

MAINE STATE LEGISLATURE

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CHAPTER 219

ASSESSMENT AND COLLECTION OF TAX

- Sec.
- 1951. Collection of tax; report to Tax Assessor.
 - 1952. Payment of tax; interest.
 - 1953. Tax a debt; recovery; preference.
 - 1954. Arbitrary assessment.
 - 1955. Deficiency assessment.
 - 1956. Jeopardy assessment.
 - 1957. Petition for reconsideration of assessment.
 - 1958. Appeals.
 - 1959. Warrant; request for.
 - 1960. —Issuance.
 - 1961. —Recording; lien.
 - 1962. —Form and effect.
 - 1963. —Arrest and commitment.
 - 1964. Priority of tax.

§ 1951. Collection of tax; report to Tax Assessor

Every retailer shall file with the Tax Assessor, on or before the 15th day of each month, a report made under the pains and penalties of perjury on such form as the Tax Assessor may prescribe, which shall disclose the total sale price of all sales made during the preceding calendar month, and such other information as the Tax Assessor shall require. The Tax Assessor may permit the filing of returns other than monthly. The Tax Assessor, by regulation, may waive reporting nontaxable sales. Upon application of a retailer, the Tax Assessor shall issue a classified permit establishing the percentage of exempt sales. Such classified permit may be amended or revoked as to its classification whenever the Tax Assessor shall determine that the percentage of exempt sales is inaccurate. The Tax Assessor may for good cause extend for not more than 30 days the time for making returns required under chapters 211 to 225. The tax paid on sales represented by accounts found to be worthless and actually charged off may be credited upon the tax due on subsequent report, but if any such accounts are thereafter collected by the retailer, a tax shall be paid upon the amounts so collected. Every person subject to the use tax shall file similar reports, at similar dates, and shall pay the tax or furnish a receipt for the same from a registered retailer.

Every person incurring a use tax liability of \$25, or sales tax liability of any amount in one calendar month, shall pay a penalty of \$1 if he shall omit to report the same at or before the time required. This penalty shall be in addition to all others by law provided. The Tax Assessor shall have power to waive such penalty in whole or in part.

R.S.1954, c. 17, § 14.

§ 1952. Payment of tax; interest

The taxes imposed by chapters 211 to 225 shall be due and payable at the time of the sale; or, in the case of tax on rental for living quarters, at the time the rental is payable. Upon such terms and conditions as the Tax Assessor may prescribe, he may permit a postponement of payment to a date not later than the date when the sales so taxed are required to be reported. Any person who shall fail to pay any tax imposed by chapters 211 to 225 on or before the day when the same shall be required to be paid shall pay interest on said tax at the rate of $\frac{1}{2}$ of 1% each month or fraction thereof that the same remains unpaid, to be calculated from the date the tax was required to be paid. All such interest shall be payable to, and recoverable by, the Tax Assessor in the same manner as if it were a tax imposed by chapters 211 to 225. If the failure to pay such tax when required to be paid is explained to the satisfaction of the Tax Assessor, he may abate or waive the payment of the whole or any part of such interest and, for cause may abate the whole or any part of such tax.

The Tax Assessor shall pay over all receipts collected to the Treasurer of State daily and such receipts shall be credited to the General Fund.

R.S.1954, c. 17, § 15; 1959, c. 350, § 10; 1961, c. 227, § 10.

§ 1953. Tax a debt; recovery; preference

The taxes, interest and penalties imposed by chapters 211 to 225, from the time the same shall be due, shall be a personal debt of the retailer or user to the State of Maine, recoverable in any court of competent jurisdiction in a civil action in the name of the State of Maine, and shall have preference in any distribution of the assets of the taxpayer, whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment obtained shall be paid to the Tax Assessor.

R.S.1954, c. 17, § 16; 1961, c. 317, § 22.

§ 1954. Arbitrary assessment

If any person shall fail to make a report as required, the Tax Assessor may make an estimate of the taxable liability of such person from any information he may obtain, and according to such estimate so made by him, assess the taxes, interest and penalties due the State from such person, give notice of such assessment to the person and make demand upon him for payment, but no such assessment can be made after 6 years.

R.S.1954, c. 17, § 19; 1959, c. 68, § 4.

