

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1217

H.P. 891

House of Representatives, March 6, 2003

An Act To Enhance the Collection of Tax Arrearages

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 BROMLEY of Cumberland and
Representatives: BOWLES of Sanford, LERMAN of Augusta, MILLS of Farmington, MILLS
of Cornville, SUSLOVIC of Portland, Senators: HALL of Lincoln, MARTIN of Aroostook.

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

2
4 **Sec. 1. 36 MRSA §174**, as amended by PL 2001, c. 583, §4, is repealed.

6 **Sec. 2. 36 MRSA §175-A, sub-§3**, as amended by PL 1997, c. 526, §10, is further amended to read:

8
10 **3. Enforcement.** The lien provided for by subsection 1 may be enforced at any time in accordance with section 176-B after the tax liability with respect to which the lien arose becomes collectible under section 173, subsection 1 by a civil action brought by the Attorney General in the name of the State in the Superior Court of the county in which the property is located to subject any property, of whatever nature, in which the taxpayer has any right, title or interest, to the payment of such tax or liability. The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved in the action and finally determine the merits of all claims to and liens upon the property and, in all cases where a claim or interest of the State therein is established, may decree a sale of the property by the proper officer of the court and a distribution of the proceeds of such sale according to the findings of the court. If the property is sold to satisfy a lien held by the State, the State may bid at the sale such sum, not exceeding the amount of that lien plus expenses of sale, as the assessor directs.

28
30 **Sec. 3. 36 MRSA §176-A, sub-§16**, as amended by PL 1997, c. 526, §13, is repealed and the following enacted in its place:

32 **16. Time for collection of taxes.** Taxes imposed by this Title must be collected by levy in accordance with section 176-B or before the expiration of the period of collection agreed upon in writing by the assessor and the taxpayer. Other obligations owed to the State and authorized to be collected by the bureau must be collected by levy within 10 years from the time the obligation arises. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

42 **Sec. 4. 36 MRSA §§176-B and 176-C** are enacted to read:

44 **§176-B. Collection of tax arrearages**

46 **1. Collection after assessment.** When the assessment of a tax imposed by this Title has been made within the period of limitation for that tax, the tax may be collected by levy or by a proceeding in court, but only:

2 A. If the levy or warrant is made or the proceeding begun
3 within 10 years after the assessment of the tax; or

4
5 B. If:

6 (1) There is an installment agreement between the
7 taxpayer and the assessor, prior to the date that is 90
8 days after the expiration of any period for collection
9 agreed upon in writing by the assessor and the taxpayer
10 at the time the installment agreement was entered into;
11 or

12
13 (2) There is a release of levy or warrant after the
14 10-year period, prior to the expiration of any period
15 for collection agreed upon in writing by the assessor
16 and the taxpayer before that release.

17
18 If a proceeding is properly commenced in court for the collection
19 of a tax, the period during which that tax may be collected by
20 levy or warrant must be extended and may not expire until the
21 liability for the tax or a judgment against the taxpayer arising
22 from that liability is satisfied or becomes unenforceable.

23
24 2. Date when levy or warrant is considered made. The date
25 on which a levy or warrant on property or rights to property is
26 made pursuant to this section is the date on which the seizure is
27 effected.

28
29 **§176-C. Suspension of running of period of limitation**

30
31 1. Definitions. As used in this section, unless the
32 context otherwise indicates, the following terms have the
33 following meanings.

34
35 A. "Designated summons" means any summons issued for
36 purposes of determining the amount of any tax imposed by
37 this Title if:

38 (1) The issuance of the summons is preceded by a
39 review of the issuance by the general counsel of Maine
40 Revenue Services;

41 (2) The summons is issued at least 60 days before the
42 day on which the period prescribed in section 176-B for
43 the assessment of such tax expires, including any
44 extensions; and

45 (3) The summons clearly states that it is a designated
46 summons for purposes of this section.

2 A summons that relates to any return may not be treated as a
4 designated summons if a prior summons that relates to that
return was treated as a designated summons for purposes of
this section.

6 B. "Judicial enforcement period" means, with respect to any
8 summons, the period that:

10 (1) Begins on the day on which a court proceeding with
respect to a designated summons is brought; and

12 (2) Ends on the day on which there is a final
14 resolution as to the summonsed person's response to the
designated summons.

16 C. "Period of limitations" means the period of limitations
18 provided in section 176-B on the making of assessments or
the collection by levy or a proceeding in court, in respect
20 of any deficiency relating to any taxes imposed by the State.

