

MAINE STATE LEGISLATURE

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PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
MAINE REVENUE SERVICES
P.O. BOX 1060
AUGUSTA, MAINE
04332-1060

ADMINISTRATIVE & FINANCIAL SERVICES

RICHARD W. ROSEN
ACTING COMMISSIONER

BRUCE R. LIVINGSTON
TAXPAYER ADVOCATE

July 30, 2014

Governor Paul R. LePage
1 State House Station
Augusta, ME 04333-0001

Senator Anne M. Haskell
Representative Adam A. Goode
Joint Standing Committee on Taxation
100 State House Station
Augusta, ME 04333-0100

State Tax Assessor Jerome D. Gerard
Maine Revenue Services
24 State House Station
Augusta, ME 04333-0024

Dear Governor LePage, Co-Chairs Haskell and Goode and Assessor Gerard:

Pursuant to Public Law 2011, Chapter 439, Section 151-C (3), I have enclosed herewith the annual report regarding the activities of the Taxpayer Advocate. Please feel free to contact me if you have any questions about this report.

Respectfully submitted,

A handwritten signature in blue ink that reads "Bruce R. Livingston".

Bruce R. Livingston
Taxpayer Advocate
Maine Revenue Services

cc: Members of the Joint Standing Committee on Taxation
Acting Commissioner Richard W. Rosen, DAFS



Annual Report of the Taxpayer Advocate

**A Report Prepared for the Governor, the Assessor and
the Joint Standing Committee on Taxation
Pursuant to PL 2011, c. 439**

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

A handwritten signature in blue ink that reads "Bruce R. Livingston".

**Bruce R. Livingston
Taxpayer Advocate
Maine Revenue Services**

July 30, 2014

This report is due annually by August 1st as provided in PL 2011, c. 439, Section 4. 36 MRSA §151-C is enacted to read: (3) Annual report. “Beginning in 2012, the taxpayer advocate shall prepare and submit by August 1st an annual report of activities of the taxpayer advocate to the Governor, the assessor and the joint standing committee of the Legislature having jurisdiction over taxation matters.”

Background of the Position

The Taxpayer Advocate (Advocate) position was created in 1995. The purpose/mission/role of the Advocate has been to assist taxpayers who have questions about Maine tax law; concerns about their tax situation as it relates to some aspect of Maine tax law; are confused about their tax situation; or disagree with some action by MRS, usually an assessment of tax or collection of an amount due.

From 1995 to June 30, 2012, the Advocate had been employed by MRS and had reported directly to the State Tax Assessor or Legal Counsel. This allowed the Advocate to function as independently as possible from MRS operating divisions.

Rather than refer to my first two annual reports that the reader is unlikely to have in front of them, I think it would be helpful to include herein some of the pertinent items from those reports so the reader will have that information.

Legislative changes by the One Hundred and Twenty-Fifth Legislature (PL 2011, c. 694) resulted in the following provision in 36 MRSA § 151-C, sub-§1 which became effective July 1, 2012.

1. Appointment. The Commissioner of Administrative and Financial Services shall hire the taxpayer advocate as an employee of the bureau. The taxpayer advocate need not be an attorney. Chapter 694 amended PL 2011, c. 439 by adding “as an employee of the bureau.”

The following is from PL 2011, c. 439, also effective July 1, 2012.

2. Duties and Responsibilities. The duties and responsibilities of the taxpayer advocate are to:

- A. Assist taxpayers in resolving problems with the bureau;
- B. Identify areas in which taxpayers have problems in dealings with the bureau;
- C. Propose changes in the administrative practices of the bureau to mitigate problems identified under paragraph B;
- D. Identify legislative changes that may be appropriate to mitigate problems identified under paragraph B.

3. Annual Report. Beginning in 2012, the taxpayer advocate shall prepare and submit by August 1st an annual report of activities of the taxpayer advocate to the Governor, the assessor and the joint standing committee of the Legislature having jurisdiction over taxation matters.

