

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 747

H.P. 551

House of Representatives, March 7, 1995

**An Act to Improve and Make More Consistent the Administration of
Personal Property Tax Assessing.**

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative NADEAU of Saco.
Cosponsored by Representatives: CROSS of Dover-Foxcroft, DiPIETRO of South Portland,
DORE of Auburn, DUNN of Gray, GREEN of Monmouth, KERR of Old Orchard Beach,
LABRECQUE of Gorham, SPEAR of Nobleboro, TOWNSEND of Portland, TRIPP of
Topsham, Senators: ABROMSON of Cumberland, CAREY of Kennebec, FERGUSON of
Oxford, RAND of Cumberland.

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

4 **Sec. 1. 36 MRSA §557** is amended to read:

6 **§557. Assessment; continued until notice of transfer**

8 When assessors continue to assess real estate or personal
10 property to the person to whom it was last assessed, such the
12 assessment is valid, although the ownership or occupancy has been
14 changed, unless previous written notice to the assessors has been
16 given of such the change and of the name and address of the
18 person to whom it the real or personal property has been
20 transferred or surrendered.

22 **Sec. 2. 36 MRSA §601** is repealed and the following enacted
24 in its place:

26 **§601. Personal property defined; administrative manual**

28 **1. Personal property.** Personal property, for the purposes
30 of taxation, is any tangible property not permanently affixed to
32 the ground or otherwise taxable as real estate.

34 **2. Administrative manual.** For the purposes of establishing
36 a uniform and equitable system by which personal property is
38 assessed, the Bureau of Taxation shall develop, in conjunction
40 with assessing and municipal associations, a guidance manual with
42 respect to the discovery, identification, valuation
44 methodologies, depreciation and assessment of personal property.
46 The manual must be made available to all assessing units at cost
48 no later than April 1, 1996 and maintained and updated.

30 **Sec. 3. 36 MRSA §611**, as amended by PL 1987, c. 772, §13, is
32 further amended to read:

34 **§611. Equipment tax**

36 ~~Machinery and other personal~~ Personal property brought into
38 this State, after April 1st and prior to December 31st by any
40 person upon whom no personal property tax with respect to that
42 property was assessed on April 1st in the State of Maine, ~~shall~~
44 must be taxed as other personal property in the town in which it
46 is used for the first time in this State.

48 When the assessors are informed by the owner or otherwise of
the presence within the town of such personal property, the
assessors shall give notice in writing to the owner to furnish to
the assessors a true and perfect list of such the property within
15 days from the receipt of such the notice and, except as

2 otherwise provided in this section, section 706 shall--be
3 applicable applies to this section.

4 The assessors shall assess a tax upon any such property in
5 accordance with other property assessed for the same tax year,
6 except that, if the tax is paid within 2 months of assessment,
7 interest from the due date of taxes for the tax year involved
8 does not apply.

10 Except as otherwise provided in this section, the collection
11 of such the taxes shall must be in accordance with this chapter.

12 **Sec. 4. 36 MRSA §612, sub-§1**, as enacted by PL 1983, c. 403,
13 §1, is amended to read:

16 **1. Lien.** There shall must be a lien to secure the payment
17 of all taxes legally assessed on personal property as defined in
18 section 601, subsection 1, provided in the inventory and
19 valuation upon which the assessment is made there shall--be is a
20 description of the personal property taxed which that meets the
21 requirements of Title 11, section 9-402. Except as otherwise
22 provided in this section, the lien, when perfected, shall--take
23 takes precedence over all other claims on the personal property
24 and shall--continue continues in force until the taxes are paid or
25 until the lien is otherwise terminated by law.

