Title 36: TAXATION

Chapter 7: UNIFORM ADMINISTRATIVE PROVISIONS

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§111. DEFINITIONS

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings. [1981, c. 698, §174 (AMD).]

1. **Assessor.** "Assessor" means the State Tax Assessor, except that, in Part 2, Property Taxes, it means the State Tax Assessor with respect to the unorganized territory and the respective municipal assessors or chief assessors of primary assessing areas with respect to the organized areas.

[1979, c. 378, §2 (NEW) .]

1-A. **Code.** "Code" means the United States Internal Revenue Code of 1986 and amendments to that Code as of December 31, 2015.

[2015, c. 388, Pt. A, §1 (AMD); 2015, c. 388, Pt. A, §16 (AFF) .]

1-B. **Bureau.** "Bureau" means the Bureau of Revenue Services, which may be referred to as "Maine Revenue Services."

[1997, c. 668, §7 (AMD) .]

1-C. **Board.** For purposes of sections 151 and 151-D and section 191, subsection 2, paragraphs C, XX and YY, "board" means the Maine Board of Tax Appeals as established in Title 5, section 12004-B, subsection 10.

[2013, c. 331, Pt. C, §1 (AMD); 2013, c. 331, Pt. C, §41 (AFF) .]

2. **Notice.** "Notice" means written notification served personally, sent by certified mail or sent by first-class mail to the last known address of the person for whom the notification is intended. A person's last known address is the person's address as reported on the person's most recently filed Maine tax return or as otherwise specified by the person in written correspondence on file with the bureau, unless the bureau determines that a different address is the most current address for the person, in which case the bureau must use that address. Notice by first-class mail is deemed to be received 3 days after the mailing, excluding Sundays and legal holidays. If the State Tax Assessor is required by a provision of this Title to give notice by certified mail and attempts to do so but the mailing is returned with the notation "unclaimed" or "refused" or a similar notation, the assessor may then give notice by sending the notification by first-class mail. In the case of a joint income tax return, notice may be a single joint notice except that, if the assessor is notified by either spouse that separate residences have been established, the assessor must mail a joint notice to each spouse. If the person for whom notification is intended is deceased or under a legal disability, and the assessor knows of the existence of a fiduciary relationship with respect to that person, notice must be sent by first-class mail to the last known address of the fiduciary.

[2011, c. 380, Pt. J, §1 (RPR) .]

3. **Person.** "Person" means an individual, firm, partnership, association, society, club, corporation, financial institution, estate, trust, business trust, receiver, assignee or any other group or combination acting as a unit, the State or Federal Government or any political subdivision or agency of either government.

[1997, c. 404, §1 (AMD); 1997, c. 404, §10 (AFF) .]

4. **Return.** "Return" means any document, digital file or electronic data transmission containing information required by this Title to be reported to the State Tax Assessor.

[2003, c. 588, §1 (AMD) .]

5. **Tax.** "Tax" means the total amount required to be paid, withheld and paid over or collected and paid over with respect to estimated or actual tax liability under this Title, any credit or reimbursement allowed or paid pursuant to this Title that is recoverable by the assessor and any amount assessed by the assessor pursuant to this Title, including any interest or penalties provided by law. For purposes of this chapter, "tax" also means any fee, fine, penalty or other debt owed to the State provided for by law if that fee, fine, penalty or other debt is subject to collection by the assessor pursuant to statute or transferred to the bureau for collection pursuant to section 112-A.

[2009, c. 625, §2 (AMD) .]

6. **Tax Assessor.**

[2007, c. 627, §3 (RP) .]

7. **Taxpayer.** "Taxpayer" means any person required to file a return under this Title or to pay, withhold and pay over or collect and pay over any tax imposed by this Title. For the purposes of sections 171, 175-A and 176-A, "taxpayer" also means any person obligated to the State for the payment of a fee, fine, penalty or other obligation to the State provided for by law, if this obligation is subject to collection by the assessor pursuant to an agreement entered into by the bureau and another agency of the State. "Taxpayer" also means any pass-through entity doing business in the State or having a Maine resident member, including an S corporation, general partnership, limited partnership, limited liability partnership, limited liability company or similar entity, that is not taxed as a C corporation for federal tax purposes.

[2011, c. 655, Pt. QQ, §1 (AMD); 2011, c. 655, Pt. QQ, §8 (AFF) .]

SECTION HISTORY
1979, c. 378, §2 (NEW). 1981, c. 364, §§5,6 (AMD). 1981, c. 698, §§174,175 (AMD). 1985, c. 535, §1 (AMD). 1987, c. 504, §2 (AMD). 1987, c. 626, §1 (AMD). 1989, c. 242, §§1,2 (AMD). 1989, c. 635, §§1,2 (AMD). 1991, c. 33, §1 (AMD). 1991, c. 33, §2 (AFF). 1991, c. 754, §1 (AMD). 1991, c. 754, §2 (AFF). 1993, c. 107, §1 (AMD). 1993, c. 107, §2 (AFF). 1993, c. 504, §1 (AMD). 1993, c. 504, §2 (AFF). 1995, c. 118, §1 (AMD). 1995, c. 118, §2 (AFF). 1995, c. 538, §1 (AMD). 1995, c. 538, §2 (AFF). 1997, c. 127, §1 (AMD). 1997, c. 404, §1 (AMD). 1997, c. 404, §10 (AFF). 1997, c. 526, §§4-6 (AMD). 1997, c. 596, §1 (AMD). 1997, c. 596, §2 (AFF). 1997, c. 668, §§7,8 (AMD). 1999, c. 520, §1 (AMD). 1999, c. 520, §5 (AFF). 1999, c. 548, §1 (AMD). 1999, c. 548, §2 (AFF). 1999, c. 708, §4 (AMD). 2001, c. 396, §1 (AMD). 2001, c. 441, §1 (AMD). 2001, c. 441, §2 (AFF). 2001, c. 559, §GG1 (AMD). 2001, c. 559, §GG26 (AFF). 2003, c. 255, §1 (AMD). 2003, c. 255, §2 (AFF). 2003, c. 479, §1 (AMD). 2003, c. 479, §8 (AFF). 2003, c. 588, §1 (AMD). 2003, c. 705, §1 (AMD). 2003, c. 705, §14 (AFF). 2005, c. 12, §P1 (AMD). 2005, c. 12, §P10 (AFF). 2005, c. 332, §3 (AMD). 2005, c. 486, §1 (AMD). 2005, c. 486, §2 (AFF). 2007, c. 240, Pt. CCC, §1 (AMD). 2007, c. 240,

Pt. CCC, §4 (AFF). 2007, c. 539, Pt. CCC, §1 (AMD). 2007, c. 539, Pt. CCC, §19 (AFF). 2007, c. 539, Pt. OO, §2 (AMD). 2007, c. 627, §3 (AMD). 2009, c. 213, Pt. BBBB, §1 (AMD). 2009, c. 213, Pt. BBBB, §17 (AFF). 2009, c. 434, §4 (AMD). 2009, c. 596, §1 (AMD). 2009, c. 596, §2 (AFF). 2009, c. 625, §2 (AMD). 2011, c. 1, Pt. P, §1 (AMD). 2011, c. 1, Pt. P, §2 (AFF). 2011, c. 380, Pt. J, §1 (AMD). 2011, c. 530, §1 (AMD). 2011, c. 530, §2 (AFF). 2011, c. 655, Pt. QQ, §1 (AMD). 2011, c. 655, Pt. QQ, §8 (AFF). 2011, c. 694, §2 (AMD). 2013, c. 331, Pt. C, §1 (AMD). 2013, c. 331, Pt. C, §41 (AFF). 2013, c. 368, Pt. TT, §1 (AMD). 2013, c. 368, Pt. TT, §20 (AFF). 2013, c. 472, §1 (AMD). 2013, c. 472, §2 (AFF). 2015, c. 1, §1 (AMD). 2015, c. 1, §15 (AFF). 2015, c. 388, Pt. A, §1 (AMD). 2015, c. 388, Pt. A, §16 (AFF).

§112. STATE TAX ASSESSOR

1. **General powers and duties.** The assessor shall administer and enforce the tax laws enacted under this Title and under Title 29-A, and may adopt rules and require such information to be reported as necessary. The assessor may investigate, enforce and prosecute activities defined as crimes in this Title and in Title 17-A, sections 358, 751 and 903. The assessor shall provide, at the time of issuance, to one or more entities that publish a monthly state tax service all rules, bulletins, taxpayer notices or alerts, notices of rulemaking, any other taxpayer information issued by the assessor, and all substantive amendments or modifications of the same, for publication by that entity or entities. When a significant change has occurred in bureau policy or practice or in the interpretation by the bureau of any law, rule or instruction bulletin, the assessor shall, within 60 days of the change, provide to the same publishing entity or entities written notice, suitable for publication, of the change.

[1999, c. 127, Pt. A, §47 (RPR) .]

2. **Organization.** The assessor may employ deputies, assistants and employees as necessary, subject to the Civil Service Law unless otherwise provided, and distribute the duties given to the assessor or to the bureau among those persons or divisions in that bureau the assessor considers necessary for economy and efficiency in administration. An officer within each division of the bureau must be designated by the assessor as director of that division. The assessor, for enforcement and administrative purposes, may divide the State into a reasonable number of districts in which branch offices may be maintained.

The Office of Tax Policy, referred to in this paragraph as "the office," is established within the bureau. The head of the office is the Associate Commissioner for Tax Policy, who reports directly to, and serves at the pleasure of, the Commissioner of Administrative and Financial Services and who must have an advanced degree in economics, statistics, accounting, business, law or public policy. The office is responsible for: providing economic and legal policy analysis on tax issues; oversight of tax legislation review; providing revenue forecasting analysis to the Revenue Forecasting Committee under Title 5, section 1710-E; the preparation of tax expenditure reports; the establishment of policy criteria reflected in bureau rules and advisory rulings; and related public relations.

[2011, c. 655, Pt. I, §7 (AMD); 2011, c. 655, Pt. I, §11 (AFF) .]

3. **Examination of witnesses.** The assessor may summon and examine under oath any person whose testimony is considered necessary to the proper discharge of the assessor's duties and may require the production of all books or other documents in the custody or control of that person that relate to any matter that the assessor has authority to investigate or determine. This examination may be conducted by an agent designated by the assessor and is considered an "official proceeding" within the meaning of that term in Title 17-A, section 451. The assessor or that agent may administer all oaths required under this Title and may, in

the assessor's discretion, reduce any examination under oath to writing. Any person summoned under this section is entitled to receive at the same time a copy of the Taxpayer Bill of Rights statement required to be prepared under subsection 7-A.

Any justice of the Superior Court and, with respect to the taxes imposed under Part 6, any judge of probate, upon application of the assessor, may compel the attendance of witnesses and the giving of testimony before the assessor in the same manner, to the same extent and subject to the same penalties as if before the court over which that justice or judge presides.

[1997, c. 526, §7 (AMD) .]

4. **Examination of records and premises.** Whenever necessary to the administration of this Title, the assessor may make, or cause to be made by an employee, an examination or investigation of the place of business, books and other documents and any other relevant personal property of any person who the assessor has reason to believe is liable for any tax imposed by this Title.

