

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

**PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
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3, SECTION 164, SUBSECTION 6.**

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND TENTH LEGISLATURE

1981

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

36 MRSA § 1863 is enacted to read:

§ 1863. No tax on returned merchandise donated to charity

No use tax may be imposed on the donation of merchandise by a retailer to an organization exempt from taxation under the United States Internal Revenue Code, Section 501(c) (3), as amended, when the merchandise has been returned to the retailer by the purchaser and the retailer then gives to the purchaser an allowance in cash or by credit pursuant to warranty or when the full price of the merchandise returned is refunded, either in cash or by credit, to the purchaser.

Effective September 18, 1981

CHAPTER 504

H. P. 1538 — L. D. 1650

AN ACT to Provide for the Setoff against Income Tax Refunds of Debts Owed to the State or Collectible by the State.

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

Sec. 1. 36 MRSA § 191, sub-§ 2, ¶¶ H and I, as enacted by PL 1977, c. 668, § 2, are amended to read:

H. The disclosure by the State Tax Assessor of the fact that a business or individual is or is not registered as a seller under section 1754 or section 1756 or disclosure of both the fact that a registration under either section has been revoked in accordance with section 1757 or section 1923 and the reasons for revocation; and

I. The disclosure of information acquired pursuant to Part 2; and

Sec. 2. 36 MRSA § 191, sub-§ 2, ¶ J is enacted to read:

J. The disclosure to a state agency seeking setoff of a liquidated debt against a tax refund pursuant to section 5276-A of information necessary to effectuate the intent of that section.

Sec. 3. 36 MRSA § 5276, sub-§ 1, as enacted by P&SL 1969, c. 154, § F, is amended to read:

1. **General rule.** The assessor State Tax Assessor, within the applicable period of limitations, may credit an overpayment of income tax and interest on

such overpayment against any liability in respect of any tax imposed under this Title on the taxpayer who made the overpayment, and the balance, after any setoff pursuant to section 5276-A, shall be refunded by the ~~treasurer out of the proceeds of the tax retained by him for such general purposes~~ Treasurer of State.

Sec. 4. 36 MRSA § 5276-A is enacted to read:

§ 5276-A. Setoff of debts against refunds

1. **Generally.** Any agency of the State, including the University of Maine, which is authorized to collect from any individual or corporation a liquidated debt greater than \$25 shall notify in writing the State Tax Assessor and supply information necessary to identify the debtor whose refund is sought to be set off. The State Tax Assessor, upon any such notification, shall assist the requesting agency by setting off that debt, pursuant to rules promulgated by the State Tax Assessor, against any refund to which that individual or corporation is entitled under this Part.

2. **Notice and hearing.** Before a setoff is made, the State Tax Assessor shall provide notice to the individual or corporate taxpayer of the intended setoff and of the taxpayer's right to request, within 15 days of the taxpayer's receipt of that notice, a hearing before the creditor agency. The hearing shall be pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, but shall be limited to the issues of whether the debt became liquidated and whether any postliquidation events have affected the liability.

3. **Finalization of setoff.** If, within 90 days of the notice to the taxpayer of the intended setoff, the agency requesting setoff certifies to the State Tax Assessor either that the taxpayer did not make a timely request for hearing or that a hearing was held and a liquidated debt was determined after hearing to be due to that agency, the State Tax Assessor shall set off the liquidated debt against the refund due to the taxpayer. Otherwise, the State Tax Assessor shall release the entire refund to the taxpayer.

4. **Appeal.** The decision of the agency seeking setoff as to the existence of a liquidated debt constitutes final agency action appealable under the Maine Administrative Procedure Act, Title 5, chapter 375.

5. **Disposition of proceeds.** Refund amounts which are set off under this section shall be transferred periodically by the State Tax Assessor to the creditor agency, except that a collection fee equal to the actual costs incurred by the State Tax Assessor in assisting in the collection shall be deducted and deposited in the General Fund. If the creditor agency is either entitled to federal matching funds against all debts collected or required by federal regulations to specially handle debts collected, the State Tax Assessor shall transfer to that agency the gross proceeds from setoffs made in its behalf, and that agency shall promptly reimburse the State Tax Assessor for the collection fee.

6. **Accounting.** The creditor agency shall credit the account of the individual

whose refund has been set off with the full amount of the setoff, including the collection fee retained by, or reimbursed to, the State Tax Assessor.

7. **Priority.** In the event that claims from more than one agency are received by the State Tax Assessor with respect to one taxpayer, the claims shall be set off in the order of their receipt by the State Tax Assessor.

Sec. 5. 36 MRSA § 5279, sub-§ 4, as enacted by P&SL 1969, c. 154, § F, is amended to read:

4. **Exceptions.** If any overpayment of tax imposed by this ~~part~~ Part is refunded within 3 months after the last date prescribed, or permitted by extension of time, for filing the return of ~~such~~ that tax or within 3 months after the return was filed, whichever is later, no interest shall be allowed under this section ~~on~~ overpayment. In addition, no interest may be allowed with respect to the period during which a refund is delayed pending resolution of a proposed setoff under section 5276-A.

Sec. 6. **Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1981-82	1982-83
FINANCE AND ADMINISTRATION, DEPARTMENT OF		
Bureau of Taxation		
All Other	\$40,000	\$15,000

Effective September 18, 1981

CHAPTER 505
H. P. 1158 — L. D. 1379

AN ACT to Establish a Consolidated Map of the State.

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

Whereas, the State of Maine provides maps of the State for the convenience of citizens and the general public; and

Whereas, this legislation is vitally needed to provide necessary funds to supply these maps at the earliest possible time; and

Whereas, in the judgment of the Legislature, these facts create an emergency