4. Investigation. The taxpayer advocate may investigate complaints affecting taxpayers generally or any particular taxpayer or group of taxpayers and, when appropriate, make recommendations to the assessor with respect to these complaints. The assessor shall provide a formal response to all recommendations submitted to the assessor by the taxpayer advocate within 3 months after submission to the assessor.

5. Response. The assessor shall establish procedures to provide for a formal response to all recommendations submitted to the assessor by the taxpayer advocate.

Historically, the Advocate has worked with taxpayers concerning all taxes and programs administered by MRS, including income tax, withholding tax, sales and use tax, property tax, the former tax and rent (Circuitbreaker) program; the present Property Tax Fairness Credit and the Homestead Exemption. The Maine Residents Property Tax and Rent Refund "Circuitbreaker" Program was terminated as part of the 2013 State budget, PL 2013, c. 368, Pt L, §2 and has been replaced by the refundable Property Tax Fairness Credit.

The Advocate works with MRS staff in identifying areas where taxpayers have had problems in dealings with MRS. From time to time, changes in administrative practices are recommended, most often in regard to content or format of various documents and correspondence (notices). In order to serve taxpayers, it is essential that the Advocate keep up to date on proposed, pending and enacted Maine tax law and with any procedural changes made by MRS.

The Advocate receives many telephone calls and a lot of communication regarding taxpayers who are experiencing problems with Maine tax situations. Taxpayer problems or concerns reach the Advocate from many different sources - taxpayers themselves, the Governor's Office of Constituent Services, Maine Legislators or their staff, the DAFS Commissioner's staff, staff for Members of Congress, taxpayer representatives, staff from Maine Revenue Services (MRS), more than likely the Compliance Division, and the Office of the Federal Taxpayer Advocate.

The Advocate reviews tax matters referred to him, discusses the case with staff from the applicable tax division if need be and makes any suggestions or recommendations that he thinks are appropriate. Since the Advocate is an office of one, logistically it is not possible for the Advocate to take over the management of a case. Nonetheless, depending on the complexity of the situation and the facts involved, the Advocate can spend a lot of time involved with some cases. The Advocate is not a step in any appeals process.

When working with the Compliance Division trying to resolve a tax situation, usually the collection of a tax debt that is legally due, a taxpayer may ask, "Who else can I talk to about this?" Often, the Advocate is the "who else". I sometimes tell people that no one ever calls me because they're happy about their tax situation. I believe I understand the dynamics I deal with on a daily basis and trust I will always remember that to the

taxpayer, the situation they are presently dealing with may well be the most important thing in their lives at that time. However, I can only review the case and advise the taxpayer utilizing the provisions of Maine tax law as a basis. Unless there is a compelling reason to do something different, I strive to be consistent with collection/compliance practices in the way cases are treated, as governed by the provisions of Maine tax law.

D. Identify legislative changes that may be appropriate to mitigate problems identified under paragraph B. (B. Identify areas in which taxpayers have problems in dealings with the bureau).

In addition to the Commissioner of DAFS hiring the Taxpayer Advocate, another provision of PL 2011, c. 439, duties and responsibilities of the Advocate, calls for the Advocate to identify legislative changes that may be appropriate to mitigate problems in areas in which taxpayers have problems in dealings with MRS. Two of the three items I proposed in my **July 30, 2012 report** were incorporated into LD 988, An Act To Amend the Tax Laws. Part A addressed the issuance and renewal of resale certificates and Part C-9 addressed the sales tax against certain casual sales.

The other area I addressed in **2012** concerned the interest rate charged by the State in tax matters. Title 36 MRSA § 186, Interest, provides that the rate of interest equals the highest prime rate as published in the Wall Street Journal, rounded up to the next whole percent plus 3 percentage points. At present, the interest rate is 7%. I commented that with many interest bearing accounts in banks or credit unions yielding interest at the rate of ½ %, although I did not know what the revenue impact would be on such a measure, might the State consider lowering the interest rate on delinquent tax obligations by several percentage points? At this point, I don't think the interest rate is going to change.