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 audit workpapers.

[2003, c. 668, §7 (AMD); 2003, c. 668, §12 (AFF) .]

5. **Contract authority.** The assessor is authorized to contract with persons on an independent contract basis for the furnishing of technical services to assist the assessor in the administration of this Title.

[1997, c. 526, §7 (AMD) .]

5-A. **Agreements with other governments.** The assessor may enter into agreements with other governments for assistance in the administration and enforcement of this Title if the disclosure of information to duly authorized officers of those governments is permitted by section 191, subsection 2, paragraph D.

[2009, c. 496, §1 (AMD) .]

6. **Agent for collection.** The assessor is authorized to name any of the assessor's employees as agents to collect any tax imposed under this Title.

[1997, c. 526, §7 (AMD) .]

7. **Evaluation of tax systems.** The assessor and the Office of Tax Policy shall investigate and examine the systems and methods of taxation of other states and make careful and constant inquiry into the practical operation and effect of the laws of this State, in comparison with the laws of other states, with the view of ascertaining wherein the tax laws of this State are defective, inefficient, inoperative or inequitable.

[2011, c. 655, Pt. I, §8 (AMD); 2011, c. 655, Pt. I, §11 (AFF) .]

7-A. **Taxpayer Bill of Rights.** The assessor shall prepare a statement describing in simple and nontechnical terms the rights of a taxpayer and the obligations of the bureau during an audit. The statement must also explain the procedures by which a taxpayer may appeal any adverse decision of the assessor, including reconsideration under section 151, appeals to the Maine Board of Tax Appeals and judicial appeals. This statement must be distributed by the bureau to any taxpayer contacted with respect to the determination or collection of any tax, excluding the normal mailing of tax forms. This paragraph does not apply to criminal tax investigations conducted by the assessor or by the Attorney General.

[2013, c. 331, Pt. C, §2 (AMD); 2013, c. 331, Pt. C, §41 (AFF) .]

8. **Additional duties.** In addition to the duties specified in this Title, the assessor has the following duties:

A. Collection of the tax on fire insurance companies imposed by Title 25, section 2399; [2011, c. 548, §10 (AMD).]

B. [2009, c. 434, §5 (RP).]

C. [2015, c. 314, §33 (RP).]

D. Administration of the premium imposed on motor vehicle oil under Title 10, section 1020; and [2011, c. 548, §10 (AMD).]

E. Administration of reports and payments required under Title 38, section 3108. [2015, c. 166, §11 (AMD).]

[2015, c. 166, §11 (AMD); 2015, c. 314, §33 (AMD) .]

9. **Services provided to another agency of State.** The assessor may undertake, by written agreement with another agency of the State, to provide or assist with revenue collection services for that agency.

[2007, c. 539, Pt. OO, §3 (AMD) .]

9-A. **Review of telecommunications taxation.**

[2001, c. 652, §3 (RP) .]

10. **Title.** The State Tax Assessor may be referred to as the "executive director" or the "director."

[1997, c. 668, §9 (NEW) .]

11. **Report to the Legislature.**

[2001, c. 652, §4 (RP) .]

12. **State Tax Assessor to calculate conformity factor.**

[2001, c. 714, Pt. AA, §1 (RP) .]

13. **Set-off agreements.** The assessor may enter into agreements with other taxing jurisdictions to provide for collection of tax debts by means of setoffs as provided in this subsection.

A. The assessor may enter into an agreement with the Federal Government pursuant to the Code, Section 6402(e) to set off against tax refunds payable by the Federal Government and pay to this State taxes owed to this State. [2009, c. 361, §5 (NEW).]

B. The assessor may enter into an agreement with another state or an agency of another state to set off against tax refunds payable by the other state and pay to this State taxes owed to this State. [2009, c. 361, §5 (NEW).]

C. In conjunction with an agreement authorized under paragraph B, the assessor may enter into an agreement that allows the other state to set off against tax refunds payable by this State taxes owed to the other state. The assessor may enter into an agreement authorized by this paragraph only if the other state allows this State to set off against tax refunds owed by the other state taxes owed to this State on substantially similar terms. [2009, c. 361, §5 (NEW).]

D. The assessor may enter into an agreement authorized by paragraph C only if the agreement provides that the other state may not set off against tax refunds payable by this State unless the other state has notified the taxpayer of the taxes due and has given the taxpayer an opportunity for review or appeal

of the tax debt. The other state must certify to the assessor that it has notified the taxpayer of the taxes due and has given the taxpayer an opportunity for review or appeal of the tax debt before the setoff is exercised. [2009, c. 361, §5 (NEW).]

E. For purposes of this subsection, "tax" includes monetary restitution ordered to be paid to the bureau as part of a sentence imposed for a violation of this Title or Title 17-A. [2009, c. 361, §5 (NEW).]

[2009, c. 361, §5 (NEW) .]

SECTION HISTORY
1981, c. 364, §7 (NEW). 1983, c. 480, §A39 (AMD). 1985, c. 785, §B168 (AMD). 1989, c. 848, §§1,2 (AMD). 1991, c. 873, §§1,2 (AMD). 1995, c. 281, §1 (AMD). 1995, c. 639, §1 (AMD). 1997, c. 459, §4 (AMD). 1997, c. 495, §§3,4 (AMD). 1997, c. 526, §7 (AMD). 1997, c. 668, §9 (AMD). 1999, c. 127, §§A47-49 (AMD). 1999, c. 169, §1 (AMD). 1999, c. 488, §1 (AMD). 2001, c. 396, §2 (AMD). 2001, c. 439, §L5 (AMD). 2001, c. 559, §GG2 (AMD). 2001, c. 559, §GG26 (AFF). 2001, c. 652, §§3,4 (AMD). 2001, c. 714, §AA1 (AMD). 2003, c. 668, §7 (AMD). 2003, c. 668, §12 (AFF). 2007, c. 539, Pt. OO, §3 (AMD). 2009, c. 361, §5 (AMD). 2009, c. 434, §§5-7 (AMD). 2009, c. 496, §§1, 2 (AMD). 2011, c. 211, §17 (AMD). 2011, c. 655, Pt. I, §§7, 8 (AMD). 2011, c. 655, Pt. I, §11 (AFF). 2013, c. 331, Pt. C, §2 (AMD). 2013, c. 331, Pt. C, §41 (AFF). 2015, c. 166, §11 (AMD). 2015, c. 314, §33 (AMD).

§112-A. AGREEMENTS FOR TRANSFER FROM ANOTHER STATE AGENCY OF DEBT FOR COLLECTION

1. **Generally.** Any agency of the State may transfer to the bureau solely for the purposes of collection any fee, fine, penalty or other debt owed to the State provided for by law if the debt is final without further right of administrative or judicial review and if the transfer of the debt is made pursuant to a written agreement entered into by the bureau and that agency.

[2007, c. 539, Pt. OO, §4 (NEW) .]

2. **Transfer of collected proceeds.** After the deduction of the assessor's collection fee authorized by subsection 3, the assessor shall remit collections of the transferred debt to the creditor agency.

[2007, c. 539, Pt. OO, §4 (NEW) .]

3. **Collection fee.** A collection fee calculated pursuant to section 114 for service costs of the assessor in undertaking the collection of transferred debt may be charged to the creditor agency. The fee may be deducted from collected amounts transferred to the creditor agency and deposited in the Bureau of Revenue Services Fund, Internal Services Fund account authorized by section 114. If a creditor agency is either entitled to federal matching funds against all debts collected or required by federal regulations to specially handle debts collected, the assessor shall transfer to that creditor agency the gross proceeds from collections of the transferred debt, and that agency shall promptly reimburse the collection fee to the assessor for deposit in the Bureau of Revenue Services Fund, Internal Services Fund account.

[2007, c. 539, Pt. OO, §4 (NEW) .]

4. **Accounting.** The creditor agency shall credit the account of the debtor with the full amount of the collected debt, including the collection fee retained by, or reimbursed to, the assessor, except that the collection fee may not be credited to the account of an individual required to make restitution as provided in Title 17-A, section 1152, subsection 2-A.

[2007, c. 539, Pt. OO, §4 (NEW) .]

5. **Priority.** The assessor may proceed with collection of any tax, including transferred debt deemed a tax debt pursuant to section 111, subsection 5, in any order of priority among such tax obligations.

[2007, c. 539, Pt. OO, §4 (NEW) .]

SECTION HISTORY
2007, c. 539, Pt. OO, §4 (NEW).

§113. AUDIT AND COLLECTION EXPENSES

1. **Contract audit and collection programs.** The State Controller may transfer from the General Fund and the Highway Fund amounts authorized by the State Tax Assessor equal to the expenses of those contract audit and collection programs for which the fees are contingent on the amount collected. These amounts transferred must be deposited into a dedicated, nonlapsing account to be used solely for the purpose of paying these expenses. Interest earned on balances in the account accrue to the account. The assessor shall notify the State Controller of the amounts to be transferred pursuant to this section. The assessor shall annually report to the joint standing committees of the Legislature having jurisdiction over taxation matters and appropriations and financial affairs the amounts collected and the costs incurred of programs administered pursuant to this section.

[1999, c. 708, §5 (NEW) .]

2. **Credit card fees.** The State Tax Assessor may subtract from revenues received credit card fees incurred by the assessor in connection with the following:

A. The collection of delinquent taxes imposed by this Title; and [2007, c. 438, §4 (AMD).]

B. The collection of property taxes in the unorganized territory. [2007, c. 438, §5 (AMD).]

C. [2007, c. 438, §6 (RP).]

[2007, c. 438, §§4-6 (AMD) .]

3. **Federal offset fees.** The State Tax Assessor may subtract from revenues received fees imposed upon the State by the United States Department of the Treasury for offsetting state income tax obligations against federal income tax refunds pursuant to Section 6402(e) of the Code.

[1999, c. 708, §5 (NEW) .]

4. **Recording fees.** The State Controller may transfer from the General Fund amounts authorized by the State Tax Assessor equal to the fees imposed upon the State by a register of deeds pursuant to Title 33, section 751. These amounts transferred must be deposited into a dedicated, nonlapsing account to be used solely for the purpose of paying those fees. Interest earned on balances in the account accrue to the account. The assessor shall notify the State Controller of the amounts to be transferred pursuant to this subsection.

[2005, c. 622, §2 (NEW); 2005, c. 622, §35 (AFF) .]

5. **Financial institution computer data match costs.** The State Tax Assessor may subtract from revenues received fees authorized under section 176-B for payment to financial institutions for the actual costs incurred in matching taxpayer information against account records, the cost of holding financial institutions harmless for good faith actions under section 176-B and for costs related to the implementation and operation of the financial institution computer data match program provided in section 176-B.

[2009, c. 213, Pt. AAAA, §7 (NEW) .]

SECTION HISTORY
1989, c. 880, §B1 (NEW). 1995, c. 281, §2 (AMD). 1999, c. 16, §E4 (AFF). 1999, c. 16, §E1 (RPR). 1999, c. 708, §5 (RPR). 2005, c. 622, §2 (AMD). 2005, c. 622, §35 (AFF). 2007, c. 438, §§4-6 (AMD). 2009, c. 213, Pt. AAAA, §7 (AMD).

