

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)

1
2 Date: 4-5-10

L.D. 1540
(Filing No. S-514)

3 Reproduced and distributed under the direction of the Secretary of the Senate.

4 STATE OF MAINE
5 SENATE
6 124TH LEGISLATURE
7 SECOND REGULAR SESSION

8 SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P.
9 1084, L.D. 1540, Bill, "An Act To Amend the Tax Laws"

10 Amend the amendment by inserting after section 7 the following:

11 'Amend the bill by inserting after section 4 the following:

12 'Sec. 5. 36 MRS §1861-B is enacted to read:

13 §1861-B. Offset of use tax

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

16 A. "Customer" means a person from whom sales tax was erroneously collected for
17 the lease or rental of tangible personal property.

18 B. "Lessor" means a person who rents or leases tangible personal property.

19 2. Offset allowed. Notwithstanding any law to the contrary, a lessor who
20 erroneously collects sales tax on the lease or rental of tangible personal property from a
21 customer, remits that sales tax to the State and does not subsequently return that
22 erroneously collected sales tax to that customer is entitled to an offset against an
23 assessment for use tax owed by the lessor on that property as provided in this section.

24 3. Application. In order to receive the offset under this section, a lessor who meets
25 the requirements of subsection 2 must apply to the assessor for the offset allowed under
26 subsection 2 and provide any information the assessor requires, including, but not limited
27 to, the names and last known addresses of the customers of the lessor to whom the lessor
28 did not make a refund, the amount of the sales tax erroneously collected from those
29 customers and the date of the collections. The lessor must submit a completed
30 application to the assessor no later than 30 days following the assessment of use tax.

31 4. Notice to customers; requirements of notice; refund. Within 30 days of receipt
32 of a completed application pursuant to subsection 3, the assessor shall determine whether
33 any of the customers identified by the lessor under subsection 3 were provided a refund
34 of the erroneously collected sales tax by the State pursuant to section 2011. The assessor
35 shall provide written notification and an application for refund to those customers the

1 assessor cannot determine received a refund. The written notice must state that the
2 customer:

3 A. Is entitled to a refund of the erroneously collected sales tax unless the customer
4 has already been refunded the erroneously collected sales tax;

5 B. Has 90 days to request the refund from the assessor and may not request a refund
6 from the lessor; and

7 C. Notwithstanding any provision of law to the contrary, forfeits any right to the
8 erroneously collected sales tax if the customer does not request a refund within the 90
9 days specified under paragraph B.

10 Upon receipt of a completed application for a refund, the assessor shall provide the
11 customer with a refund of the sales tax that the assessor determines was erroneously
12 collected from that customer. The customer is not entitled to interest for a refund made
13 pursuant to this subsection.

14 **5. Amount of offset; reduction for refunds and administrative costs.** No later
15 than 180 days after receipt of a completed application pursuant to subsection 3, the
16 assessor shall determine the amount of the offset and provide an offset against a use tax
17 assessment to a lessor that meets the requirements of this section. The amount of the
18 offset is the lesser of:

19 A. The amount of the use tax assessment; and

20 B. The amount of the sales tax erroneously collected during the time period to which
21 the assessment applies reduced by:

22 (1) Any refunds made by the assessor to customers pursuant to subsection 4 and
23 sections 1814 and 2011 for an erroneous collection of sales tax on leases or
24 rentals during the assessment period; and

25 (2) Any administrative costs incurred by the assessor in complying with
26 subsection 4 and this subsection.

27 **6. Abandoned property.** Notwithstanding any law to the contrary, erroneously
28 collected sales tax subject to this section is not considered property subject to the
29 provisions of the Uniform Unclaimed Property Act.' '

30 Amend the amendment in section 13 by adding at the end the following new
31 sentence: 'That section of this Act that enacts Title 36, section 1861-B applies
32 retroactively to March 1, 2010.'

33 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
34 or section number to read consecutively.

SUMMARY

35
36 This amendment allows a lessor of tangible personal property who collects sales tax
37 erroneously on the lease or rental of that property to use the erroneously collected sales
38 tax, less any refunds of that erroneously collected tax to customers, to offset an
39 assessment against that lessor for use tax on that property. The lessor is required to apply
40 to the State Tax Assessor for the offset no later than 30 days following the use tax

1 assessment and provide the names and last known addresses of the customers from whom
2 the sales tax was erroneously collected and not refunded, the date of that collection and
3 the amount of the sales tax erroneously collected. The assessor is required to determine
4 whether each customer received a refund of the erroneously collected sales tax and to
5 notify in writing those customers who did not. A customer who fails to request a refund
6 within 90 days following notification by the assessor forfeits any right to that refund.
7 Following the refund of any erroneously collected sales tax, the assessor is required to
8 provide an offset to the lessor of the amount of the sales tax erroneously collected, less
9 any refunds and administrative costs, up to the amount of the use tax assessment. This
10 amendment specifies that the erroneously collected sales tax is not subject to abandoned
11 property laws. Finally, this amendment applies this provision retroactively to March 1,
12 2010.

13 **FISCAL NOTE REQUIRED**

14 (See attached)

15 SPONSORED BY: _____

16 (Senator PERRY, J.)

17 COUNTY: Penobscot



124th MAINE LEGISLATURE

LD 1540

LR 2219(04)

An Act To Amend the Tax Laws

Fiscal Note for Senate Amendment "A" to Committee Amendment "A"

Sponsor: Sen. Perry of Penobscot

Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Net Cost (Savings)				
General Fund	\$0	\$753,667	\$532,000	\$532,000
Revenue				
General Fund	\$0	(\$753,667)	(\$532,000)	(\$532,000)
Other Special Revenue Funds	\$0	(\$39,667)	(\$28,000)	(\$28,000)

Fiscal Detail and Notes

Allowing lessors of tangible personal property to use sales tax collected in error, less any refunds of same to customers, to offset an assessment against the lessor for use tax on that same tangible personal property will result in revenue reduction to the General Fund of approximately \$753,667 in fiscal year 2010-11 and \$532,000 in revenue reduction in subsequent fiscal years.