26 **Sec. 5. 36 MRSA §655**, as amended by PL 1991, c. 546, §9, is
27 further amended to read:

30 **§655. Personal property**

32 The following personal property is exempt from taxation:

34 **1. Personal property.** Personal property, which includes:

36 A. Industrial inventories including raw materials, goods in
37 process and finished work on hand;

38 B. Stock in trade, including inventory held solely for
39 resale by a distributor, wholesaler, retail merchant or
40 service establishment;

42 C. Agricultural produce and forest products, including
43 logs, pulpwood, woodchips and lumber;

46 D. Livestock, including farm animals, ~~meat,~~ cattle and fowl;

48 E. The household furniture, including television sets and
49 musical instruments of each person in any one household, and
50 his the property owner's wearing apparel, farming utensils
and mechanical tools necessary for his the owner's business;

- 2 F. All radium used in the practice of medicine;
- 4 G. Property in the possession of a common carrier while in
6 interstate transportation or held en route awaiting further
lading;
- 8 ~~H. Vessels built, in the process of construction, or
10 undergoing repairs, which are within the State on the first
12 day of each April and are owned by persons residing out of
the State. "Vessels" as used in this paragraph shall not be
14 construed to include pleasure vessels and boats;~~
- 16 H-1. Watercraft as defined by section 1503, subsection 10;
- 18 ~~I. Pleasure vessels and boats in the State on the first day
of each April whose owners reside out of the State, and
20 which are left in this State by the owners for the purpose
of repair or storage, except those regularly kept in the
22 State during the preceding year;~~
- 24 J. Personal property in another state or country and
legally taxed there;
- 26 K. Vehicles exempt from excise tax in accordance with
section 1483;
- 28 L. Registered snowmobiles as defined in Title 12, section
30 7821, subsection 5+;
- 32 M. All farm machinery used exclusively in production of hay
and field crops to the aggregate actual market value not
34 exceeding \$10,000, excluding ~~motor vehicles. Motor vehicle~~
shall mean any self-propelled vehicle;
- 36 N. Water pollution control facilities and air pollution
38 control facilities as defined in section 656, subsection 1,
paragraph E+;
- 40 O. All beehives;
- 42 P. All items of individually owned personal property with a
44 just value of less than \$1,000, except:
- 46 (1) Items used for industrial or commercial purposes;
and
- 48 (2) Vehicles and camp trailers as defined in section
50 1481 not subject to an excise tax+; and

2 S. Mining property as provided in section 2854.

4 Sec. 6. 36 MRSA §706, as amended by PL 1981, c. 30, §§1 and
2, is repealed and the following enacted in its place:

6 **§706. Taxpayers to list property; notice; penalty; verification**

8
10 1. Real or personal property. Before making an assessment,
12 the assessor or assessors, the chief assessor of a primary
14 assessing area or the State Tax Assessor in the case of the
16 unorganized territory may give reasonable notice in writing to
18 persons liable to taxation in the municipality, primary assessing
area or the unorganized territory to furnish to the assessor or
assessors, chief assessor or State Tax Assessor true and perfect
lists of all their real and personal property, not by law exempt
from taxation, of which they were possessed on the first day of
April of the same year.

20 The notice to owners may be by mail directed to the last known
22 address of the taxpayer or by any other method that provides
24 reasonable notice to the taxpayer. Notwithstanding section 111,
26 subsection 2, persons liable to taxation are deemed to have
received notice under this subsection if that notice is sent by
regular United States mail to the last known address of the
taxpayer.

28 If notice is given by mail and the taxpayer does not furnish the
30 list, the taxpayer is barred of any right to make application to
32 the assessor or assessors, chief assessor or State Tax Assessor
34 or any appeal from the application for any abatement of taxes,
unless the taxpayer furnishes the list with the application and
satisfies them that the taxpayer was unable to furnish it at the
time appointed.

36 The assessor or assessors, chief assessor or State Tax Assessor
38 may require the person furnishing the list to make oath to its
40 truth, which any of them may administer, and may require the
42 taxpayer to answer in writing all proper inquiries as to the
44 nature, situation and value of the property liable to be taxed in
the State; and a refusal or neglect to answer and subscribe such
inquiries bars an appeal, but the list and answers are not
conclusive upon the assessor or assessors, chief assessor or the
State Tax Assessor.