§114. INTERNAL SERVICES PROVIDED BY THE BUREAU

1. **Internal Services Fund account established.** The bureau shall establish, through the Office of the State Controller, the Bureau of Revenue Services Fund, Internal Services Fund account. The funds deposited in this account include, but are not limited to, appropriations transferred to the account, funds transferred to the account from within the Department of Administrative and Financial Services, funds received from state departments and agencies using the collection services and imaging and scanning services provided by the bureau and earnings by the fund from the Treasurer of State's investment cash pool.

[1997, c. 643, Pt. F, §2 (NEW); 2003, c. 600, §4 (REV) .]

2. **Rate schedule.** The bureau may levy charges according to a rate schedule recommended by the assessor and approved by the Commissioner of Administrative and Financial Services against all departments using the services of the bureau.

[1997, c. 643, Pt. F, §2 (NEW) .]

3. **Calculation of charges.** Service charges for collections and imaging and scanning services must be calculated to provide for equipment replacement costs, operating costs, necessary capital investment, personal services and necessary working capital for the Bureau of Revenue Services Fund, Internal Services Fund account.

[1997, c. 643, Pt. F, §2 (NEW) .]

4. **Staff.** The assessor shall appoint staff, as approved by the Legislature and subject to the Civil Service Law, necessary to carry out the purposes of this section.

[1997, c. 643, Pt. F, §2 (NEW) .]

5. **Departments and agencies to budget funds.** Each department or agency using the services of the bureau must budget adequate funds to pay for the collection services and imaging and scanning services provided by the bureau.

[1997, c. 643, Pt. F, §2 (NEW) .]

SECTION HISTORY
1995, c. 281, §3 (NEW). 1997, c. 526, §8 (AMD). 1997, c. 643, §F2 (RPR). 2003, c. 600, §4 (REV).

§115. PAYMENT BY CREDIT CARD

The State Tax Assessor may establish procedures permitting payment of taxes by the use of credit cards. The assessor may contract with one or more entities for the purpose of enabling the assessor to accept and process credit card transactions only if under any such contract the State does not incur any charges or fees from accepting payment by credit card, the State does not have any liability to the credit card company or processor from nonpayment of credit card charges by the taxpayer, any fee associated with payment of taxes by credit card is disclosed to the taxpayer prior to commencement of the transaction and directly charged to the taxpayer and collected by the processor, all credit card payments are electronically transmitted to the State by the processor immediately upon approval of the credit transaction and the processor retains all responsibility for approving or rejecting all proposed credit card payments. [2005, c. 622, §3 (NEW).]

SECTION HISTORY
2005, c. 622, §3 (NEW).

§135. RECORD-KEEPING REQUIREMENTS

1. **Taxpayers.** Persons subject to tax under this Title shall maintain such records as the State Tax Assessor determines necessary for the reasonable administration of this Title. Records pertaining to taxes imposed by chapters 371, 575 and 577 and by Part 8 must be retained as long as is required by applicable federal law and regulation. Records pertaining to the special fuel tax user returns filed pursuant to section 3209, subsection 2 and the International Fuel Tax Agreement pursuant to section 3209, subsection 1-B must be retained for 4 years. Records pertaining to all other taxes imposed by this Title must be retained for a period of at least 6 years. The records must be kept in such a manner as to ensure their security and accessibility for inspection by the assessor or any designated agent engaged in the administration of this Title.

[2011, c. 380, Pt. M, §1 (AMD) .]

2. **Bureau of Revenue Services.** Returns filed under this Title or microfilm reproductions or digital images of those returns must be preserved for 3 years and thereafter until the State Tax Assessor orders their destruction.

[2003, c. 588, §2 (AMD) .]

SECTION HISTORY
1979, c. 378, §3 (NEW). 1995, c. 281, §4 (AMD). 1997, c. 526, §14 (AMD). 2001, c. 396, §3 (AMD). 2003, c. 588, §2 (AMD). 2007, c. 438, §7 (AMD). 2011, c. 380, Pt. M, §1 (AMD).

§141. ASSESSMENT

1. **General provisions.** Except as otherwise provided by this Title, an amount of tax that a person declares on a return filed with the State Tax Assessor to be due to the State is deemed to be assessed at the time the return is filed and is payable on or before the date prescribed for filing the return, determined without regard to an extension of time granted for filing the return. When a return is filed, the assessor shall examine it and may conduct audits or investigations to determine the correct tax liability. If the assessor determines that the amount of tax shown on the return is less than the correct amount, the assessor shall assess the tax due the State and provide notice to the taxpayer of the assessment. Except as provided in subsection 2, an assessment may not be made after 3 years from the date the return was filed or 3 years from the date the return was required to be filed, whichever is later. The assessor may make a supplemental

assessment within the assessment period prescribed by this section for the same period, periods or partial periods previously assessed if the assessor determines that a previous assessment understates the tax due or otherwise is imperfect or incomplete in any material respect.

[2011, c. 380, Pt. J, §2 (AMD) .]

2. **Exceptions.** The following are exceptions to the 3-year time limit specified in subsection 1.

A. An assessment may be made within 6 years from the date the return was filed if the tax liability shown on the return, after adjustments necessary to correct any mathematical errors apparent on the face of the return, is less than 1/2 of the tax liability determined by the assessor. In determining whether the 50% threshold provided by this paragraph is satisfied, the assessor may not consider any portion of the understated tax liability for which the taxpayer has substantial authority supporting its position. [2011, c. 380, Pt. J, §3 (AMD).]

B. An assessment may be made at any time with respect to a time period for which a fraudulent return has been filed. [1979, c. 378, §4 (NEW).]

C. An assessment may be made at any time with respect to a period for which a return has become due but has not been filed. If a person who has failed to file a return does not provide to the assessor, within 60 days of receipt of notice, information that the assessor considers necessary to determine the person's tax liability for that period, the assessor may assess an estimated tax liability based upon the best information otherwise available. In any proceeding for the collection of tax for that period, that estimate is prima facie evidence of the tax liability. The 60-day period provided by this paragraph must be extended for an additional 60 days if the taxpayer requests an extension in writing prior to the expiration of the original 60-day period. [2011, c. 1, Pt. BB, §1 (AMD); 2011, c. 1, Pt. BB, §3 (AFF).]

D. [2007, c. 627, §4 (RP).]

E. The time limitations for assessment specified in this section may be extended to any later date to which the assessor and taxpayer agree in writing. [2011, c. 380, Pt. J, §3 (AMD).]

[2011, c. 1, Pt. BB, §1 (AMD); 2011, c. 1, Pt. BB, §3 (AFF); 2011, c. 380, Pt. J, §3 (AMD) .]

3. **Abatement.**

[1985, c. 691, §1 (RP) .]

SECTION HISTORY
1979, c. 378, §4 (NEW). 1981, c. 364, §8 (AMD). 1985, c. 691, §1 (AMD). 2001, c. 396, §4 (AMD). 2003, c. 451, §HH1 (AMD). 2003, c. 451, §HH2 (AFF). 2007, c. 627, §4 (AMD). 2009, c. 496, §3 (AMD). 2011, c. 1, Pt. BB, §1 (AMD). 2011, c. 1, Pt. BB, §3 (AFF). 2011, c. 380, Pt. J, §§2, 3 (AMD).

§142. CANCELLATION AND ABATEMENT

The State Tax Assessor may, within 3 years from the date of assessment or whenever a written request has been submitted by a taxpayer within 3 years of the date of assessment, cancel any tax that has been levied illegally. In addition, if justice requires, the assessor may, with the approval of the Governor or the Governor's designee, abate, within 3 years from the date of assessment or whenever a written request has been submitted

by a taxpayer within 3 years of the date of assessment, all or any part of any tax assessed by the assessor. The decision of the assessor pursuant to this section not to abate all or any part of any tax assessed under this Title is not subject to review under section 151. [1999, c. 708, §6 (RPR).]

SECTION HISTORY
1985, c. 691, §2 (NEW). 1997, c. 504, §2 (AMD). 1999, c. 414, §6 (AMD). 1999, c. 521, §A1 (AMD). 1999, c. 708, §6 (RPR).

§143. COMPROMISE OF TAX LIABILITY

The State Tax Assessor may compromise a tax liability arising under this Title upon the grounds of doubt as to liability or doubt as to collectibility, or both. Upon acceptance by the assessor of an offer in compromise, the liability of the taxpayer in question is conclusively settled and neither the taxpayer nor the assessor may reopen the case except by reason of falsification or concealment of assets by the taxpayer, fraud or mutual mistake of a material fact. The decision of the assessor to reject an offer in compromise is not subject to review under section 151. The assessor's authority to compromise a tax liability pursuant to this section is separate from and in addition to the assessor's authority to cancel or abate a tax liability pursuant to section 142. [2011, c. 439, §1 (AMD); 2011, c. 439, §12 (AFF).]

The submission of an offer in compromise does not automatically operate to stay the collection of a tax liability, but the assessor may stay collection action if the interests of the State are not jeopardized by that action. [1993, c. 486, §1 (NEW).]

The assessor may adopt rules regarding the procedures to be followed for the submission and consideration of offers in compromise. [1993, c. 486, §1 (NEW).]

SECTION HISTORY
1993, c. 486, §1 (NEW). 1999, c. 708, §7 (AMD). 2011, c. 439, §1 (AMD). 2011, c. 439, §12 (AFF).

§144. APPLICATION FOR REFUND

1. **Generally.** A taxpayer may request a credit or refund of any tax that is imposed by this Title or administered by the State Tax Assessor within 3 years from the date the return was filed or 3 years from the date the tax was paid, whichever period expires later. Every claim for refund must be submitted to the assessor in writing and must state the specific grounds upon which the claim is founded and the tax period for which the refund is claimed. A claim for refund is deemed to be a request for reconsideration of an assessment under section 151.

[2013, c. 331, Pt. C, §3 (AMD); 2013, c. 331, Pt. C, §41 (AFF) .]

2. **Exceptions.**

A. Subsection 1 does not apply in the case of premiums imposed pursuant to Title 10, section 1020, subsection 6-A, sales and use taxes imposed by Part 3, estate taxes imposed by chapter 575 or 577, income taxes imposed by Part 8 and any other tax imposed by this Title for which a specific statutory refund provision exists. [2011, c. 211, §18 (AMD); 2011, c. 380, Pt. M, §2 (AMD).]

B. For any claim by an individual for credit or a refund of any tax imposed under this Title, the assessor may toll the applicable statute of limitations for a period of up to 3 years on the grounds of mental incapacity of the claimant. The period may be tolled only if the mental incapacity existed at a time when the claim could have been timely filed. The limitations period resumes running when the mental

incapacity no longer exists. For the purposes of this paragraph, the term "mental incapacity" means the overall inability to function in society that prevents an individual from protecting the individual's legal rights. [1997, c. 668, §10 (NEW).]

[2011, c. 380, Pt. M, §2 (AMD) .]

SECTION HISTORY
1995, c. 281, §5 (NEW). 1997, c. 668, §10 (AMD). 1999, c. 708, §8 (AMD). 2001, c. 396, §5 (AMD). 2011, c. 1, Pt. DD, §1 (AMD). 2011, c. 1, Pt. DD, §4 (AFF). 2011, c. 211, §18 (AMD). 2011, c. 380, Pt. M, §2 (AMD). 2013, c. 331, Pt. C, §3 (AMD). 2013, c. 331, Pt. C, §41 (AFF).

