayer. Otherwise, the State Tax Assessor shall release the entire refund to the taxpayer.~~

3-A. Transfer of proceeds. After providing the notice required by subsection 2, the assessor shall transfer the setoff refund amount to the creditor agency or agencies.

3-B. Finalization of setoff; release of refund to taxpayer. If the taxpayer fails to make a timely request for hearing or a hearing is held before the creditor agency and a liquidated debt is determined to be due to that agency, the setoff is final except as determined by further appeal. The creditor agency must release to the taxpayer any setoff refund amount determined after hearing not to be a liquidated debt due to the agency within 90 days of such determination or as otherwise provided by the creditor agency in a promulgated rule.

4. **Appeal.** The decision of the agency seeking setoff as to the existence of a liquidated debt constitutes final agency action appealable under the Maine Administrative Procedure Act, Title 5, chapter 375.

5. **Collection fee.** ~~Refund amounts which are set off under this section shall be transferred periodically by the State Tax Assessor to the creditor agency, except that a~~ A collection fee equal to the actual estimated costs incurred by the State Tax Assessor in assisting in the collection shall must annually be deducted from setoff refund amounts transferred to creditor agencies and deposited in the General Fund. If the a creditor agency is either entitled to federal matching funds against all debts collected or required by federal regulations to specially

handle debts collected, the State Tax Assessor shall transfer to that agency the gross proceeds from setoffs made in its behalf, and that agency shall promptly reimburse the State-Tax-Assessor ~~for-the~~ collection fee to the State Tax Assessor for deposit in the General Fund.

6. Accounting. The creditor agency shall credit the account of the individual whose refund has been set off with the full amount of the setoff, including the collection fee retained by, or reimbursed to, the State Tax Assessor.

7. Priority. In the event that claims from more than one agency are received by the State Tax Assessor with respect to one taxpayer, the State Tax Assessor shall set off against the refund due the taxpayer as many claims of the agencies as is possible in the following order of priority:

A. Liquidated child support debts owed to the Department of Human Services;

B. Fines owed to any of the courts; and

C. All other claims in the order of their receipt by the State Tax Assessor.

8. Disclosure of information. In any civil or criminal action in which a fine, forfeiture, order to pay or money judgment is entered in favor of the State or any agency or department thereof, or in any action in which counsel is appointed for an indigent party, the court may require the party so indebted to the State, its agencies or department, or the party for whom counsel has been appointed, to provide that party's social security number and other financial information under oath and on such forms as may be prepared by the Judicial Department in order to effectuate the purposes of this section.

Sec. 23. 36 MRSA §5280, as amended by PL 1977, c. 694, §726, is further amended to read:

§5280. Refund claim

Every claim for refund shall must be filed with the assessor in writing and shall state the specific grounds upon which it is founded. The taxpayer may in writing along with the refund claim request an informal conference regarding the claim for refund, in which case the claim ~~shall-be-treated-in-the-same-way-as-the~~ for refund is considered a request for reconsideration of an assessment under section 151 filed as of the date the refund claim is filed and is decided pursuant to section 151. If the taxpayer has not requested a conference and the assessor denies the refund claim in whole or in part, or the refund claim is deemed denied under section 5282, the taxpayer may request

reconsideration of the denial or deemed denial of the refund claim pursuant to section 151.

Sec. 24. 36 MRSA §5282, as enacted by P&SL 1969, c. 154, §F, §1, is repealed and the following enacted in its place:

§5282. Refund claim deemed denied

If the assessor fails to mail to the taxpayer, within 6 months after the filing of a refund claim with respect to which no conference has been requested pursuant to section 5280, a decision on that refund claim, the taxpayer may elect but is not obligated, prior to receipt by the taxpayer of the assessor's decision on the refund claim, to deem the claim denied. The taxpayer deems the refund claim denied by requesting reconsideration of the deemed denial pursuant to section 151.

Sec. 25. 36 MRSA §5304, as enacted by P&SL 1969, c. 154, §F, §1, is repealed.