Items of concern and possible legislative changes in the **2013 report** involved the taxation (sales tax) of adaptive equipment to make a vehicle handicapped accessible and the taxation (income tax) of pensions, primarily pensions earned in another state by someone who then becomes a Maine resident and a Maine taxpayer.

Adaptive Equipment

I was contacted in early 2013 by a friend of a person who is a quadriplegic as a result of an accident several years ago. The friend was concerned about the sales tax the person had to pay when they purchased and registered a van that had been previously modified and made handicap accessible by someone else before the person purchased it. The 2013 session of the Legislature addressed the situation with LD 1370, An Act To Exempt from Sales Tax the Sales of Adaptive Equipment To Make a Vehicle Handicapped Accessible. LD 1370 was Passed To Be Enacted on June 27, 2013, but was held over to the next session. The Act became law on January 12, 2014 and took effect on July 1, 2014, PL 2013, c. 442, enacting 36 MRSA §1760, sub-§95 (sales tax exemptions), sales of certain adaptive equipment, reading "sales to a person with a disability or a person at the request

of a person with a disability of adaptive equipment for installation in or on a motor vehicle to make that vehicle operable or accessible by a person with a disability who is issued a disability plate or placard by the Secretary of State pursuant to Title 29-A, section 521.”

However, the LD 1370 exemption extends only to that equipment sold directly to a disabled person or to a person at the request of a person with a disability. It did not address the situation where the adaptive equipment was installed on a vehicle previously for someone else. Thus, LD 1370 does not apply to the disabled Maine taxpayer who purchased an already adapted vehicle from someone out of state.

Might the provisions of LD 1370 be tweaked so that when a disabled person purchases an already modified vehicle, they would pay Maine sales tax on only the price of the vehicle and not on the price of the adaptive equipment? This might involve some record keeping and perhaps research on the part of the disabled person to ascertain the price of the vehicle and of the adaptive equipment, but the effort would likely be worthwhile if they were able to be exempt from paying sales tax on the adaptive equipment. At the present Maine sales tax of 5½ %, the savings would be \$1,100 on a \$20,000 conversion.

Pensions

Another area of concern involves the Maine taxation of retirement income from other states. Taxpayers have moved to Maine and have become Maine residents and taxpayers. They receive a pension earned in another state where, as with State of Maine employees and educators, a portion of it has already been taxed. Governor LePage, Maine Legislators and others have been contacted by taxpayers concerning the Maine taxation of their pensions earned and taxed in another state, but received now as Maine residents.

The issue was brought to my attention from several directions including an email entitled “double taxation on Mainers receiving pension from Massachusetts” sent (so far as I was able to ascertain) to all legislative members of one Maine political party in one branch of the Maine Legislature, an email to a State Senator with an April 2013 letter from a Massachusetts (MA) retirees organization. They were looking for assistance in perhaps drafting legislation to address the fact that some pensioners who have paid state income tax on their earnings in the state where they earned it, are now Maine residents and now have to pay Maine income tax on the pension they receive.

I received another inquiry from the Governor’s Office through DAFS, a MA resident who wants to move to Maine was looking for assistance in obtaining “reciprocity” between Maine and MA income tax. I also had an inquiry from another State Senator that received material on the same issue.

The April 2013 letter from the MA retirees organization was sent to Maine taxpayers who were identified as those who were retired from a MA school and living in the State of Maine, or were the survivor of one.

In responding to the various inquiries, I explained that the situation would be the same for a Maine taxpayer with a Maine State pension who moves to MA, they would have paid Maine income tax on a portion of their retirement contribution while earning it in Maine and would pay tax to MA on the Maine pension they receive if they become a MA resident. In other words, the same taxable income situation in MA that a MA resident moving to Maine would have here. I don't profess to know how much a MA resident pays to MA when the money is earned.

When a response is requested or if I speak with a taxpayer, I have mentioned that there is a \$6,000 pension deduction (possibly subject to offset for Social Security benefits received) and that the deduction will increase to \$10,000 beginning with tax year 2014.