§145. DECLARATION OF JEOPARDY

If the State Tax Assessor determines that the collection of any tax will be jeopardized by delay, the assessor, upon giving notice of this determination to the person liable for the tax by personal service or certified mail, may demand an immediate return with respect to any period or immediate payment of any tax declared to be in jeopardy, or both, and may terminate the current reporting period and demand an immediate return and payment with respect to that period. Notwithstanding any other provision of law, taxes declared to be in jeopardy are payable immediately, and the assessor may proceed immediately to collect those taxes by any collection method authorized by this Title. The person liable for the tax may stay collection by requesting reconsideration of the declaration of jeopardy in accordance with section 151 and depositing with the assessor within 30 days from receipt of notice of the determination of jeopardy a bond or other security in the amount of the liability with respect to which the stay of collection is sought. A determination of jeopardy by the assessor is presumed to be correct, and the burden of showing otherwise is on the taxpayer. [2011, c. 380, Pt. J, §4 (AMD).]

SECTION HISTORY
2007, c. 627, §5 (NEW). 2011, c. 380, Pt. J, §4 (AMD).

§151. REVIEW OF DECISIONS OF STATE TAX ASSESSOR

1. **Petition for reconsideration.** A person who is subject to an assessment by the State Tax Assessor or entitled by law to receive notice of a determination of the assessor and who is aggrieved as a result of that action may request in writing, within 60 days after receipt of notice of the assessment or the determination, reconsideration by the assessor of the assessment or the determination. If a person receives notice of an assessment and does not file a petition for reconsideration within the specified time period, a review is not available in Superior Court or before the board regardless of whether the taxpayer subsequently makes payment and requests a refund.

[2011, c. 694, §3 (RPR) .]

2. **Reconsideration by division.** If a petition for reconsideration is filed within the specified time period, the assessor shall reconsider the assessment or the determination as provided in this subsection.

A. Upon receipt by the assessor, all petitions for reconsideration must be forwarded for review and response to the division in the bureau from which the determination issued. [2011, c. 694, §3 (RPR).]

B. Within 90 days of receipt of the petition for reconsideration by the responding division, the division shall approve or deny, in whole or in part, the relief requested. Prior to rendering its decision and during the 90 days, the division may attempt to resolve issues with the petitioner through informal discussion and settlement negotiations with the objective of narrowing the issues for an appeals conference or court review, and may concede or settle individual issues based on the facts and the law, including the hazards

of litigation. By mutual consent of the division and the petitioner, the 90 days may be extended for good cause, such as to allow further factual investigation or litigation of an issue by that or another taxpayer pending in court. [2011, c. 694, §3 (RPR).]

C. If the matter between the division and the petitioner is not resolved within the 90-day period, and any extension thereof, the petitioner may consider the petition for reconsideration denied. The petitioner may not consider the petition for reconsideration denied after either the reconsidered decision has been received by the petitioner or the expiration of 9 years following the filing of the petition for reconsideration, whichever occurs first. A petition for reconsideration considered denied pursuant to this paragraph constitutes final agency action. A petitioner elects to consider the petition for reconsideration denied pursuant to this paragraph by:

(1) For a small claim request, filing a petition for review in Superior Court. For purposes of this subparagraph, "small claim request" has the same meaning as in paragraph E; or

(2) For all other requests:

(a) Filing a statement of appeal with the board; or

(b) Filing a petition for review in Superior Court. [2011, c. 694, §3 (RPR).]

D. A reconsideration by the division is not an adjudicatory proceeding within the meaning of that term in the Maine Administrative Procedure Act. [2011, c. 694, §3 (RPR).]

E. A reconsidered decision rendered on any request other than a small claim request constitutes the assessor's final determination, subject to review either by the board or directly by the Superior Court. A reconsidered decision rendered on a small claim request constitutes the assessor's final determination and final agency action and is subject to de novo review by the Superior Court. For purposes of this paragraph, "small claim request" means a petition for reconsideration when the amount of tax or refund request in controversy is less than $1,000. [2013, c. 45, §4 (AMD).]

F. A person who wishes to appeal a reconsidered decision under this section:

(1) To the board must file a written statement of appeal with the board within 60 days after receipt of the reconsidered decision; or

(2) Directly to the Superior Court must file a petition for review in the Superior Court within 60 days after receipt of the reconsidered decision.

If a person does not file a request for review with the board or the Superior Court within the time period specified in this paragraph, the reconsidered decision becomes final and no further review is available. [2011, c. 694, §3 (NEW).]

G. Upon receipt of a statement of appeal or petition for review filed by a person pursuant to paragraph F, the board or Superior Court shall conduct a de novo hearing and make a de novo determination of the merits of the case. The board or Superior Court shall enter those orders and decrees as the case may require. The burden of proof is on the person, except as otherwise provided by law. [2011, c. 694, §3 (NEW).]

[2013, c. 45, §4 (AMD) .]

SECTION HISTORY
1977, c. 694, §676 (NEW). 1979, c. 378, §5 (AMD). 1981, c. 364, §9 (AMD). 1989, c. 848, §3 (AMD). 1989, c. 871, §2 (AMD). 1991, c. 824, §B10 (AMD). 1991, c. 873, §3 (RPR). 1993, c. 395, §32 (AFF). 1993, c. 395, §2 (RPR). 1997, c. 668, §11 (AMD). 1999, c. 414, §7 (AMD). 2001, c. 583, §1 (AMD). 2003, c. 242, §1 (AMD). 2011, c. 380, Pt. J, §5 (AMD). 2011, c. 439, §12 (AFF). 2011, c. 439, §2 (RPR). 2011, c. 694, §3 (RPR). 2013, c. 45, §4 (AMD).

§151-A. ADDITIONAL SAFEGUARDS

1. **Recording of interviews.** The State Tax Assessor, upon advance request, shall allow a taxpayer to make an audio recording of any in-person interview concerning the determination and collection of any tax. The recording must be made at the taxpayer's own expense and with that person's own equipment.

The State Tax Assessor may record the interview if the State Tax Assessor:

A. Informs the taxpayer of the recording prior to the interview; and [1989, c. 848, §4 (NEW).]

B. Upon request of the taxpayer, provides the taxpayer with a transcript or copy of the recording, but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of the transcript or copy. [1989, c. 848, §4 (NEW).]

[1989, c. 848, §4 (NEW) .]

2. **Representative of taxpayer.** The taxpayer may bring to any interview with the State Tax Assessor or to any proceeding pursuant to section 151-D any attorney, certified public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer. If the taxpayer does not bring anyone to the interview or proceeding but clearly states at any time during the interview or proceeding that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary or any other person permitted to represent the taxpayer, the State Tax Assessor shall suspend the interview or the board shall suspend the proceeding. The suspension must occur even if the taxpayer has answered one or more questions before that point in the interview or proceeding. The interview must be rescheduled to be held within 10 working days.

[2013, c. 331, Pt. C, §4 (AMD); 2013, c. 331, Pt. C, §41 (AFF) .]

SECTION HISTORY
1989, c. 848, §4 (NEW). 2013, c. 45, §5 (AMD). 2013, c. 331, Pt. C, §4 (AMD). 2013, c. 331, Pt. C, §41 (AFF).

§151-B. INDEPENDENT APPEALS OFFICE

(REPEALED)

SECTION HISTORY
2011, c. 439, §3 (NEW). 2011, c. 439, §12 (AFF). 2011, c. 694, §4 (RP).

§151-C. TAXPAYER ADVOCATE

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.

[2011, c. 694, §5 (AMD) .]

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

A. Assist taxpayers in resolving problems with the bureau; [2011, c. 439, §4 (NEW); 2011, c. 439, §12 (AFF).]

B. Identify areas in which taxpayers have problems in dealings with the bureau; [2011, c. 439, §4 (NEW); 2011, c. 439, §12 (AFF).]

C. Propose changes in the administrative practices of the bureau to mitigate problems identified under paragraph B; and [2011, c. 439, §4 (NEW); 2011, c. 439, §12 (AFF).]

D. Identify legislative changes that may be appropriate to mitigate problems identified under paragraph B. [2011, c. 439, §4 (NEW); 2011, c. 439, §12 (AFF).]

[2011, c. 439, §4 (NEW); 2011, c. 439, §12 (AFF) .]

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.

[2011, c. 439, §4 (NEW); 2011, c. 439, §12 (AFF) .]

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.

[2011, c. 439, §4 (NEW); 2011, c. 439, §12 (AFF) .]

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

[2011, c. 439, §4 (NEW); 2011, c. 439, §12 (AFF) .]

SECTION HISTORY
2011, c. 439, §4 (NEW). 2011, c. 439, §12 (AFF). 2011, c. 694, §5 (AMD).

§151-D. MAINE BOARD OF TAX APPEALS

1. **Board established.** The Maine Board of Tax Appeals, established in Title 5, section 12004-B, subsection 10, is established as an independent board within the Department of Administrative and Financial Services and is not subject to the supervision or control of the bureau. The purpose of the board is to provide taxpayers with a fair system of resolving controversies with the bureau and to ensure due process.

[2011, c. 694, §6 (NEW) .]

2. **Members; appointment.** The board consists of 3 members appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over taxation matters and confirmation by the Legislature. No more than 2 members of the board may be members of the same political party. The Governor shall designate one board member to serve as chair. The Governor may remove any member of the board for cause.

[2011, c. 694, §6 (NEW) .]

3. **Qualifications.** The members of the board must be residents of this State and must be selected on the basis of their knowledge of and experience in taxation. A member of the board may not hold any elective office or any public office involving assessment of taxes or administration of any of the tax laws of this State. At least one member must be an attorney. No more than 2 members may be attorneys.

[2011, c. 694, §6 (NEW) .]

4. **Terms.** Members of the board are appointed for terms of 3 years. A member may not serve more than 2 consecutive terms, plus any initial term of less than 3 years. A vacancy must be filled by the Governor for the unexpired term subject to review by the joint standing committee of the Legislature having jurisdiction over taxation matters and confirmation by the Legislature during the next legislative session.

[2011, c. 694, §6 (NEW) .]

5. **Quorum.** Two members of the board constitute a quorum. A vacancy in the board does not impair the power of the remaining members to exercise all the powers of the board.

[2011, c. 694, §6 (NEW) .]

6. **Compensation.** A member of the board is entitled to a per diem of $100. Board members receive reimbursement for their actual, necessary cash expenses while on official business of the board.

[2011, c. 694, §6 (NEW) .]

7. **Powers and duties.** The board has all powers as are necessary to carry out its functions. The board may be represented by legal counsel. The board may delegate any duties as necessary.

[2011, c. 694, §6 (NEW) .]

8. **Appeals office.** The board shall establish and maintain an office, referred to in this section as "the appeals office," in the City of Augusta to assist the board in carrying out the purposes of this section. The board may meet and conduct business at any place within the State.

[2011, c. 694, §6 (NEW) .]

