

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 910

S.P. 308

In Senate, February 2, 1999

An Act to Amend the Tax Law Regarding Tax Liability of Innocent Spouses.

Reference to the Committee on Taxation suggested and ordered printed.

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator RAND of Cumberland.
Cosponsored by Representative GAGNON of Waterville and
Senator MILLS of Somerset, Representatives: GREEN of Monmouth, STANLEY of Medway.

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

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Sec. 1. 36 MRSA §5287 is enacted to read:

§5287. Liability of innocent spouse

1. Relief. Upon request, the assessor may relieve a spouse of liability for tax, including interest and penalties under this Part if:

A. The spouses filed a joint return;

B. On the joint return there was a substantial understatement of tax attributable to grossly erroneous items of one spouse;

C. The spouse requesting relief from liability for tax establishes that in signing the return that spouse did not know and had no reason to know that there was a substantial understatement; and

D. Taking into consideration all the facts and circumstances, it is inequitable to hold the requesting spouse liable for the deficiency in tax for the tax year attributable to the substantial understatement.

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. With respect to a spouse, "grossly erroneous items" means items of adjusted gross income attributable to that spouse that are omitted from adjusted gross income and any claim of a deduction, exemption, credit or basis by that spouse in an amount that has no basis in fact or law.

B. "Substantial understatement" means any understatement that exceeds \$100.

3. Limitation. This subsection is limited to circumstances when:

A. If the requesting spouse's adjusted gross income for the most recent tax year ending before the date of the deficiency notice is mailed is \$20,000 or less, and the liability is greater than 10% of that spouse's adjusted gross income; or

B. If the requesting spouse's adjusted gross income for the most recent tax year ending before the date of the

2 deficiency notice is mailed is greater than \$20,000 and the
3 liability is greater than 25% of that spouse's adjusted
4 gross income.

6 **SUMMARY**

8 This bill permits the State Tax Assessor to relieve a spouse
9 of income tax liability under a joint return if the spouse did
10 not know or had no reason to know that there was a substantial
11 understatement of tax liability and it would be inequitable to
12 hold the innocent spouse liable for the deficiency resulting from
13 the understatement.
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