

# MAINE STATE LEGISLATURE

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Sme  
H. of S.

L.D. 430

Date: 3.26.13

(Filing No. S- 13 )

TAXATION

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STATE OF MAINE

SENATE

126TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 161, L.D. 430, Bill, "An Act To Amend the Laws Regarding Who May Appeal a Reconsideration Decision to the Maine Board of Tax Appeals"

Amend the bill by striking out everything after the title and before the summary and inserting the following:

**Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** more than 3,000 cases are filed in the State's courts each week, and a taxpayer with a state tax dispute involving less than \$5,000 must appeal directly to Superior Court; such cases increase the caseload of the Superior Court and may take up to a year to be resolved; and

**Whereas,** the newly created Maine Board of Tax Appeals has the capacity to take more cases and may resolve tax disputes in less than 6 months; and

**Whereas,** it costs more for taxpayers with tax disputes of less than \$5,000 to appeal to Superior Court than it costs taxpayers to appeal to the Maine Board of Tax Appeals; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 4 MRSA §807, sub-§3, ¶P,** as amended by PL 2009, c. 480, §2 and PL 2011, c. 657, Pt. W, §5, is further amended to read:

P. A person who is not an attorney but who, as the executive director of the State Harness Racing Commission, is representing the Department of Agriculture,

1 Conservation and Forestry at adjudicatory hearings before the commission in  
2 accordance with Title 8, section 263-C; ~~or~~

3 **Sec. 2. 4 MRSA §807, sub-§3, ¶Q**, as enacted by PL 2009, c. 480, §3, is  
4 amended to read:

5 Q. A person who is an attorney admitted to practice in another United States  
6 jurisdiction to the extent permitted by rules of professional conduct adopted by the  
7 Supreme Judicial Court; or

8 **Sec. 3. 4 MRSA §807, sub-§3, ¶R** is enacted to read:

9 R. A person who is not an attorney but who is a public accountant, enrolled agent,  
10 enrolled actuary or any other person permitted to represent the taxpayer under Title  
11 36, section 151-A, subsection 2 and is representing a party in any hearing, action or  
12 proceeding before the Maine Board of Tax Appeals in accordance with Title 36,  
13 section 151-D.

14 **Sec. 4. 36 MRSA §151, sub-§2, ¶E**, as enacted by PL 2011, c. 694, §3, is  
15 amended to read:

16 E. A reconsidered decision rendered on any request other than a small claim request  
17 constitutes the assessor's final determination, subject to review by either by the board  
18 or directly by the Superior Court. A reconsidered decision rendered on a small claim  
19 request constitutes the assessor's final determination and final agency action and is  
20 subject to de novo review by the Superior Court. For purposes of this paragraph,  
21 "small claim request" means a petition for reconsideration when the amount of tax or  
22 refund request in controversy is less than ~~\$5,000~~ \$1,000.

23 **Sec. 5. 36 MRSA §151-A, sub-§2**, as enacted by PL 1989, c. 848, §4, is amended  
24 to read:

25 **2. Representative of taxpayer.** The taxpayer may bring to any interview or  
26 informal conference with the State Tax Assessor or to any proceeding pursuant to section  
27 151-D any attorney, certified public accountant, enrolled agent, enrolled actuary or any  
28 other person permitted to represent the taxpayer. If the taxpayer does not bring anyone to  
29 the interview, conference or proceeding but clearly states at any time during the informal  
30 interview, conference or proceeding that the taxpayer wishes to consult with an attorney,  
31 certified public accountant, enrolled agent, enrolled actuary or any other person permitted  
32 to represent the taxpayer, the State Tax Assessor shall suspend the interview or  
33 conference or the board shall suspend the proceeding. The suspension must occur even if  
34 the taxpayer has answered one or more questions before that point in the interview,  
35 conference or proceeding. The conference must be rescheduled to be held within 10  
36 working days.

37 **Emergency clause.** In view of the emergency cited in the preamble, this  
38 legislation takes effect when approved.'

39 **SUMMARY**

40 This amendment changes the amount of tax or refund in controversy that is  
41 considered a small claim to \$1,000, rather than \$250 as provided for in the bill. It

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1 provides that a taxpayer may be represented by an attorney, certified public accountant,  
2 enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer  
3 before the Maine Board of Tax Appeals. The amendment does not change the amount of  
4 the processing fee as was proposed in the bill.

5 **FISCAL NOTE REQUIRED**

6 (See attached)



Approved: 03/15/13 *MAC*

# 126th MAINE LEGISLATURE

LD 430

LR 852(02)

**An Act To Amend the Laws Regarding Who May Appeal a Reconsideration Decision to the Maine Board of Tax Appeals**

**Fiscal Note for Bill as Amended by Committee Amendment "A" (5-13)**

**Committee: Taxation**

**Fiscal Note Required: Yes**

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## Fiscal Note

No net fiscal impact

### Correctional and Judicial Impact Statements

Decreases the number of civil cases.

The loss of filing fees may also decrease General Fund revenue by minor amounts.

### Fiscal Detail and Notes

Lowering the dollar threshold for an appeal to be considered by the Maine Board of Tax Appeals from \$5,000 to \$1,000 would increase the number of appeals reviewed by the board. Any additional costs and revenue from fees associated with this change can be absorbed by the board within existing budgeted resources.