9. **Chief Appeals Officer; appeals office.** The Commissioner of Administrative and Financial Services shall appoint the Chief Appeals Officer to assist the board and manage the appeals office. The Chief Appeals Officer must be a citizen of the United States and have substantial knowledge of tax law. The Chief Appeals Officer is an unclassified employee at salary range 33. The Chief Appeals Officer serves at the pleasure of the commissioner. The Chief Appeals Officer shall:

A. Subject to policies and procedures established by the board, manage the work of the appeals office and hire personnel, including subordinate appeals officers and other professional, technical and support personnel; [2011, c. 694, §6 (NEW).]

B. Assist the board in the development and implementation of rules, policies and procedures to carry out the provisions of this section and section 151 and comply with all applicable laws; [2011, c. 694, §6 (NEW).]

C. Prepare a proposed biennial budget for the board, including supplemental budget requests as necessary, for submission to and approval by the Commissioner of Administrative and Financial Services; [2011, c. 694, §6 (NEW).]

D. Attend all board meetings and maintain proper records of all transactions of the board; and [2011, c. 694, §6 (NEW).]

E. Perform other duties as the board and the Commissioner of Administrative and Financial Services may assign. [2011, c. 694, §6 (NEW).]

[2011, c. 694, §6 (NEW) .]

10. **Appeals procedures.** Appeals of tax matters arising under this chapter are conducted in accordance with this subsection.

A. If requested by a petitioner within 20 days of filing a statement of appeal, the appeals office shall hold an appeals conference to receive additional information and to hear arguments regarding the protested assessment or determination. The board shall set a rate of no more than $150 as a processing fee for each petition that proceeds to an appeals conference. These fees must be credited to a special revenue account to be used to defray expenses in carrying out this section. Any balance of these fees in the special revenue account does not lapse but is carried forward as a continuing account to be expended for the same purposes in the following years. [2013, c. 331, Pt. B, §1 (AMD).]

B. The appeals office shall provide a petitioner with at least 10 working days' notice of the date, time and place of an appeals conference. The appeals conference may be held with fewer than 10 working days' notice if a mutually convenient date, time and place can be arranged. [2011, c. 694, §6 (NEW).]

C. An appeals officer shall preside over an appeals conference. The appeals officer has the authority to administer oaths, take testimony, hold hearings, summon witnesses and subpoena records, files and documents the appeals officer considers necessary for carrying out the responsibilities of the board. [2011, c. 694, §6 (NEW).]

D. If a petitioner does not timely request an appeals conference, the appeals officer shall determine the matter based on written submissions by the petitioner and the division within the bureau making the original determination. [2013, c. 331, Pt. B, §2 (AMD).]

E. Both a petitioner and the assessor may submit to the appeals officer, whether or not an appeals conference has been requested, written testimony in the form of an affidavit, documentary evidence and written legal argument and written factual argument. In addition, if an appeals conference is held, both the petitioner and the assessor may present oral testimony and oral legal argument. The appeals officer need not observe the rules of evidence observed by courts, but shall observe the rules of privilege recognized by law. If the appeals officer considers it appropriate, the appeals officer may encourage the petitioner and the assessor to resolve disputed issues through settlement or stipulation. The appeals officer may limit the issues to be heard or vary any procedure adopted for the conduct of the appeals conference if the parties agree to that limitation. [2011, c. 694, §6 (NEW).]

F. Except when otherwise provided by law, a petitioner has the burden of proving, by a preponderance of the evidence, that the assessor has erred in applying or interpreting the relevant law. [2011, c. 694, §6 (NEW).]

G. The appeals officer shall exercise independent judgment. The appeals officer may not have any ex parte communications with or on behalf of any party, including the petitioner, the assessor or any other employee of the Department of Administrative and Financial Services except those employees in the appeals office; however, the appeals officer may have ex parte communication limited to questions that involve ministerial or administrative matters that do not address the substance of the issues or position taken by the petitioner or the assessor. [2011, c. 694, §6 (NEW).]

H. The appeals officer shall prepare a recommended final decision on the appeal for consideration by the board based upon the evidence and argument presented to the appeals officer by parties to the proceeding. The decision must be in written form and must state findings of fact and conclusions of law. The appeals officer shall deliver copies of the recommended final decision to the board. [2011, c. 694, §6 (NEW).]

I. The board shall consider the recommended final decision on a timely basis. The board may not have any ex parte communication with or on behalf of any party, including the petitioner, the assessor or any other employee of the Department of Administrative and Financial Services except those employees in the appeals office; however, the board may have ex parte communication limited to questions that involve ministerial or administrative matters that do not address the substance of the issue or position taken by the petitioner or assessor. After considering the recommended final decision, the board may:

(1) Adopt the recommended final decision as delivered by the appeals officer;

(2) Modify the recommended final decision;

(3) Send the recommended final decision back to the same appeals officer, if possible, for the taking of further evidence, for additional consideration of issues, for reconsideration of the application of law or rules or for such other proceedings or considerations as the board may specify; or

(4) Reject the recommended final decision in whole or in part and decide the appeal itself on the basis of the existing record.

A determination by the board is not an adjudicatory proceeding within the meaning of that term in the Maine Administrative Procedure Act. The decision, as adopted, modified or rejected by the board or appeals officer pursuant to this paragraph is the final administrative decision on the appeal and is subject to de novo review by the Superior Court. Either the taxpayer or the assessor may appeal the decision to the Superior Court and may raise on appeal in the Superior Court any facts, arguments or issues that relate to the final administrative decision, regardless of whether the facts, arguments or issues were raised during the proceeding being appealed, if the facts, arguments or issues are not barred by any other provision of law. The court shall make its own determination as to all questions of fact or law, regardless of whether the questions of fact or law were raised before the division within the bureau making the original determination or before the board. The burden of proof is on the taxpayer.

A person who wishes to appeal a decision adopted under this paragraph to the Superior Court must file a petition for review within 60 days after receipt of the board's decision. If a person does not file a request for review with the Superior Court within the time period specified in this paragraph, the decision becomes final and no further review is available. [2011, c. 694, §6 (NEW).]

Subject to any applicable requirements of the Maine Administrative Procedure Act, the board shall adopt rules to accomplish the purposes of this section. Those rules may define terms, prescribe forms and make suitable order of procedure to ensure the speedy, efficient, just and inexpensive disposition of all proceedings under this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Beginning in 2014 and annually thereafter, the board shall prepare and submit a report by January 1st on the activities of the board to the Governor, the assessor and the joint standing committee of the Legislature having jurisdiction over taxation matters.

[2013, c. 331, Pt. B, §§1, 2 (AMD) .]

SECTION HISTORY
2011, c. 694, §6 (NEW). 2013, c. 331, Pt. B, §§1, 2 (AMD).

§152. PAYMENT OF CONTESTED TAXES

A taxpayer may pay any tax, make any deposit or file any bond at any time without forfeiting any right to apply for a refund or an abatement or to seek review of the validity of the tax. No such tax, bond or deposit need be paid, filed or made under protest or under duress to entitle the taxpayer to apply for a refund or an abatement or to seek review of the validity of the tax. [1981, c. 364, §10 (NEW).]

SECTION HISTORY
1981, c. 364, §10 (NEW).

§153. TIME OF FILING OR PAYING

1. Mail. If any document or payment required or permitted by this Title to be filed or paid is transmitted by the United States Postal Service to the person with whom or to whom the filing or payment is to be made, the date of the United States Postal Service postmark stamped on the envelope is deemed to be the date of filing or payment if that document or payment was deposited in the mail, postage prepaid and properly addressed to the person with whom or to whom the filing or payment is to be made. If the document or payment is not received by that person or if the postmark date is illegible, omitted or claimed to be erroneous, the document or payment is deemed to have been filed or paid on the mailing date if the sender establishes

by competent evidence that the document or payment was deposited with the United States Postal Service, postage prepaid and properly addressed, and, in the case of nonreceipt, files a duplicate document or makes payment, as the case may be, within 15 days after receipt of written notification by the addressee of the addressee's nonreceipt of the document or payment. A record authenticated by the United States Postal Service of mailing by registered mail, certified mail or certificate of mailing constitutes competent evidence of such mailing. Any reference in this section to the United States Postal Service is deemed to include a reference to any delivery service designated by the United States Secretary of the Treasury pursuant to section 7502(f)(2) of the Code, and any reference in this section to a postmark of the United States Postal Service is deemed to include a reference to any date recorded or marked as described in section 7502(f)(2)(C) of the Code by any such designated delivery service.

[2001, c. 583, §2 (AMD) .]

2. **Weekends and holidays.** When the last day, including any extension of time, prescribed under this Title for the performance of an act falls on Saturday, Sunday or a legal holiday in this State, the performance of that act is timely if it occurs on the next succeeding day which is not a Saturday, Sunday or legal holiday in this State.

[1981, c. 364, §10 (NEW) .]

SECTION HISTORY
1981, c. 364, §10 (NEW). 1991, c. 846, §1 (AMD). 2001, c. 583, §2 (AMD).

§171. DEMAND LETTER

1. **Taxes imposed by this Title.** If any tax imposed by this Title is not paid on or before its due date and no further administrative or judicial review of the assessment is available under section 151, the assessor, within 3 years after administrative and judicial review have been exhausted, may give the taxpayer notice of the amount to be paid, specifically designating the tax, interest and penalty due, and demand payment of that amount within 10 days of that taxpayer's receipt of notice. The notice must be given by personal service or sent by certified mail. The notice must include a warning that, upon failure of that taxpayer to pay as demanded, the assessor may proceed to collect the amount due by any collection method authorized by this Title. The notice must also describe the procedures applicable to the levy and sale of property under section 176-A, the alternatives available to the taxpayer that could forestall levy on property, including installment agreements, and the provisions of this Title relating to redemption of property and the release of the lien on property created by virtue of the levy. If the taxpayer has filed a petition for relief under the United States Bankruptcy Code, the running of the 3-year period of limitation imposed by this section is stayed until the bankruptcy case is closed or a discharge is granted, whichever occurs first.

[2011, c. 380, Pt. J, §6 (AMD) .]

2. **Other debts owed to State.** In the case of a fee, fine, penalty or other obligation first owed to the State on or after January 1, 1988 and authorized to be collected by the bureau, the assessor, within 3 years after the obligation is first placed with the bureau for collection, may give the taxpayer notice of the amount to be paid, including any interest and penalties provided by law, and demand payment of that amount within 10 days of that taxpayer's receipt of notice. The notice must be given by personal service or sent by certified mail. The notice must include a warning that, upon failure of that taxpayer to pay as demanded, the assessor may proceed to collect the amount due by any collection method authorized by section 175-A or 176-A. The notice must describe the procedures applicable to the levy and sale of property under section 176-A, the

alternatives available to the taxpayer that could forestall levy on property, including installment agreements, and the provisions of this Title relating to redemption of property and the release of the lien on property created by virtue of the levy.

[2011, c. 380, Pt. J, §6 (AMD) .]

SECTION HISTORY
1985, c. 691, §3 (NEW). 1995, c. 281, §6 (AMD). 1997, c. 526, §9 (RPR). 1997, c. 668, §12 (AMD). 2001, c. 583, §3 (AMD). 2011, c. 380, Pt. J, §6 (AMD).