In my **2013 report**, I queried, with an apparent larger number of MA residents moving to Maine or thinking of doing so, might this be the sort of legislation that would encourage residents from other States to move to Maine? It was and LD 2242, An Act To Prevent Double Taxation of Retirement Benefits from Other States, was presented to the Legislative Council, but was not accepted, either initially or on appeal.

Do I have any items of concern and possible legislative changes this year? Not to the extent of the last two years where changes have been implemented or at least addressed. However, one possible change I am working on is how tax liens are handled. At this point I do not know if any change I might propose would require legislation or merely a policy change or modification by MRS.

Every so often the Advocate is contacted by a taxpayer reporting that their credit rating has been adversely affected by a Maine tax lien. Upon review, the Advocate has found that in most instances, the lien has been discharged, but the fact that there was a lien remains on the taxpayer's credit report for some seven years. Review has usually indicated that the taxpayer did not pay as much attention to the collection process and to the notices they received as they should have. In most cases, the taxpayer subsequently provided information, the matter was reviewed and resolved and the lien was released. Sometimes, the result of the review indicates the taxpayer would have been due a refund (usually barred by the statute of limitations) or did not owe any Maine tax.

Recognizing the taxpayer's dilemma, a few years ago the Advocate initiated a program to help such taxpayers. If appropriate, the Advocate issues a statement over the Advocate's signature indicating that the tax lien provides an inaccurate representation of the taxpayer's Maine tax obligation and recommending that any negative effect caused by the filing of the tax lien be removed from the taxpayer's credit history and credit reports. Since 2008, the Advocate has issued thirty-five such statements. They seem to have been successful since several taxpayers have contacted the Advocate to advise that the statement helped to improve their credit situation.

However, more and more taxpayers ask about having a tax lien "withdrawn" like the IRS does. In my experience, taxpayers sometimes have the mistaken idea that when a tax

debt has been paid and the lien has been released, they can simply go to a registry of deeds where a lien is recorded and physically remove it. Years ago, before electronic filing, that would have meant physically tearing the lien out of the book where it had been entered. I explain that doesn't happen, that a lien is like a deed to your house or a mortgage, that it is there in the registry forever, although later filed documents might modify it.

As an example, a lien was recorded in the registry of deeds on May 17, 2013 in Book 11345, Page 36. The debt was paid, a release of tax lien was issued and was recorded in the registry on January 14, 2014 in Book 12109, Page 209. Before electronic filing, a notation would be made in the margin of the filed lien, referencing the book and page of the release and vice-versa. With electronic filing, an entry is still made in the registry records referencing the release.

In recent years, the IRS has implemented a "fresh start" program. As one might imagine, many taxpayers who have a Maine income tax problem also have a federal income tax problem. A February 2011 announcement from the IRS stated, "In its latest effort to help struggling taxpayers, the Internal Revenue Service today announced a series of new steps to help people get a fresh start with their tax liabilities."

And, "the IRS will also modify procedures that will make it easier for taxpayers to obtain lien withdrawals. Liens will now be withdrawn once full payment of taxes is made if the taxpayer requests it. The IRS has determined that this approach is in the best interest of the government."

How does the IRS program work? The taxpayer files a Form 12277, Application for Withdrawal of Filed Form 668(Y), Notice of Federal Tax Lien. The reasons for requesting withdrawal of the filed Notice of Federal Tax Lien (check appropriate boxes) are: (1) The Notice of Federal Tax Lien was filed prematurely or not in accordance with IRS procedures.

- (2) The taxpayer entered into an installment agreement to satisfy the liability for which the lien was imposed and the agreement did not provide for A Notice of Federal Tax Lien to be filed.
- (3) Withdrawal will facilitate collection of the tax.
- (4) The taxpayer, or the Taxpayer Advocate acting on behalf of the taxpayer, believes withdrawal is in the best interest of the taxpayer and the government.

Form 668 (Y) is the Notice of Federal Tax Lien, Form 668 (Z) is Certificate of Release of Federal Tax Lien and Form 10916 (c) is Withdrawal of Filed Notice of Federal Tax Lien.

