MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document

No. 1769

S.P. 695

In Senate, February 8, 1996

An Act to Provide a Statute of Limitations for the Assessment of Tax for Which a Return Has Not Been Filed.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27. Reference to the Committee on Taxation suggested and ordered printed.

MAY M. ROSS

Secretary of the Senate

Presented by Senator HATHAWAY of York. Cosponsored by Senator: FERGUSON of Oxford, Representatives: BARTH of Bethel, MURPHY of Berwick, POIRIER of Saco, REED of Falmouth, TRIPP of Topsham, TUTTLE of Sanford.

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

Sec. 1. 36 MRSA §141, sub-§2, ¶C, as enacted by PL 1979, c. 378, §4, is amended to read:

An-assessment-may-be-made-at-any-time-with With respect to a time period for which a return has become due but has not been filed, an assessment must be made within 6 years from the date the return was required to be filed unless the State Tax Assessor shows that the failure to file the return represented a willful attempt to evade tax, in which case an assessment may be made at any time. If any person failing to file a return fails to produce, within a reasonable time after notice, information which that the State Tax Assessor believes necessary to determine tax liability for the period involved, the State Tax Assessor may assess an estimated tax liability based upon the best information otherwise available. In any proceeding for the collection of tax for involved, period that estimate shall---constitute constitutes prima facie evidence of the tax liability.

Sec. 2. Application. Notwithstanding the Maine Revised Statutes, Title 1, section 302, this Act applies to an assessment made prior to the effective date of this Act if administrative or judicial review of that assessment is pending pursuant to the Maine Revised Statutes, Title 36, section 151, on the effective date of this Act.

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STATEMENT OF FACT

This bill provides a 6-year statute of limitations for the assessment of tax in a case in which a taxpayer fails to file a return, unless the failure to file the return was a willful attempt to evade tax, in which case the 6-year limit does not apply and an assessment may be made at any time. Under current law, an assessment of tax may be made at any time with respect to a time period for which a return has become due but has not been filed.

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The bill provides that its provisions apply to an assessment made prior to the effective date of the Act if administrative or judicial review of the assessment is pending on the effective date.