§172. DENIAL, SUSPENSION OR REVOCATION OF LICENSE

If any tax liability imposed under this Title that has become final, other than a liability for a tax imposed under Part 2, remains unpaid in an amount exceeding $1,000 for a period greater than 60 days after the taxpayer has received notice of that finality by personal service or certified mail, and the taxpayer fails to cooperate with the bureau in establishing and remaining in compliance with a reasonable plan for liquidating that liability, the State Tax Assessor shall certify the liability and lack of cooperation: [2011, c. 380, Pt. J, §7 (AMD).]

1. **Liquor licensee.** If the taxpayer is a liquor licensee, to the Department of Administrative and Financial Services, which shall construe that liability and lack of cooperation to be a ground for denying, suspending or revoking the taxpayer's liquor license in accordance with Title 28-A, section 707 and chapter 33; or

[2013, c. 368, Pt. V, §57 (AMD) .]

2. **Motor vehicle dealer.** If the taxpayer is a licensed motor vehicle dealer, to the Secretary of State, who shall construe that liability and lack of cooperation to be a ground for denying, suspending or revoking the taxpayer's motor vehicle dealer license in accordance with Title 29-A, section 903.

[1995, c. 65, Pt. A, §137 (AMD); 1995, c. 65, Pt. A, §153 (AFF); 1995, c. 65, Pt. C, §15 (AFF) .]

SECTION HISTORY
1981, c. 364, §11 (NEW). 1987, c. 45, §B6 (AMD). 1995, c. 65, §A137 (AMD). 1995, c. 65, §§A153,C15 (AFF). 1997, c. 373, §171 (AMD). 2003, c. 451, §T15 (AMD). 2011, c. 380, Pt. J, §7 (AMD). 2013, c. 368, Pt. V, §57 (AMD).

§173. COLLECTION BY WARRANT

1. **Request and issuance of warrant.** If the taxpayer does not make payment as demanded pursuant to section 171, the State Tax Assessor may file in the office of the clerk of the Superior Court of any county a certificate addressed to the clerk of that court specifying the amount of tax, interest and penalty which was demanded, the name and address of the taxpayer as it appears on the records of the State Tax Assessor, the facts whereby the amount has become due, and the notice given and requesting that a warrant be issued against the taxpayer in the amount of the tax, penalty and interest set forth in the certificate and with costs. If the State Tax Assessor reasonably believes that the taxpayer may abscond within the 10-day period provided by section 171, he may, without giving notice to or making demand upon the taxpayer, request immediate

issuance of a warrant. Immediately upon the filing of the certificate, the clerk of the Superior Court shall issue a warrant in favor of the State against the taxpayer in the amount of tax, interest and penalty set forth in the certificate and with costs.

[1985, c. 691, §4 (NEW) .]

2. **Effect of warrant.** The warrant shall have the force and effect of an execution issued upon a judgment in a civil action for taxes and may be served in the county where the taxpayer may be found by the sheriff of that county or his deputies or by any agent of the State Tax Assessor authorized under section 112, subsection 6 to collect any tax imposed by this Title. In the execution of the warrant and collection of taxes pursuant to this Title, including supplementary disclosure proceedings for that purpose under Title 14, chapter 502, an agent of the State Tax Assessor shall have the powers of a sheriff and shall be entitled to collect from the debtor the same fees and charges permitted to a sheriff. Any such fees and charges collected by that agent shall be remitted promptly to the State.

[1985, c. 691, §4 (NEW) .]

Warrants are returnable within 5 years of issuance. New warrants may be issued for collection of sums remaining unsatisfied, upon the filing of the certificate described in subsection 1, within 2 years from the return day of the last preceding warrant. [1989, c. 880, Pt. C, §1 (AMD).]

SECTION HISTORY
1985, c. 691, §4 (NEW). 1989, c. 880, §C1 (AMD).

§174. COLLECTION BY CIVIL ACTION

1. **Generally.** If a taxpayer fails to pay a tax imposed by this Title on or before the due date of that tax, the State Tax Assessor, through the Attorney General, may commence a civil action within 6 years after receipt by the taxpayer of the demand notice required by section 171 in a court of competent jurisdiction in this State in the name of the State for the recovery of that tax. In this action, the certificate of the assessor showing the amount of the delinquency is prima facie evidence of the levy of the tax, of the delinquency and of the compliance by the assessor with this Title in relation to the assessment of the tax.

[2001, c. 583, §4 (AMD) .]

2. **Other jurisdictions.** The Attorney General may bring civil actions in the courts of other states in the name of this State or any of its tax-collecting agencies to collect taxes legally due this State or those agencies.

[1981, c. 364, §12 (NEW) .]

3. **Comity.** The courts of this State shall recognize and enforce liabilities for taxes lawfully imposed by another state to the same extent that the laws of that other state permit the enforcement in its courts of tax liabilities arising under this Title. The duly authorized officer of any such state may sue for the collection of such a tax in the courts of this State. A certificate by the Secretary of State of such other state that an officer suing for the collection of such a tax is duly authorized to collect the tax shall be conclusive proof of that authority.

[1981, c. 364, §12 (NEW) .]

4. **Stay of running of period of limitation.** The running of the period of limitation for commencement of a civil action for the recovery of any tax pursuant to this section is stayed for the period of time, plus 120 days, during which the tax collection action is stayed by the bankruptcy proceeding under the United States Bankruptcy Code.

[1991, c. 846, §2 (NEW) .]

SECTION HISTORY
1981, c. 364, §12 (NEW). 1991, c. 846, §2 (AMD). 1995, c. 639, §2 (AMD). 2001, c. 583, §4 (AMD).

§175. APPLICANTS FOR LICENSE OR RENEWAL OF LICENSE

1. **Information provided to State Tax Assessor.** Every department, board, commission, division, authority, district or other agency of the State issuing or renewing a license or other certificate of authority to conduct a profession, trade or business shall annually, on or before April 1st, provide to the State Tax Assessor, in such form as the assessor may prescribe, a list of all licenses or certificates of authority issued or renewed by that agency during the preceding calendar year. The list provided to the State Tax Assessor must contain the name, address, Social Security or federal identification number of the licensees and such other identifying information as the State Tax Assessor may adopt by rule. Notwithstanding other provisions of law, all persons seeking a license or certificate of authority or a renewal shall provide and the responsible agency shall collect the information required by the State Tax Assessor under this section. Failure by persons to provide a licensing or certifying agency that information results in an automatic denial of any request for a license or certificate of authority or a renewal.

[1991, c. 820, §1 (AMD) .]

2. **Failure to file or pay taxes; determination to prevent renewal, reissuance or other extension of license or certificate.** If the assessor determines that a person who holds a license or certificate of authority issued by this State to conduct a profession, trade or business has failed to file a return at the time required under this Title or to pay a tax liability due under this Title that has been demanded, other than taxes due pursuant to Part 2, and the person continues to fail to file or pay after at least 2 specific written notices, each giving 30 days to respond, have been sent by first-class mail, then the assessor shall notify the person by certified mail or personal service that continued failure to file the required tax return or to pay the overdue tax liability may result in loss of the person's license or certificate of authority. If the person continues for a period in excess of 30 days from notice of possible denial of renewal or reissuance of a license or certificate of authority to fail to file or show reason why the person is not required to file or if the person continues not to pay, the assessor shall notify the person by certified mail or personal service of the assessor's determination to prevent renewal, reissuance or extension of the license or certificate of authority by the issuing agency. A review of this determination is available by requesting reconsideration as provided in section 151. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination to prevent renewal or reissuance of the license or certificate of authority becomes final unless otherwise determined on appeal. In any event, the license or certificate of authority remains in effect until all appeals have been taken to their final conclusion.

[2013, c. 331, Pt. C, §5 (AMD); 2013, c. 331, Pt. C, §41 (AFF) .]

3. **Refusal to renew, reissue or otherwise extend license or certificate.** Notwithstanding any other provision of law, any issuing agency that is notified by the State Tax Assessor of the assessor's final determination to prevent renewal or reissuance of a license or certificate of authority under subsection 2 shall refuse to reissue, renew or otherwise extend the license or certificate of authority. Notwithstanding Title 5, sections 10003 and 10005, an action by an issuing agency pursuant to this subsection is not subject

to the requirements of Title 5, chapter 375, subchapters IV and VI, and no hearing by the issuing agency or in District Court is required. A refusal by an agency to reissue, renew or otherwise extend the license or certificate of authority is deemed a final determination within the meaning of Title 5, section 10002.

[1991, c. 820, §3 (RPR); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF) .]

4. **Subsequent reissuance, renewal or other extension of license or certificate.** The agency may reissue, renew or otherwise extend the license or certificate of authority in accordance with the agency's statutes and rules after the agency receives a certificate issued by the State Tax Assessor that the person is in good standing with respect to all returns due or with respect to any tax due as of the date of issuance of the certificate. An agency may waive any applicable requirement for reissuance, renewal or other extension if it determines that the imposition of that requirement places an undue burden on the person and that a waiver of the requirement is consistent with the public interest.

[1991, c. 820, §4 (NEW) .]

5. **Financial institutions excluded.** This section does not apply to any registration, permit, order or approval issued pursuant to Title 9-B.

[1991, c. 820, §4 (NEW) .]

6. **Certificate of good standing.** The assessor must issue a certificate of good standing to the person conditioned upon the person's agreement to complete obligations under this Title. If the person fails to complete obligations under this Title in accordance with that agreement, the assessor may notify the person and the issuing agency of the assessor's determination to revoke the license or certificate of authority. A review of this determination is available by requesting reconsideration as provided in section 151. Either by failure to proceed to the next step of appeal or by exhaustion of the steps of appeal, the determination to revoke the license or certificate of authority becomes final unless otherwise determined on appeal. The issuing agency, on receipt of notice that the determination to revoke the license or certificate of authority has become final, shall revoke the license or certificate of authority within 30 days. The assessor and the licensee may agree to nonbinding mediation for an agreement to complete obligations under this Title.

[2013, c. 331, Pt. C, §6 (AMD); 2013, c. 331, Pt. C, §41 (AFF) .]

SECTION HISTORY
1985, c. 678, (NEW). 1985, c. 691, §5 (NEW). 1987, c. 402, §A178 (RPR). 1989, c. 880, §C2 (AMD). 1991, c. 820, §§1-4 (AMD). 1993, c. 377, §§1,2 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2009, c. 496, §§4, 5 (AMD). 2011, c. 380, Pt. J, §8 (AMD). 2013, c. 331, Pt. C, §§5, 6 (AMD). 2013, c. 331, Pt. C, §41 (AFF).

