

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1209

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H.P. 883

House of Representatives, March 6, 2003

### **An Act To Conform the State Compromise of Tax Liability Procedure with Federal Procedures**

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Reference to the Committee on Taxation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative McLAUGHLIN of Cape Elizabeth.  
Cosponsored by Senator HALL of Lincoln and  
Representatives: BOWLES of Sanford, LERMAN of Augusta, MILLS of Farmington, MILLS  
of Cornville, SUSLOVIC of Portland.

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

4                   **Sec. 1. 36 MRSA §143**, as amended by PL 1999, c. 708, §7, is  
repealed and the following enacted in its place:

6                   **§143. Compromise of tax liability and action**

8                   **1. Authorization.** The assessor may compromise a tax  
10 liability of any civil or criminal case arising under this Title  
prior to reference to the Attorney General's office for  
12 prosecution or defense, as specified in this section.

14                   **2. Statement.** If a compromise is made by the assessor  
pursuant to this section, there must be available in the bureau a  
16 statement containing:

18                   A. The opinion of the general counsel for the bureau or the  
general counsel's designee explaining the reason for the  
20 compromise;

22                   B. The amount of tax assessed;

24                   C. The amount of interest, any additional amount, addition  
to the tax or any assessable penalty imposed by law on the  
26 person against whom the tax is assessed; and

28                   D. The amount actually paid in accordance with the terms of  
the compromise.

30 The opinion of the general counsel of the bureau explaining the  
32 reason for the compromise under paragraph A is not required for  
the compromise of any civil case in which the unpaid amount of  
34 tax assessed, including any interest, any additional amount,  
addition to the tax or any assessable penalty, is less than  
36 \$50,000. However, such compromises are subject to continuing  
quality review by the assessor.

38                   **3. Standards for evaluation of offers.** The assessor shall  
prescribe guidelines, procedures and forms for officers and  
40 employees of the bureau to determine whether an offer in  
compromise is adequate and should be accepted to resolve a  
42 dispute.

44                   A. The guidelines must establish minimum residual amounts  
that ensure that a taxpayer entering into a compromise has  
46 an adequate means to provide for basic living expenses. In  
establishing guidelines under this paragraph, the assessor  
48 shall develop and publish schedules of local allowances for  
basic living expenses. The assessor may use schedules  
50 similar to those published by the Internal Revenue Service.

2 B. The guidelines must require officers and employees of  
4 the bureau to determine, on the basis of the facts and  
6 circumstances of each taxpayer, whether the use of the  
8 schedules under paragraph A is appropriate. If it is  
determined that the schedule amount would result in the  
taxpayer not having adequate means to provide for basic  
living expenses, the officer or employee shall disregard the  
schedule.

10 C. The guidelines under this subsection must also specify  
12 that:

14 (1) An officer or employee of the bureau may not  
16 reject an offer in compromise from a low-income  
18 taxpayer solely on the basis of the amount of the  
offer; and

20 (2) In the case of an offer in compromise that relates  
only to issues of liability of the taxpayer:

22 (a) The offer may not be rejected solely because  
24 the assessor is unable to locate the taxpayer's  
26 return or return information for verification of  
liability; and

28 (b) The taxpayer may not be required to provide a  
financial statement.

30 4. Administrative review. The assessor shall establish  
32 procedures that:

34 A. Provide for an independent administrative review of any  
36 rejection of an offer in compromise or installment agreement  
proposal made by a taxpayer under this section before that  
rejection is communicated to the taxpayer; and

38 B. Allow a taxpayer to appeal any rejection of an offer or  
40 agreement pursuant to paragraph A to the Superior Court in  
42 the county in which the person owing the tax resides or is  
located.

44 5. Attorney General compromise. After reference of a  
46 criminal or civil action arising under this Title to the Attorney  
48 General for prosecution or defense, the Attorney General may  
compromise the tax liability associated with that civil or  
criminal case.

50 6. Rulemaking. The assessor shall adopt rules regarding  
the procedures to be followed for the submission and

2 consideration of offers in compromise. Rules adopted pursuant to  
3 this subsection are major substantive rules as defined in Title  
4 5, chapter 375, subchapter 2-A.

6 **SUMMARY**

8 This bill replaces the current law regarding the ability of  
9 the State Tax Assessor to compromise a tax liability. This bill:

10 1. Allows the assessor to compromise any tax liability;

12 2. Requires the general counsel for the Bureau of Revenue  
13 Services to review and explain the reason for the offer of  
14 compromise if the amount owed, including interest and other added  
15 amounts, is at least \$50,000;

16 3. Requires the assessor to maintain a report showing the  
17 specifics of the compromise, including the amount assessed and  
18 the amount actually paid under the compromise;

19 4. Requires the assessor to establish guidelines to be used  
20 by officers and employees of the bureau in determining whether to  
21 grant offers in compromise and the amount that must be retained  
22 by the taxpayer making the offer in compromise in order to  
23 provide for basic living expenses; and

24 5. Allows the Attorney General to compromise the tax  
25 liability of any civil or criminal case that is referred to the  
26 Attorney General for prosecution or defense.  
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