Sec. 26. 36 MRSA §6201, sub-§2, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

2. **Claimant.** "~~Claimant~~" means ~~a person~~ an individual who has filed a claim under this chapter and was domiciled in this State and owned or rented a homestead in this State during the entire calendar year preceding the year in which he files claim for relief under this chapter is filed. When 2 individuals of a household are able to meet the qualifications for a claimant, they may determine between them as to who the claimant ~~shall be~~ is. If they are unable to agree, the matter shall ~~must~~ be referred to the State Tax Assessor and ~~his~~ whose decision shall be is final. If a homestead is occupied by 2 or more individuals, and more than one individual is able to qualify as a claimant the individuals may determine among them as to who the claimant ~~shall be~~ is. If they are unable to agree, the matter shall ~~must~~ be referred to the State Tax Assessor and ~~his~~ whose decision shall ~~be~~ is final. Ownership of a homestead under this chapter may be by fee, by life tenancy, by bond for deed, as mortgagee or any other possessory interest in which the owner is personally responsible for the tax for which he ~~claims~~ a refund is claimed.

Sec. 27. 36 MRSA §6201, sub-§9, as amended by PL 1991, c. 149, is further amended to read:

9. **Income.** "Income" means the sum of Maine adjusted gross income determined in accordance with Part 8, the amount of capital gains excluded from adjusted gross income, the absolute value of the amount of trade or business loss, net operating loss carry-over, capital loss, rental loss, farm loss, partnership or S Corporation loss included in adjusted gross income, alimony,

inheritance, life insurance proceeds paid on death of insured, nontaxable lawsuit rewards, such as slander, libel and pain and suffering, excluding reimbursements such as medical and legal expenses associated with the case, support money, nontaxable strike benefits, the gross amount of any pension or annuity, including railroad retirement benefits, all payments received under the federal Social Security Act, state unemployment insurance laws, veterans' disability pensions, nontaxable interest received from the Federal Government or any of its instrumentalities, interest or dividends on obligations or securities of this State and its political subdivisions and authorities, workers' compensation and the gross amount of "loss of time" insurance, cash public assistance and relief, but not including relief granted under this chapter. Income does not include ~~up-to~~ the first \$5,000 in the proceeds from a life insurance proceeds-of policy, whether paid in a lump sum or in the form of an annuity. Income also does not include gifts from nongovernmental sources or surplus foods or other relief in kind supplied by a governmental agency.

Sec. 28. 36 MRSA §6201, sub-§10, as enacted by PL 1987, c. 516, §§3 and 6, is amended to read:

10. Property taxes accrued. "Property taxes accrued" means property taxes exclusive of special assessment, delinquent interest and charges for service levied on a claimant's homestead in this State as of April 1, 1972, or any tax year thereafter. If a homestead is owned by 2 or more persons or entities as joint tenants or tenants in common, and one or more persons or entities are not ~~a member~~ members of the claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead ~~which~~ that reflects the ownership percentage of the claimant and ~~his~~ the claimant's household. If a claimant and spouse own their homestead part of the preceding tax year and rent it or a different homestead for part of the same tax year, "property taxes accrued" means only taxes levied on the homestead when both owned and occupied by the claimant on April 1st, multiplied by the percentage of 12 months that such property was owned and occupied by the household as its homestead during the preceding tax year. When a household owns and occupies 2 or more different homesteads in this State in the same tax year, property taxes accrued ~~shall~~ relate only to that property occupied by the household as a homestead on April 1st. If a homestead is an integral part of a larger unit such as a farm, or a multipurpose or multidwelling building, property taxes accrued ~~shall-be~~ are that percentage of the total property taxes accrued ~~as~~ that the value of the homestead is of the total value, except that property taxes accrued do not include any portion of taxes claimed as a business expense for federal income tax purposes. For purposes of this chapter, "unit" refers to the parcel of property separately assessed of which the homestead is a part.

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2 1. It eliminates the requirement for certain tax liens to
be notarized;

4 2. It amends the appeals process involving refund claims;

6 3. It removes sections of the bill considered too
substantive by the Joint Standing Committee on Taxation;

8 4. It clarifies the appeals process involving the State
10 Board of Property Tax Review;

12 5. It clarifies the sales tax exemption for certain
equipment used in commercial fishing;

14 6. It clarifies legislative intent regarding taxation of
16 intangible income;

18 7. It makes additional technical changes to correct
statutory conflicts;

20 8. It clarifies the process used by the Bureau of Taxation
22 to set off income tax refunds; and

24 9. It clarifies certain definitions used in the
administration of the Maine Residents Property Tax Program.
26

Reported by Senator Baldacci for the Committee on Taxation.
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