§175-A. TAX LIEN

1. **Filing.** If any tax imposed by this Title or imposed by any other provision of law and authorized to be collected by the bureau is not paid when due and no further administrative or judicial review of the assessment is available pursuant to law, the assessor may file in the registry of deeds of any county, with respect to real property, or in the office of the Secretary of State, with respect to property of a type a security interest in which may be perfected by a filing in such office under Title 11, Article 9-A, a notice of lien specifying the amount of the tax, interest, penalty and costs due, the name and last known address of the person liable for the amount and, in the case of a tax imposed by this Title, the fact that the assessor has complied with all the provisions of this Title in the assessment of the tax. The lien arises at the time the assessment becomes final and constitutes a lien upon all property, whether real or personal, then owned or thereafter acquired by that person in the period before the expiration of the lien. The lien imposed by this

section is not valid against any mortgagee, pledgee, purchaser, judgment creditor or holder of a properly recorded security interest until notice of the lien has been filed by the assessor, with respect to real property, in the registry of deeds of the county where such property is located and, with respect to personal property, in the office in which a financing statement for such personal property is normally filed. Notwithstanding this subsection, a tax lien upon personal property does not extend to those types of personal property not subject to perfection of a security interest by means of the filing in the office of the Secretary of State. The lien is prior to any mortgage or security interest recorded, filed or otherwise perfected after the notice, other than a purchase money security interest perfected in accordance with Title 11, Article 9-A. In the case of any mortgage or security interest properly recorded or filed prior to the notice of lien that secures future advances by the mortgagee or secured party, the lien is junior to all advances made within 45 days after filing of the notice of lien, or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien. Subject to the limitations in this section, the lien provided in this section has the same force, effect and priority as a judgment lien and continues for 10 years from the date of recording unless sooner released or otherwise discharged. The lien may, within the 10-year period, or within 10 years from the date of the last extension of the lien in the manner provided in this subsection, be extended by filing for record in the appropriate office a copy of the notice and, from the time of filing, that lien must be extended for 10 years unless sooner released or otherwise discharged.

[1999, c. 699, Pt. D, §26 (AMD); 1999, c. 699, Pt. D, §30 (AFF) .]

2. **Release.** The assessor shall issue to the taxpayer a certificate of release of the lien or release all or any portion of the property subject to any lien provided for in this Part or subordinate the lien to other liens if:

A. The assessor finds that the liability for the amount demanded, together with costs, has been satisfied or has become unenforceable by reason of lapse of time; [1997, c. 526, §10 (AMD).]

B. A bond is furnished to the assessor with surety approved by the assessor in a sum sufficient to equal the amount demanded, together with costs, and conditioned upon payment of any judgment rendered in proceedings regularly instituted by the assessor to enforce collection of the bond at law or of any amount agreed upon in writing by the assessor to constitute the full amount of the liability; [1997, c. 526, §10 (AMD).]

C. The assessor determines at any time that the interest of this State in the property has no value; or [1997, c. 526, §10 (AMD).]

D. The assessor determines that the taxes are sufficiently secured by a lien on other property of the taxpayer or that the release or subordination of the lien will not endanger or jeopardize the collection of the taxes. [1997, c. 526, §10 (AMD).]

[1997, c. 526, §10 (AMD) .]

3. **Enforcement.** The lien provided for by subsection 1 may be enforced at any time after the tax liability with respect to which the lien arose becomes collectible under section 173, subsection 1 by a civil action brought by the Attorney General in the name of the State in the Superior Court of the county in which the property is located to subject any property, of whatever nature, in which the taxpayer has any right, title or interest, to the payment of such tax or liability. The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved in the action and finally determine the merits of all claims to and liens upon the property and, in all cases where a claim or interest of the State therein is established, may decree a sale of the property by the proper officer of the court and a distribution of the proceeds of such sale according to the findings of the court. If the property is sold to satisfy a lien held by the State, the State may bid at the sale such sum, not exceeding the amount of that lien plus expenses of sale, as the assessor directs.

[1997, c. 526, §10 (AMD) .]

4. **Recording fees part of tax liability.** Fees paid by the assessor to registrars of deeds for recording notices of lien pursuant to subsection 1 and notices of release of a lien pursuant to subsection 2 may be added to the tax liability that gave rise to the lien and, in the case of a tax imposed by this Title, may be collected by

all the methods provided for in chapter 7. In the case of other obligations owed to the State and authorized to be collected by the bureau, the fees may be collected by any collection method authorized by this section or section 176-A.

[1997, c. 1, §28 (COR) .]

SECTION HISTORY
1987, c. 402, §A179 (NEW). 1993, c. 395, §§3-5 (AMD). 1995, c. 281, §7 (AMD). RR 1997, c. 1, §28 (COR). 1997, c. 526, §10 (AMD). 1999, c. 699, §D26 (AMD). 1999, c. 699, §D30 (AFF).

§176. LEVY

(REPEALED)

SECTION HISTORY
1985, c. 691, §5 (NEW). 1987, c. 497, §§2,3 (AMD). 1987, c. 772, §3 (AMD). 1989, c. 880, §E2 (RP).

§176-A. LEVY UPON PROPERTY

1. **Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Delinquent," when used to refer to a tax imposed by this Title, means a tax liability reported by a taxpayer or a tax assessed by the assessor that is not paid by its due date and to which no further administrative or judicial review is available pursuant to section 151. "Delinquent" may also refer to any other obligation owed to the State and authorized to be collected by the bureau or to a taxpayer liable for delinquent taxes. [1997, c. 526, §11 (AMD).]

B. "Levy" means an administrative power to collect delinquent taxes through the means prescribed by this section, or the exercise of that power. The power to levy includes the power of distraint by any lawful means, the power to sell the property and the power to release the levy when it is no longer necessary or appropriate to further the process of collecting delinquent taxes. Exercise of the levy power creates a lien and makes the assessor a judgment creditor.

Except with respect to intangible personal property, a levy extends only to property possessed and obligations existing at the time the levy is made. A levy with respect to intangible personal property has the effect set forth in subsection 2, paragraph E. [1989, c. 880, Pt. E, §3 (NEW).]

B-1. "Notice" means written notification served personally or sent by certified mail, except with respect to notice to a person who has consented in writing to some other means of notification. [2011, c. 380, Pt. J, §9 (NEW).]

C. "Property" means any right, title and interest held in property by a delinquent taxpayer, whether real or personal, tangible or intangible, located within this State. [1989, c. 880, Pt. E, §3 (NEW).]

D. [2011, c. 380, Pt. J, §10 (RP).]

[2011, c. 380, Pt. J, §§9, 10 (AMD) .]

2. **Levy upon property for payment of delinquent tax.** The procedure for the levy upon property for payment of delinquent tax is as follows.

A. [2001, c. 583, §5 (RP).]

B. If a person liable to pay any delinquent tax neglects or refuses to pay that tax within 10 days after receipt of notice pursuant to section 171, the State Tax Assessor may collect the tax and an additional amount sufficient to cover the expenses of the levy, by levy upon all property belonging to that person except as provided in subsection 5. If the assessor makes a determination of jeopardy pursuant to section 145, having given notice of that determination and made demand for immediate payment of that tax, the assessor may proceed immediately without regard to the 10-day period provided in section 171 to collect by levy the tax and an additional amount sufficient to cover the expenses of the levy. [2009, c. 434, §8 (AMD).]

C. If any property upon which levy has been made is not sufficient to satisfy the claim of the State, the assessor may, thereafter and as often as necessary, proceed to levy upon any other property of the person against whom the claim exists liable to levy until the amount due together with all expenses is fully paid. [2001, c. 583, §5 (AMD).]

D. The assessor shall promptly release a levy made pursuant to this section when the liability giving rise to the levy is satisfied or becomes unenforceable due to lapse of time and shall then promptly notify the person upon whom the levy is made that the levy has been released. [2001, c. 583, §5 (AMD).]

E. The effect of a levy on salary or wages payable to or received by a taxpayer is continuous from the date the levy is first made until the liability giving rise to the levy is satisfied. Except as otherwise provided by this paragraph, a levy on any other intangible personal property or rights to intangible personal property remains in effect until one year after the date that notice of levy under subsection 3, paragraph A is received by the person in possession of or liable to the taxpayer with respect to intangible personal property, including property that is first possessed or liabilities that arise after the date of receipt of the notice of levy. In the case of a levy upon property held by a financial institution described in subsection 3, paragraph A, the levy extends only to accounts in existence on the date the notice of levy is received by the financial institution, but includes deposits made or collected in those accounts after the notice of levy is received. A levy on intangible personal property or rights to intangible personal property, ownership of which is disputed on the date that notice the levy is received, remains in effect until one year after the dispute is resolved. [2011, c. 380, Pt. J, §11 (AMD).]

[2011, c. 380, Pt. J, §11 (AMD) .]

3. **Surrender of property or discharge of obligation; exceptions; personal liability; penalty.** A surrender of property or discharge of obligation is governed by this subsection.

A. Except as otherwise provided in paragraph B, any person who is in possession of, or obligated with respect to, property or rights to property subject to levy upon which a levy has been made shall, upon demand of the assessor, surrender the property or rights or discharge the obligation to the assessor within 21 days after receipt of the notice of levy, except that part of the property or rights that is, at the time of the demand, subject to an attachment or execution under judicial process. It is a defense to the liability imposed by this subsection that the person who fails to comply with the terms of a notice of levy or that person's bailor has a valid claim against the delinquent taxpayer that accrued prior to receipt of the notice of levy or a valid security interest or lien upon the property of the taxpayer that was perfected prior to receipt of the notice of levy; but this defense is available only to the extent of that claim, security interest or lien.

Any financial institution chartered under state or federal law, including, but not limited to, trust companies, savings banks, savings and loan associations, national banks and credit unions, shall surrender to the assessor any deposits, including any interest in the financial institution that would otherwise be required to be surrendered under this subsection only after 21 days after receipt of the notice of levy, but not later than 30 days after receipt of the notice of levy. Except as provided in subsection 5, paragraph D, with respect to a levy on salary or wages, any person in possession of, or obligated with respect to, property subject to a continuing levy against intangible personal property, which property is first possessed or which obligation first arises subsequent to receipt of a notice of levy

by that person, shall, upon demand of the assessor, surrender the property or rights, or discharge the obligation to the assessor within 30 days after the property is first possessed or the obligation first arises. [2011, c. 380, Pt. J, §12 (AMD).]

B. A levy with respect to a life insurance or endowment contract is governed by this paragraph.

(1) A levy on an organization with respect to a life insurance or endowment contract issued by that organization, without necessity for the surrender of the contract document, constitutes a demand by the assessor for payment of the amount described in subparagraph (2) and the exercise of the right of the person against whom the tax is assessed to the advance of that amount. The organization shall pay over the amount no later than 90 days after receipt of the notice of levy. Notice must include a certification by the assessor that a copy of the notice has been mailed to the person against whom the tax is assessed at that person's last known address.

(2) A levy under this paragraph is deemed to be satisfied if the organization pays over to the assessor the amount that the organization could have advanced to the person against whom the tax is assessed on the date prescribed in subparagraph (1) for the satisfaction of the levy, increased by the amount of any advance, including contractual interest, made to the person on or after the date the organization received notice or otherwise had knowledge of the existence of the lien with respect to which the levy is made, other than an advance, including contractual interest, made automatically to maintain the contract in force under an agreement entered into before the organization received such notice or had such knowledge.

(3) The satisfaction of a levy under subparagraph (2) is without prejudice to any civil action for the enforcement of any lien imposed by section 175-A with respect to the contract. [2011, c. 380, Pt. J, §12 (AMD).]