§ 1955. Deficiency assessment

After a report is filed under chapters 211 to 225, the Tax Assessor shall cause the same to be examined, and may make such further audits or investigations as he may deem necessary and if therefrom he shall determine that there is a deficiency with respect to the payment of any tax due under chapters 211 to 225, he shall assess the taxes and interest due the State, give notice of such assessment to the person liable, and make demand upon him for payment but no such assessment can be made after 2 years.

R.S.1954, c. 17, § 20; 1957, c. 80.

§ 1956. Jeopardy assessment

If the Tax Assessor finds that a person liable for a tax designs quickly to depart from this State or to remove his property therefrom, or to conceal himself or his property, or to discontinue business, or to do any other act tending to prejudice or to render wholly or partially ineffective proceedings to collect such tax, unless such proceedings be brought without delay, the Tax Assessor shall cause notice of such finding to be given such person, together with a demand for an immediate report and immediate payment of such tax. If report and payment are not made upon demand, the Tax Assessor may make an estimate of the taxable liability of such person, from any information he may obtain, and according to such estimate, assess the taxes and interest due the State from such person. The Tax Assessor shall give notice of said assessment and demand payment thereof, and said assessment shall be presumed to be correct, the burden of showing otherwise being on the taxpayer. Thereupon, such tax shall become immediately due and payable. The Tax Assessor may, at the same time, without delay, bring a civil action for the collection of the tax.

R.S.1954, c. 17, § 21; 1961, c. 417, § 23.

§ 1957. Petition for reconsideration of assessment

Any person against whom an assessment shall be made by the Tax Assessor under chapters 211 to 225 may petition for a reconsideration of assessment within 15 days after notice shall have been given such person as provided in section 1906. If a petition for a reconsideration of assessment is not filed within said 15-day period, the amount of the assessment becomes final at the expiration thereof as to law and fact. If a petition for a reconsideration of assessment is filed within said 15-day period, the Tax Assessor shall reconsider the assessment and, if the petitioner has so requested in his petition, shall grant said petitioner an oral hearing and shall give the petitioner 10 days' notice of the time and place thereof. For cause shown the Tax Assessor may extend the time for filing such petition. If appeal is not taken as provided in section 1958, the amount of the assessment upon reconsideration becomes final as to law and fact at the expiration of the 30-day period therein allowed for the taking of appeals.

R.S.1954, c. 17, § 32.

§ 1958. Appeals

Any taxpayer aggrieved by the decision upon such petition may, within 30 days after notice thereof from the Tax Assessor, appeal therefrom to the Superior Court in any county where he has a regular place of business for making retail sales, or, if he has no such place of business within the State, to the Superior Court in Kennebec County. The appellant shall, when such appeal is taken, file an affidavit stating his reasons of appeal and serve a copy thereof on the Tax Assessor, and in the hearing of the appeal shall be confined to the reasons of appeal set forth in such affidavit. Jurisdiction is granted to the Superior Court to hear and determine such appeals and to enter such order and decrees as the nature of the case may require. The decision upon all questions of fact shall be final. An appeal may be taken to the law court as in other actions. Decisions shall be certified forthwith by the clerk of courts to the Tax Assessor.

R.S.1954, c. 17, § 33; 1959, c. 68, § 5; c. 317, § 6.

§ 1959. Warrant; request for

If any amount required to be paid to the State under chapters 211 to 225, is not paid when due, and has become final as to law and fact under section 1957 or 1958, the Tax Assessor may, within 3 years after the amount has become final, notify the per-

son who according to the records of the Tax Assessor is liable, specifying the amount required to be paid, interest and penalty due, and demanding payment within 12 days after the sending of such notice. Such notice shall be given as required by section 1906 and shall warn the person that if he does not make the payment as demanded the Tax Assessor will certify the amount due to the Attorney General for collection by warrant as provided.

If the person does not make the payment as demanded within said 12-day period, or such extension thereof as the Tax Assessor may allow, the Tax Assessor shall certify the amount required to be paid, interest and penalty, to the Attorney General for collection. The Attorney General may file in the office of the clerk of the Superior Court of Kennebec County, or any county, a certificate addressed to the clerk specifying the amount required to be paid, interest and penalty due, the name and address of the person liable as it appears on the records of the Tax Assessor, the facts whereby said amount has become final as to law and fact, the notice given, and requesting that a warrant be issued against the person in the amount required to be paid, together with interest and penalty as set forth in the certificate, and with costs.