In a recent quick review of federal tax liens in the Kennebec County Registry of Deeds, I had to search back to March 2011 to find a withdrawal. There were many releases going back to March 2011. The withdrawal notice states, "the proper official, in the office where the Notice of Federal Tax Lien was filed on March 23, 2011, is authorized to update the records to show the withdrawal of the notice of lien for these taxes and

additions.” So far as I know, this simply means cross-referencing the withdrawal to the lien.

Whereas a taxpayer can send my To Whom It May Concern letter to the credit reporting agencies and to anyone else they want to and in my experience that works well, the big plus for a taxpayer utilizing the withdrawal methodology is this. The General Instructions for Form 12277, Application for Withdrawal of Filed Form 668(Y), Notice of Federal Tax Lien, include, “At your request, we will notify other interested parties of the withdrawal notice. Your request must be in writing and provide the names and addresses of the credit reporting agencies, financial institutions, and/or creditors that you want notified.” My presumption is that a credit reporting agency must remove the federal tax lien from a credit report once they receive a withdrawal notice, but trying to reach a credit reporting agency to confirm this is proving to be very difficult.

Every week I receive telephone calls, emails and letters on most anything imaginable, many having to do with Maine taxes and Maine Revenue Services, but some having nothing at all to do with the Advocate position or with MRS. I seem to be a knowledgeable source of information and answers. I review and answer whatever inquiries I can and forward the others to the appropriate entities such as the Federal Taxpayer Advocate, an MRS division or another State agency.

Much of the Advocate’s work is done on the telephone. I maintain a notebook to keep a record of voicemail that is received. This has proven to be invaluable as it works a lot better than pink call slips, especially since some recorded telephone messages can run to a minute or more. Plus, it provides a useful record of calls made to the Advocate.

Since 1995, one of the duties and responsibilities of the Advocate has been responding to correspondence regarding tax issues that have been received by the Governor. That process continued through the administrations of Governors King and Baldacci and continues today with Governor LePage. MRS Division Directors address issues relevant to their Divisions, but the Advocate has responded to much of the correspondence.

During the King and Baldacci Administrations, the Advocate would draft responses and the response would usually be sent by the DAFS Commissioner or Deputy Commissioner. With the LePage Administration, the Advocate usually responds directly to the inquiry. Effective July 1, 2012, while the Advocate continues to respond to inquiries regarding specific tax issues, the Office of Tax Policy within MRS responds to correspondence regarding administration of tax policy.

Examples of situations handled by the Taxpayer Advocate since the July 25, 2013 annual report.

Perhaps the two most significant areas we dealt with were the termination of the Maine Residents Property Tax and Rent “Circuitbreaker” Program and its replacement by the

Property Tax Fairness Credit program and the limitation of total itemized deductions from Maine adjusted gross income on a Maine income tax return to no more than \$27,500. Governor LePage and MRS received many inquiries regarding the demise of the Circuitbreaker (tax and rent) program. Since it was a tax policy issue, Michael J. Allen, Ph.D., formerly Associate Commissioner for Tax Policy and now Deputy Commissioner of Finance, responded for the Governor. Dr. Allen explained that the circuitbreaker program was terminated and replaced by the Property Tax Fairness Credit program.

Whereas the maximum circuitbreaker benefit was \$1,600, for 2013 the maximum benefit under the Property Tax Fairness Credit program was \$400. Taxpayers' concerns were addressed in LD 1751, An Act to Provide Property Tax Relief to Maine Residents that was passed by the Legislature and approved by Governor LePage on April 17, 2014. The new law is effective for tax year 2014. The maximum credit for a Maine resident over age 65 is \$900.

Anyone applying for a credit under the Property Tax Fairness Credit program must file a Maine income tax return. Many did not have to file a return before. For the most part, I referred those who contacted me about the circuitbreaker and the new Property Tax Fairness Credit to the Income Tax Division. From my vantage point, they did a fine job responding and explaining the termination of the tax and rent program and the details of the new program.