46 If the assessor or assessors, chief assessor or the State Tax
48 Assessor fails to give notice by mail or by hand, the taxpayer is
50 not barred of any right to make application for abatement except
that upon demand the taxpayer shall answer in writing all proper
inquiries as to the nature, situation and value of the property

2 liable to be taxed in the State; and a refusal or neglect to
4 answer and subscribe the inquiries bars an appeal, but the list
6 and answers are not conclusive upon the assessor or assessors,
8 chief assessor or the State Tax Assessor.

10 2. Personal property; additional requirements. In addition
12 to any requirements of subsection 1, by April 1st of every year,
14 every owner or person in possession of nonexempt personal
16 property is required to file a personal property tax return on a
18 form prescribed by the assessor or assessors, the chief assessor
20 of a primary assessing area or the State Tax Assessor. The forms
22 are to be made available to all taxpayers at the assessor's
24 office of each assessing unit no later than January 1st of each
26 year. The return form as required by this section does not
28 constitute a return unless it is signed as a true and perfect
30 list under oath by a person authorized to file the return. Upon
32 written request submitted by the taxpayer no later than April 1st
34 and upon a finding of good cause shown, the assessing authority
36 may extend the filing deadline.

38 3. Failure to file return. Failure to file a return in a
40 timely manner may result in an imposition of a penalty equal to
42 10% of the value ultimately assessed on the property subject to
44 taxation by this subchapter; the penalty becomes part of the
46 taxes and subject to collection in the same manner as the
48 original assessment.

50 4. Confidentiality of filings. Notwithstanding section
52 191, subsection 2, paragraph I, any separate record furnished by
54 the property owner under this section that includes only income
56 and expense information and is clearly marked by the property
58 owner as confidential pursuant to this subsection is a
60 confidential record until such a time as an appeal is initiated
62 under section 843 or 844.

64 5. Willful misrepresentation of material facts. A person
66 who willfully misrepresents the facts on a return, statement or
68 other document submitted to the assessing authority commits a
70 Class E crime.

72 **Sec. 7. 36 MRSA §713, last ¶** is amended to read:

74 Persons subjected to a tax under this section ~~shall-be~~ are
76 deemed to have received sufficient notice if the notice required
78 by section 706, subsection 1 was given.

80 **Sec. 8. 36 MRSA §1331, 3rd ¶**, as repealed and replaced by PL
82 1977, c. 509, §31, is amended to read:

2 Persons subjected to a tax under this section ~~shall-be~~ are
deemed to have received sufficient notice if the notice required
by section 706, subsection 1 was given.

4 **Sec. 9. 36 MRSA §1482, sub-§6, ¶A,** as amended by PL 1979, c.
6 666, §39, is further amended to read:

8 A. Where the person seeking to pay the excise tax owned the
vehicle other than an automobile truck or truck tractor on
10 or before April 1st, the excise tax must be paid before
~~property taxes for the year in question are committed to the~~
12 ~~collector~~ May 1st, otherwise the owner is subject to a
personal property tax.

14
16
STATEMENT OF FACT

18 This bill amends the reporting requirement for personal
20 property by having owners that sell taxable personal property
before April 1st report the transfer to the assessor. It also
22 deletes archaic references in the current definition of personal
property, obligates the Bureau of Taxation to create a personal
24 property assessment manual and clarifies an ambiguity in the
process of assessing machinery and equipment that is brought into
26 the State after April 1st.

28 The bill also amends the personal property exemptions to
clarify the existing watercraft exemption and to address the tax
30 exempt status of rental inventory in response to a decision of
the Maine Supreme Judicial Court.

32 The bill also clarifies the existing law by indicating that
34 United States mail is a suitable means of notifying a person for
the purpose of enforcing the limits to appeal. The bill creates
36 a self-assessment system governing the discovery and reporting of
all nonexempt personalty. The bill establishes misrepresentation
38 of material facts as a Class E crime. The bill also establishes
May 1st as the date a taxpayer must pay the excise tax on a
40 vehicle owned before April 1st.