If the Tax Assessor thinks there are just grounds to fear that such person may abscond within the 12-day period, he shall not be required to give notice to the person and may, without further notice, certify the amount due to the Attorney General for collection.

1959, c. 190, § 1; 1961, c. 417, § 25.

§ 1960. —Issuance

The clerk of the Superior Court, immediately upon the filing of the certificate, shall issue a warrant in favor of the State of Maine against the person in the amount to be paid together with interest and penalty as set forth in the certificate, and with costs.

The clerk of the Superior Court shall file the certificate in a looseleaf book entitled, "Special Warrants for State Sales or Use Tax." These records are not to become a part of the extended record of said court.

1959, c. 190, § 1.

§ 1961. —Recording; lien

An abstract of the warrant or a copy may be filed for record with the register of deeds of any county. From the time of fil-

ing, the amount required to be paid, together with interest, penalty and costs, constitutes a lien upon all the real property in the county owned by the person liable or acquired by him afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien and shall continue for 5 years from the date of recording unless sooner released or otherwise discharged. The lien may, within said 5-year period or within 5 years from the date of the last extension of the lien in the manner provided in this section, be extended by filing for record in the office of the register of deeds an abstract or copy of the warrant and from the time of such filing the lien shall be extended for 5 years unless sooner released or otherwise discharged.

1959, c. 190, § 1.

§ 1962. —Form and effect

The warrant shall have the force and effect of an execution issued upon a judgment in a civil action for taxes and may be in substantially the following form:

“....., ss.—To the Sheriffs of our respective counties or either of their Deputies,

“Whereas, the Attorney General has certified that, pursuant to the terms of Title 36, section 1957 or 1958, or both, of the Revised Statutes the amount of certain sales or use taxes, assessed against of with interest and penalty, has become final as to law and fact, to wit:

Sales or use tax	\$
Penalty	
Interest
Total	\$
and \$	costs of this proceeding,
and the same is unpaid;

“We command you, therefore, that of the money, goods and chattels of said debtor, in your precinct, or the value thereof in money, you cause to be paid and satisfied unto the State of Maine said total and costs, and cents more for this warrant, together with your own fees.

“And for want of money, goods or chattels of said debtor, to be by him shown unto you, or found in your precinct, to the acceptance of the Attorney General of the State of Maine, to satisfy the sums aforesaid, we command you to take the body of said debtor, and commit him unto any of our jails in said counties,

and there detain in your custody, until he shall pay the full sums aforesaid, with your fees, or be discharged by said State of Maine, or otherwise by order of law.

“Hereof fail not, and make due return of this warrant, with your doings thereon, unto my office within 3 months from the date hereof.

.....
Clerk of Courts, County of
Date

Warrants shall be returnable within 3 months. New warrants may be issued on any such certificate within 2 years from the return day of the last preceding warrant for sums remaining unsatisfied.

Warrants shall be served by the sheriff of any county or by any of his deputies in the county where the person may be found.
1959, c. 190, § 1.

§ 1963. —Arrest and commitment

When an officer by virtue of said warrant, for want of property, arrests any person and commits him to jail, he shall give an attested copy of his warrant to the jailer and certify, under his hand, the sum that such person is to pay as his tax, interest and penalty and the costs of obtaining the warrant, and the costs of arresting and committing, and that for want of goods and chattels whereon to levy he has been arrested; and such copy and certificate are a sufficient warrant to require the jailer to receive and keep such person in custody until he pays his tax, said other charges and \$1 for the copy of the warrant; but such person shall have the same rights and privileges as a debtor arrested or committed on execution as provided in Title 14, chapters 503 and 505.

No married woman or officer of a debtor corporation shall be arrested under this warrant.
1959, c. 190, § 1.

§ 1964. Priority of tax

Whenever any person liable for any tax levied is insolvent, whenever any such person makes a voluntary assignment of his assets, whenever the estate of a deceased person liable in the hands of the executors, administrators or heirs is insufficient to pay all the debts due from the deceased or whenever estate and effects of an absconding, concealed or absent person liable are

levied upon by process of law, the tax, together with interest attaching thereto, shall be first settled. This section shall not be construed to give the State a preference over any recorded lien which attached prior to the date when the tax became due.

R.S.1954, c. 17, § 35.