Governor LePage and MRS heard from a number of taxpayers regarding the maximum Maine itemized deduction being limited to a maximum of \$27,500. Many were concerned about a deduction for medical expenses, had significant medical and dental expenses that they itemize or were concerned about elderly parents with significant retirement facility expenses. Again, since this was a tax policy issue, Dr. Allen responded on behalf of Governor LePage. He explained that medical expenses are only a part of the calculation of the taxpayer's federal itemized deduction and since Maine starts with the amount on line 29 of the federal form, medical expenses are only part of the calculation of the Maine itemized deduction. Unlike federal Schedule A, there is no separate Maine category for medical expenses on Maine Schedule 2, it's part of the total itemized deductions from federal schedule A. I also received several calls from taxpayers or Legislative Aides on this issue.

In response, Governor LePage introduced LD 1795, "An Act to Remove Medical and Dental Expenses from the Itemized Deduction Cap." LD 1795 was incorporated into LD 1858, the 2014 budget bill that was enacted on May 1st. The new law applies to tax years beginning on or after January 1, 2014 and provides that the \$27,500 cap for itemized deductions "does not apply to medical and dental expenses included in an individual's itemized deductions from federal adjusted gross income."

Effective October 1, 2013, Sales Tax Rates were temporarily increased from October 1, 2013, through June 30, 2015. The general sales tax rate of 5% increased to 5.5%. The 7% tax rate on the rental of living quarters, sales of prepared food, and sales of liquor

sold on premises increased to 8%. The 10% tax rate on short term rentals of automobiles remained unchanged.

For transition purposes, semi-annual and annual sales tax account filers were required to file two returns for the reporting period ending December 31, 2013, to account for the change in tax rates. Sales made through September 30, 2013, were to be reported on a return due October 15, 2013. Sales made after September 30, 2013, were to be reported on a return due January 15, 2014.

The Sales, Fuel & Special Tax Division of MRS published General Information Bulletin No. 103, dated September 1, 2013, advising that “Sales Tax Rates Temporarily Increased” and outlined the changes. The Sales, Fuel & Special Tax Division also provided informational notices to semi-annual and annual filers. The body of the notices outlined the change in sales tax law.

On a regular basis, we receive inquiries from Governor LePage’s Office of Constituent Services and Legislative aides regarding constituents who contact the Governor or a legislator about some tax problem they are having. These are promptly addressed either by myself or, if the question/issue pertains to something better answered by Sales Tax, Compliance or Property Tax, by someone from those Divisions.

We also get what I would classify as general calls where someone has a federal, not State, tax question, thinks I’m the federal Taxpayer Advocate or is looking for information or department that has nothing to do with MRS. I’m usually able to point these folks in the right direction if I don’t know the answer.

As a former JAG Officer I am reasonably familiar with the Servicemembers Civil Relief Act, formerly the Soldiers and Sailors Civil Relief Act. This past spring I had the occasion to become familiar with the Military Spouses Residency Relief Act. Referencing from a Federation of Tax Administrators Summary of the Act, normally a worker will be taxed by the state in which income is earned.

Under longstanding federal law, a servicemember with a domicile in a state other than where they are stationed cannot be taxed on military income earned in that state, but can still be taxed by the state on non-military income earned in that jurisdiction. However, under the Military Spouses Residency Relief Act, the spouse’s exemption from state income tax is even broader than the exemption servicemembers themselves receive.

The spouse of a servicemember is exempt from a state’s income tax when she currently resides in a state different than the state of her domicile, resides in the state solely in order to live with the servicemember and the servicemember is present in the state in compliance with military orders.

In the matter that was brought to my attention, even though the spouse was working in Maine, since she was a domiciliary of another state, she does not have to pay Maine

income tax. If her servicemember husband was working the same non-military job, he would have to pay Maine income tax on his earnings there.

