

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 868

S.P. 272

In Senate, March 8, 2011

An Act To Reform Maine Revenue Services Procedures

Reference to the Committee on Taxation suggested and ordered printed.

Joseph G. Carleton Jr.

JOSEPH G. CARLETON, JR.
Secretary of the Senate

Presented by Senator TRAHAN of Lincoln.

Cosponsored by Representative McKANE of Newcastle and

Senators: COURTNEY of York, MARTIN of Kennebec, PLOWMAN of Penobscot, SNOWE-MELLO of Androscoggin, Representatives: BENNETT of Kennebunk, HARMON of Palermo, KNIGHT of Livermore Falls, WATERHOUSE of Bridgton.

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

2 **Sec. 1. 36 MRSA §112, sub-§1**, as repealed and replaced by PL 1999, c. 127, Pt.
3 A, §47, is amended to read:

4 **1. General powers and duties.** The assessor shall administer and enforce the tax
5 laws enacted under this Title and under Title 29-A, and may adopt rules and require such
6 information to be reported as necessary. The assessor may investigate, enforce and
7 prosecute activities defined as crimes in this Title and in Title 17-A, sections 358, 751
8 and 903. The assessor shall provide, at the time of issuance, to one or more entities that
9 publish a monthly state tax service all rules, bulletins, taxpayer notices or alerts, notices
10 of rulemaking, any other taxpayer information issued by the assessor, and all substantive
11 amendments or modifications of the same, for publication by that entity or entities. When
12 a significant change has occurred in bureau policy or practice or in the interpretation by
13 the bureau of any law, rule or instruction bulletin, the assessor shall, within 60 days of the
14 change, provide to the same publishing entity or entities written notice, suitable for
15 publication, of the change. Before implementing a change in bureau policy or practice or
16 in the interpretation by the bureau of any law, rule or instruction bulletin that results in
17 additional revenue to the State, the bureau shall notify the joint standing committee of the
18 Legislature having jurisdiction over taxation matters of the proposed change and adopt
19 major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A to implement the
20 change.

21 **Sec. 2. 36 MRSA §112, sub-§4**, as amended by PL 2003, c. 668, §7 and affected
22 by §12, is further amended to read:

23 **4. Examination of records and premises.** Whenever necessary to the
24 administration of this Title, the assessor may make, or cause to be made by an employee,
25 an examination or investigation of the place of business, books and other documents and
26 any other relevant personal property of any person who the assessor has reason to believe
27 is liable for any tax imposed by this Title.

28 Except in the case of a criminal investigation, the assessor shall notify a taxpayer that is
29 the subject of an audit under this section as soon as an audit has been initiated. The
30 notice must state the reason for the audit, the rights of the taxpayer and the potential
31 impact on the taxpayer of the audit. The assessor or any employee conducting an audit
32 under this section shall record all conversations with the taxpayer during the course of the
33 audit and preserve those recordings until the conclusion of all enforcement proceedings
34 and appeals.

35 At the conclusion of an audit, the assessor or an agent shall conduct an audit conference
36 with the taxpayer and shall give the taxpayer a written summary of the audit findings,
37 including the legal basis for the audit findings and adjustments, along with copies of
38 relevant bureau audit workpapers.

39 **SUMMARY**

40 This bill requires the Department of Administrative and Financial Services, Bureau of
41 Revenue Services, prior to implementing a change in policy or practice or in

1 interpretation of any law, rule or bulletin that will result in additional revenue to the State,
2 to notify the joint standing committee of the Legislature having jurisdiction over taxation
3 matters and to implement the change through major substantive rulemaking, which is
4 subject to review by the Legislature.

5 The bill also requires the State Tax Assessor to notify a taxpayer when an audit has
6 been initiated and to record and to preserve all conversations with the taxpayer during the
7 course of the audit.