

MAINE STATE LEGISLATURE

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**Review of Procedures and Notices Used in Notifying Taxpayers of the
Basis of a Tax Assessment or of the Denial of a Refund**

**A Report Prepared for the
Joint Standing Committee on Taxation**

**Department of Administrative and Financial Services
Maine Revenue Services**

October 26, 2017



PAUL R. LEPAGE
GOVERNOR

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MAINE REVENUE SERVICES
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ADMINISTRATIVE & FINANCIAL SERVICES

ALEC PORTEOUS
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MAINE REVENUE SERVICES

JEROME D. GERARD
EXECUTIVE DIRECTOR

October 26, 2017

Senator Dana Dow, Chair
Representative Ryan Tipping, Chair
Joint Standing Committee on Taxation
100 State House Station
Augusta, ME 04333

Dear Committee Co-Chairs:

Pursuant to Public Law 2017, c. 257, Section 5, I have enclosed herewith the report regarding the review of procedures and notices notifying a taxpayer of the basis for an assessment or the denial of a refund. Please feel free to contact me if you have any questions about this report.

Sincerely,

A handwritten signature in blue ink that reads "Jerome D. Gerard".

Jerome D. Gerard

cc: Members of the Joint Standing Committee on Taxation
Aaron Chadbourne, Senior Policy Advisor, Office of the Governor
Nick Adolphsen, Senior Policy Advisor, Office of the Governor
Alec Porteous, DAFS Commissioner
Ian Swanberg, DAFS Legislative Coordinator

I. Introduction

Maine Revenue Services (“MRS”) is providing this report in compliance with P.L. 2017, c. 257, § 5, that requires the agency to provide a report by February 1, 2018, to the Joint Standing Committee on Taxation of the review of the procedures and notices notifying a taxpayer of the basis for an assessment or the denial of a refund.¹ The report must include an outline of the procedures and documents reviewed and any revisions implemented to ensure that taxpayers are provided a brief, nontechnical explanation for an assessment or denial of a refund request.

II. Procedures and Documents Reviewed

Annually, MRS issues approximately 670,000 notices. The majority of notices issued are automatically generated by the MRS computer system. As part of this review, all types of notices were studied and approximately 38 distinct types of notices were identified that relate to assessment or refund denial as required by the public law. These notices, issued by the Compliance Division, the Income and Estate Tax Division, the Property Tax Division, the Sales, Fuel and Special Tax Division, and the Tax Compliance Unit, were examined to determine whether they provide a brief, nontechnical explanation for the assessment or denial. These notices include:

- notices denying a request for refund of tax;
- notices of tax assessment;
- credit adjustment notices;
- overpayment adjustment notices;
- refund or credit adjustment notices;
- reimbursement reduction notices;
- amended return review notices;
- notices of underpayment and assessment of interest and penalties notices;
- denial of reimbursement notices; and
- jeopardy assessment notices.

It was determined that all notices reviewed provide a clear indication of the taxpayer, tax type, tax period, and the amount of any tax, interest or penalty assessed or refund denied. It was also determined that most notices provide a good description of the reason for the assessment or the denial. Examples of notices that provide good explanations for the assessment or denial include: (1) a notice of assessment for income tax showing all required changes to any affected lines of the taxpayer’s Maine return; and (2) a notice of assessment issued to a non-filer stating that no return or payment was received, that no information was provided in response to MRS requests, and that the assessment is based on the best information available showing that a return and payment were required.

¹ **Sec. 5. Report.** By February 1, 2018, the State Tax Assessor shall review the adequacy of procedures and notices involved in the process of notifying taxpayers regarding the basis of an assessment or a denial of a refund request and provide a report of the review to the Joint Standing Committee on Taxation. The report must describe the procedures and documents reviewed and any revisions implemented to ensure that taxpayers who receive notices or determinations from the assessor are provided a brief, nontechnical explanation for an assessment or a denial of a refund request. *P.L. 2017, c. 257, § 5.*

Special attention was given to notices that contain certain key information (type of adjustment, tax period, tax type, and additional tax, interest, or penalty due), but no detailed explanation of the assessment. Two notices related to the reduction in corporate credits or overpayment adjustments were determined to be issued after other explanatory contact with taxpayers. Certain other MRS notices are generated as a result of changes made by the I.R.S. to a taxpayer's federal return, including as a result of a federal revenue agent's report, or as a result of additional information reported to the I.R.S., and may be subject to statutory limits on disclosure of federal tax information.

Certain notices, such as notices of assessment sent to taxpayers in desk and field audit cases, contain only the taxpayer's name and address, tax type, tax period, and the amount of any tax, interest or penalty assessed. These notices do not include an explanation of the reason for the assessment, because one has been provided to the taxpayer as part of the written audit findings before the assessment is issued. "At the conclusion of an audit, the assessor or an agent shall conduct an audit conference with the taxpayer and shall give the taxpayer a *written summary of the audit findings, including the legal basis for the audit findings and adjustments, along with copies of relevant bureau workpapers.*" 36 M.R.S. § 112(4) (*emphasis added*).

III. Revisions Implemented

In 2017, revisions were made to notices issued by the Property Tax Division that are related to the denial or reduction of reimbursement under the Business Equipment Tax Reimbursement program. These notices now provide a brief explanation of the reason for denial or reduction, selected from menus of approximately 30 detailed explanations. The Sales, Fuel & Special Tax Division is now implementing similar notice revisions to include a menu of specific explanations for the notice for reimbursement reduction for political subdivisions and notice of off-highway refund adjustments. Other notable adjustments to notices currently in production include changes to four notices issued by the Sales, Fuel and Special Tax Division to provide greater detail on the refund denial or adjustment, related to the denial or adjustment of a refund for cigarette tax, or reimbursement reduction or denial of a refund related to a retail dealer's gasoline shrinkage.