The issue of the offset of federal income tax refunds to Maine is one that arises every year. Taxpayers who reach the Advocate are not pleased that their federal refund was offset to MRS. I explain the process and that in my experience, “No, MRS is not going to refund any of the offset.” If appropriate, I point out to taxpayers that a paragraph on the Demand to Pay Notice that has been sent to them (by certified mail) contains language that “this notice is also a warning that if payment in full is not postmarked or received **within 60 days** from the date you receive this notice, **federal law authorizes Maine Revenue Services to submit any outstanding state income tax liability to the U.S. Department of the Treasury for offset of any federal (IRS) income tax refund to which you would otherwise be entitled.** Under the Treasury Offset Program, once your debt is submitted, your federal tax refund, up to the amount of your debt, may be paid directly to Maine Revenue Services.” (**bold** is on the notice)

Similarly, if a liquidated debt is owed to an agency of the State, that agency may certify the debt to the State Tax Assessor. Pursuant to State law, 36 MRSA, § 185, the Assessor will then offset any Maine income tax refund to which the taxpayer is entitled to the certifying agency. I explain that any issues regarding the offset, including a claim of injured spouse, are between the taxpayer and the agency and do not involve MRS.

MRS sends the taxpayer a Disposition of Tax Refund Notice that explains what has happened. The notice contains the following paragraph:

“If you do not agree that you owe the debts against which the tax refund was set-off you have the right to request a hearing. You have 60 days from the receipt of this notice to request a hearing. If you wish to request a hearing, call or write the agency receiving the setoff at the address or telephone number below.”

Several taxpayers complained about the need for a Personal Financial Statement (PFS) in order to set up a payment plan with the Compliance Division. I explain that a PFS is a very important document since it provides a lot of taxpayer information for MRS to review in order to arrive at a fair and reasonable payment plan. In my experience, some taxpayers have tried to hide their “toys”, things like ATVs, motorcycles and snowmobiles that carry significant monthly payments to the bank or credit union. Often, the taxpayer feels a “need” to pay on those to the detriment of paying on a tax bill.

A situation involved contact from a State Legislator who wanted to know why their constituent had not yet received a letter in good standing from MRS so they could obtain their professional license. Turned out that the taxpayer was represented by a company who helps taxpayers with tax problems and that MRS had done everything it had so far been asked to do. The taxpayer eventually paid an agreed upon amount and MRS issued a letter of good standing to the appropriate State licensing agency.

Estimated Payments. When appropriate, I advise taxpayers with a Maine income tax problem, especially those who are self-employed and think they will owe money at filing time, to consider making estimated payments during the year. I point out that it would seem to be easier for financial planning to make four periodic payments during the year in April, June, September and January, rather than be faced with a large amount due in April that includes interest and penalties if payment is not made by April 15th. I recommended that they discuss the possibility of estimated payments with their accountant and in the meantime to work with MRS to try to resolve the pending matter in a mutually satisfactory manner.

We indicated to one taxpayer that although the property tax is administered by the municipality in which the real estate is located, municipalities are required to follow State law in doing so. The Maine Constitution requires property taxes to be assessed equitably and in accordance with its "just value". Just value means fair market value. It is the legal responsibility of the local assessor to establish values for all properties at the same relative level of value as compared to full fair market value to ensure that each taxpayer pays no more nor any less than their fair share of the total municipal property tax burden.

We don't seem to receive many excise tax complaints anymore, but we did respond to a taxpayer who complained to the Governor about the excise tax on his 2001 sports car. When responding to these inquiries, we point out that the motor vehicle excise tax in Maine presently generates approximately \$197 million in annual revenue, mostly to municipalities and that the revenue their municipality collects from the annual excise tax is used for municipal purposes such as local road maintenance, construction and repair. Since we have the figures from the Property Tax Director, we mention the amount of excise tax collected by their municipality. In this case, it was a small town, but excise tax revenue was still about \$300,000. When I've communicated with taxpayers about property tax, they're usually surprised to learn that the money does not go to the State.

A taxpayer who has been claiming far more than the \$250 allowed for a 529 Qualified Tuition Program Plan contacted me to discuss it. Supposedly, TurboTax was the culprit. The taxpayer was sending a check for the rather small amount that was due.