22 2. Issuance of notice of deficiency. After the mailing of
24 a notice of deficiency, the running of the period of limitations
is suspended:

26 A. For the period during which the assessor is prohibited
from making the assessment or from collecting by levy or a
28 proceeding in court; and

30 B. If a proceeding in respect of the deficiency is placed
on the docket of any state court, until the decision of the
32 applicable state court becomes final, and for 60 days after
the effective date of that decision.

34 3. Corporations. If a notice in respect of a deficiency in
36 tax imposed by Part 4 for any taxable year is mailed to a
corporation, the suspension of the running of the period of
38 limitations provided in subsection 2 applies in the case of
corporations with which that corporation made a consolidated
40 income tax return for that taxable year.

42 4. Assets of taxpayer in control or custody of court. The
period of limitations on collection after assessment is suspended
44 for the period the assets of the taxpayer are in the control or
custody of the court in any proceeding before any court of the
46 United States or of any state or of the District of Columbia, and
for 6 months after the release or discharge of those assets.

48 5. Taxpayer outside United States. The running of the
period of limitations on collection after assessment is suspended
50 for the period during which the taxpayer is outside the United

2 States if that period of absence is for a continuous period of at
4 least 6 months. If the running of the period of limitations is
6 suspended pursuant to this subsection, the period of limitations
8 does not expire until the later of the date the period of
10 limitations is scheduled to expire and 6 months after the date of
12 return of the taxpayer to the United States.

8 6. Extensions of time for payment of estate tax. The
10 running of the period of limitations for collection of any tax is
12 suspended for the period of any extension of time for payment
14 granted under provisions of state law.

14 7. Wrongful levy of property of 3rd party. The running of
16 the period of limitations is suspended for a period equal to the
18 period:

18 A. Beginning with the date property, including money, of a
20 3rd party is wrongfully levied, seized or received by the
22 assessor; and

22 B. Ending on the earlier of the date:

24 (1) The assessor returns the property pursuant to
26 section 175-A; and

26 (2) Thirty days after the date on which a judgment
28 secured pursuant to section 176-A, subsection 15 with
30 respect to that property becomes final.

30 The running of the period of limitations is suspended under this
32 subsection only with respect to the amount of the assessment
34 equal to the amount of money or the value of specific property
36 returned.

36 8. Wrongful lien. In the case of an assessment for which a
38 lien was made on property, the running of the period of
40 limitations is suspended for a period equal to the period:

40 A. Beginning on the date any person becomes entitled to a
42 certificate under section 175-A with respect to that
44 property; and

44 B. Ending on the date that is 30 days after the earlier of:

46 (1) The earliest date on which the State Tax Assessor
48 no longer holds any amount as a deposit or bond
50 provided under section 175-A by reason of that deposit
or bond being used to satisfy the unpaid tax or being
refunded or released; and

2 (2) The date any judgment secured against the State
3 relating to or arising out of the wrongful lien becomes
4 final.

5 The running of the period of limitations is suspended under this
6 subsection only with respect to the amount of the assessment
7 equal to the value of the interest of the State in the property
8 plus interest, penalties, additions to the tax and additional
9 amounts attributable to that interest, penalties and additions to
10 the tax.

11 9. Bankruptcy cases. For a case under Title 11 of the
12 United States Code, the running of the period of limitations on
13 the making of assessments or collection is suspended for the
14 period during which the assessor is prohibited by reason of that
15 case from making the assessment or collection and an additional
16 period of:

17 A. For assessment, 60 days thereafter; and

18 B. For collection, 6 months thereafter.

19 10. Extension in case of designated summons. If a
20 designated summons is issued by the assessor to a corporation or
21 limited liability company, or to any other person to whom the
22 corporation or limited liability company has transferred records,
23 with respect to a tax return by that corporation or limited
24 liability company for a taxable year or other period for which
25 that corporation or limited liability company is being examined
26 by the bureau, the running of a period of limitations on the
27 assessment of that tax is suspended:

28 A. During a judicial enforcement period:

29 (1) With respect to that designated summons; or

30 (2) With respect to any other summons that is issued
31 during the 30-day period that begins on the date on
32 which the designated summons is issued and that relates
33 to the same return as that designated summons; and

34 B. During the 120-day period beginning with the 1st day
35 after the close of the suspension of the limitation period
36 under paragraph A, if the court in a judicial proceeding
37 requires any compliance with a summons referred to in
38 paragraph A.

39 If paragraph B does not apply, the period of limitations expires
40 60 days after the close of the suspension of the period under
41 paragraph A.

