

OFFICE OF FISCAL AND PROGRAM REVIEW

Date: March 21, 2013
To: Members, Joint Standing Committee on Taxation
From: Elizabeth Cooper, Legislative Analyst
Re: Amendment Review - LD 430

An amendment and fiscal note for LD 430 are attached for your review.

LD 430, An Act To Amend the Laws Regarding Who May Appeal a Reconsideration Decision to the Maine Board of Tax Appeals

- The Committee voted on March 11, 2013 with a unanimous report of OTPA.
- The amendment changes the threshold for appeals to the Board from \$5,000 to \$1,000, rather than \$250 as provided for in the original bill. It also provides for certified public accountants, enrolled agents and enrolled actuaries to represent a taxpayer in front of the Board.
- The fiscal note indicates no net fiscal impact and includes information on potential case load in the judicial branch as well as for the board.

Please let me know if you have any questions or concerns about this amendment.

Date:

(Filing No. S-)

TAXATION

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” 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,

COMMITTEE AMENDMENT

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 ~~\$\$,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

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.



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 " "

Committee: Taxation

Fiscal Note Required: Yes

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.