A taxpayer had a tax problem because they had nothing withheld when they withdrew about \$50,000 from a pension plan. I advised to work with compliance.

I confirmed for an out-of-state professional who had worked in Maine that they owed Maine income tax on the amount they earned in Maine because it exceeded the twelve day, \$3,000 threshold of 36 MRSA § 5142 (8-B).

A taxpayer was advised that MRS could do its own independent audit and did not have to accept the federal adjusted gross income (FAGI) on the taxpayer's Maine income tax return or the figures on their Schedule C.

MRS sends CP notices to taxpayers after MRS receives information from the IRS that the IRS has audited the taxpayer's return and determined additional income tax is due.

Additional tax is due on items such as income from unreported pension withdrawals, unemployment compensation, forgiven federal indebtedness and taxable wages. I sometimes ask a taxpayer, if you owed more to the IRS, didn't you think that you might owe more to the State as well? Most say the thought never occurred to them. Perhaps the answer is closer to their hoping that the State will not contact them.

Another CP assessment notice recipient acknowledged that they also owed the IRS (they usually do), but did not know they should have filed an amended Maine income tax return because their tax preparer had not mentioned it to them.

In a similar situation, a taxpayer who received a CP assessment acknowledged he owed the IRS, but had not filed an amended Maine return. He said he had relied on a large tax preparer that had never advised him to do so. The taxpayer set up a payment plan with MRS.

A taxpayer called me to protest that he had been "blindsided" by a wage levy. I reviewed the matter and found the levy was appropriate because the taxpayers had defaulted on a payment plan several months earlier. I advised the taxpayer that the possibility of a wage levy was mentioned in several of the notices that MRS had sent to them. Monthly billing notice - may "contact your employer to garnish wages"; notice of payment plan default - MRS may "contact your employer to garnish wages; demand for payment (sent certified) - "property subject to levy includes any right, title and interest held in property.....such as salary, wages...".

Summation

The legislation states that this annual report is a "report of activities" of the taxpayer advocate. As with the other two annual reports, I trust the information contained in this report is helpful in understanding what it is that I do. It represents a pretty good cross section of what I have worked on over the past year.

Much of this may be repetitious from earlier reports, but I liked what I said then and my earlier thoughts are still applicable, perhaps more so now with the passage of time. As I've said before, I spend much of the day on the telephone and on the computer reviewing and analyzing taxpayer situations. No one ever calls me because they're happy about their tax situation. The matters that reach me are rarely boring and working on them is often like putting a puzzle together. Having been on the other side of the fence, so to speak, for many years, I sometimes tell taxpayers that I'll try to be the least bureaucratic bureaucrat they've ever had to deal with. I think I accomplish that.

Tax problems and situations encountered by Maine taxpayers are rarely easy to deal with, either from the taxpayer's point of view or that of MRS. In some cases, the taxpayer has an unrealistic expectation that contacting the Advocate will result in the elimination of tax or interest or penalties or maybe all three. I rarely see the easy cases, I get the tough ones. And, as the Governor's Office of Constituent Services staff, the DAFS

Commissioner's staff and Legislative Aides can attest, I am often Paul Harvey with "*The Rest of the Story*".

When a taxpayer contacts the Advocate and explains that MRS is levying their wages or bank account, I know that the collection process is a long way down the collection road. If circumstances warrant, the Advocate may advise compliance/collection staff to modify a payroll deduction plan or to refund a portion of the funds levied from a bank account. There are times, however, when there is little, if anything, that the Advocate can suggest other than to encourage the taxpayer to work with the compliance/collection staff to try to resolve the matter in a mutually satisfactory fashion.

I sometimes tell taxpayers that I do not have a magic wand. I review each, often unique, set of facts to see if there is some alternative to how the matter is being handled. Is there a suggestion or recommendation I can make to help resolve the case?

In the end, what I try to accomplish is to carry out the duties and responsibilities of the Advocate to the best of my abilities, to do the right thing that is fair to both the taxpayer and to the State of Maine under the umbrella of Maine tax law.