C. Any person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the assessor:

(1) Is liable in person and estate to the State in a sum equal to the value of the property not so surrendered, but not exceeding the amount of taxes for the collection of which the levy has been made, together with costs and interest at the rate determined pursuant to section 186 on the sum from the date of the levy. Any amount, other than costs, recovered under this paragraph must be credited against the tax liability for the collection of which the levy was made; and

(2) Without reasonable cause, is liable for a penalty equal to 50% of the amount recoverable under subparagraph (1). A part of the penalty may not be credited against the tax liability for the collection of which the levy was made.

The assessor may collect the liability established by this paragraph by assessment and collection in the manner described in this Part. [2011, c. 380, Pt. J, §12 (AMD).]

D. Any person in possession of, or obligated with respect to, property subject to levy upon which a levy has been made, who, upon demand by the assessor, surrenders that property or rights to that property, or discharges the obligation to the assessor, or who pays a liability under paragraph C, subparagraph (1) is discharged from any obligation or liability to the delinquent taxpayer with respect to the property arising from the surrender or payment. In the case of a levy satisfied pursuant to paragraph B, the organization is discharged from any obligation or liability to any beneficiary arising from the surrender or payment. [1989, c. 880, Pt. E, §3 (NEW).]

[2011, c. 380, Pt. J, §12 (AMD) .]

4. **Books or records relating to property subject to levy.** If a levy has been made or is about to be made on any property, any person having custody or control of any books or records containing evidence or statements relating to the property subject to levy shall, upon demand of the assessor, exhibit those books and records to the assessor. Failure to comply with such an order is a Class E crime.

[1989, c. 880, Pt. E, §3 (NEW) .]

5. **Exempt property.** This subsection governs property exempt from levy.

A. The following property is exempt from levy:

(1) Items of wearing apparel and school books necessary for the taxpayer or the members of the taxpayer's family;

(2) If the taxpayer is the head of a family, the fuel, provisions, furniture and personal effects in the taxpayer's household, arms for personal use, livestock and poultry of the taxpayer, the total value of which does not exceed $1,500;

(3) Books and tools necessary for the trade, business or profession of the taxpayer, the value of which, in the aggregate, does not exceed $1,000;

(4) Any amount payable to the taxpayer with respect to the taxpayer's unemployment, including any portion payable with respect to dependents, under an unemployment compensation law of the United States or any state;

(5) Mail, addressed to any person, that has not been delivered to the addressee;

(6) Annuity or pension payments under the federal Railroad Retirement Act of 1974, 45 United States Code, Chapter 9, Subchapter IV, benefits under the federal Railroad Unemployment Insurance Act, 45 United States Code, Chapter 11, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force and Coast Guard Medal of Honor Roll, 38 United States Code, Chapter 15, Subchapter IV and annuities based on retired or retainer pay under 10 United States Code, Chapter 73 (1982);

(7) If the taxpayer is required by judgment of a court of competent jurisdiction, entered prior to the date of levy, to contribute to the support of minor children, as much of the taxpayer's salary, wages or other income as is necessary to comply with that judgment;

(8) Any amount payable to or received by a taxpayer as wages or salary for personal services, during any period, to the extent that the total of the amounts payable to or received by the taxpayer during that period does not exceed the applicable exempt amount determined under paragraph D; and

(9) The principal residence of the taxpayer, unless the assessor has made a determination of jeopardy pursuant to section 145 or the assessor personally approves in writing the levy of that property. [2009, c. 434, §9 (AMD).]

B. The officer seizing property of the type described in paragraph A shall appraise and set aside to the owner the amount of the property declared to be exempt. If the taxpayer objects at the time of the seizure to the valuation fixed by the officer making the seizure, the assessor shall summon 3 disinterested individuals who shall make the valuation. [1989, c. 880, Pt. E, §3 (NEW).]

C. Notwithstanding any other law, no property or rights to property are exempt from levy other than the property specifically made exempt by paragraph A. [1989, c. 880, Pt. E, §3 (NEW).]

D. A levy upon salary and wages must specify the amount of percentage to be surrendered and delivered to the assessor by the taxpayer's employer for each pay period, consistent with the provisions of this paragraph. Salaries and wages are exempt from levy to the extent of 75% of the taxpayer's disposable earnings for any pay period, or an amount equal to the federal minimum hourly wage multiplied by 30, multiplied by the number of weeks in the pay period, whichever is less. A levy on salaries and wages is continuous from the date on which the notice of levy is received until the delinquency is discharged and applies to all pay periods commencing after that date. The assessor shall notify the taxpayer's employer as soon as practicable upon discharge of the delinquency that the levy has been discontinued. [2011, c. 380, Pt. J, §13 (AMD).]

[2011, c. 380, Pt. J, §13 (AMD) .]

6. **Seizure of property; notice; sale.** Seizure, notice of seizure and sale of seized property are governed by this subsection.

A. As soon as practicable after seizure of property, the assessor shall give notice to the owner of the property, or, in the case of personal property, the possessor of the property, or leave notice at the owner's or possessor's usual place of abode or business, if any, within the State. If the owner or possessor cannot be readily located, or has no dwelling or place of business within the State, the notice may be sent by first-class mail. In the case of real property, the notice must be filed in the registry of deeds in the county where the property is located. The notice must specify the sum demanded and contain:

(1) In the case of personal property, an account of the property seized; and

(2) In the case of real property, a description with reasonable certainty of the property seized.

In the case of levy on a motor vehicle that is the subject of a Certificate of Title issued by the Secretary of State, a copy of the notice must be filed with the Secretary of State, who shall note the levy in the records of ownership of the motor vehicle in question. In the case of levy on that type of personal property, a security interest in which may be perfected by filing in the office of the Secretary of State, a copy of the notice must be filed in the office of the Secretary of State, who shall file the notice of levy as a financing statement. [2011, c. 380, Pt. J, §14 (AMD).]

B. The assessor, as soon as practicable after the seizure of property, shall cause a notice to be published in a newspaper of general circulation within the county where the seizure is made, or, if there is no such newspaper, post the notice at the city or town hall nearest the place where the seizure is made and in at least 2 other public places. In the case of real property, the notice must be sent by certified mail to all persons holding an interest of record, including, without limitation, recorded leases and security interest of all types, in the property as reflected at the time the notice of levy is recorded by the indices of the registry of deeds in the county where the property is located. In the case of a motor vehicle subject to a certificate of title issued by the Secretary of State, notice must be sent by certified mail to all persons holding a security interest of record in the motor vehicle as set forth in the records of the Secretary of State. In the case of personal property that is the subject of a security interest perfected by filing in the office of the Secretary of State, notice must be sent by certified mail to all secured parties claiming an interest in the property seized as reflected at the time the notice of levy is recorded in the records maintained by the Secretary of State pursuant to Title 11. The notice must specify the property to be sold, subject to the liabilities of prior encumbrances, if any, and the time, place, manner and conditions of the sale. If levy is made without regard to the 10-day period provided in section 171, public notice of sale of the property seized may not be made within the 10-day period unless subsection 7 applies. It is a Class E crime to intentionally remove or deface the posted notice of sale prior to the scheduled sale date, unless the property has been redeemed or the sale is for some other reason canceled. The assessor or any law enforcement officer may enter onto the land if necessary to carry out the purposes of this section. [2011, c. 380, Pt. J, §15 (AMD).]

C. If any property liable to levy is not divisible to enable the assessor by sale of a part of the property to raise the whole amount of the tax and expenses, the whole property must be sold. [1989, c. 880, Pt. E, §3 (NEW).]

D. The time of sale may be not less than 10 days nor more than 40 days from the time of giving notice under paragraph B. The sale may be adjourned from time to time but adjournments may not be for a period to exceed a total of 30 days. Notice of any adjournments of the sale must be posted in the public places within the county where the notice prescribed in paragraph B was posted. [1989, c. 880, Pt. E, §3 (NEW).]

E. Before the sale, the assessor shall determine a minimum price for which the property must be sold. If no person offers the amount of the minimum price for the property, the property is declared to be purchased at that price for the State; otherwise the property is declared to be sold to the highest bidder. In determining the minimum price, the assessor shall take into account the expense of making the levy and sale.

(1) The assessor may by rule prescribe the manner and other conditions of the sale of property seized by levy or purchased by the sale.

(2) If payment in full is required at the time of acceptance of a bid and is not paid at that time, the assessor shall forthwith proceed to again sell the property in the manner provided in this subsection. If the conditions of the sale permit part of the payment to be deferred, and if a deferred part is not paid within the prescribed period:

(a) Suit may be instituted against the purchaser for the purchase price or the part of the price that has not been paid, together with interest from the date of the sale; or

(b) In the discretion of the assessor, the sale may be declared by the assessor to be void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this subsection. In the event of a readvertisement and sale, any new purchaser receives the property, or rights to the property, free and clear of any claim or right to the former defaulting purchaser, of any nature whatsoever, and the amount paid on the bid price by the defaulting purchaser is forfeited.

(3) Only the right, title and interest of the delinquent taxpayer in and to the property seized may be offered for sale, and the interest must be offered subject to any prior outstanding mortgage, encumbrances, or other liens in favor of 3rd parties that are valid as against the delinquent taxpayer and are superior to the lien of the State. All seized properties must be offered for sale "as is" and "where is" and without recourse against the State. No guarantee or warranty, express or implied, may be made by the officer offering the property for sale, as to the validity of title, quality, quantity, weight, size or condition of any of the property or its fitness for any use or purpose. No claim may be considered for allowance or adjustment or for recision of the sale based upon failure of the property to conform with any representation, express or implied. [1989, c. 880, Pt. E, §3 (NEW).]

[2011, c. 380, Pt. J, §§14, 15 (AMD) .]

7. **Disposition of hard to keep property; notice to owner; public sale.** If the assessor determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense, the assessor shall appraise the value of the property and, if the owner of the property can be readily found, shall give the owner notice of determination of the appraised value of the property. The property must be returned to the owner if within such time as may be specified in the notice the owner either pays to the assessor an amount equal to the appraised value, or gives bond in such form with such sureties, and in such amount as the assessor prescribes, to pay the appraised amount at such time as the assessor determines to be appropriate in the circumstances.

If the owner does not pay the amount or furnish bond in accordance with this section, the assessor shall, as soon as practicable, make public sale of the property in accordance with any rules prescribed by the assessor.

[1989, c. 880, Pt. E, §3 (NEW) .]

8. **Junior encumbrances; priority of encumbrances.** Priority of encumbrances is governed by this subsection.

A. A deed to real property executed pursuant to subsection 11 discharges the property from all liens and encumbrances over which the levy had priority. [1989, c. 880, Pt. E, §3 (NEW).]

B. The filing of the notice of levy provided in subsection 6, paragraph A perfects the lien of the State created under subsection 1, paragraph B with respect to the types of property covered by such a filing under subsection 6, paragraph A. A levy and lien not covered by the filing provisions of subsection 6, paragraph A is perfected by possession by the assessor or by demand upon a 3rd party holding the property under subsection 3, paragraphs A or B, whichever occurs first. The priority of the lien perfected by a filing under subsection 6, paragraph A is determined pursuant to section 175-A as if the notice of

levy had been filed as a notice of lien. The lien of any other levy has priority over any interest that is perfected after the lien of the State is perfected by possession or demand. [1989, c. 880, Pt. E, §3 (NEW).]

[1989, c. 880, Pt. E, §3 (NEW) .]

9. **Redemption of property.** A right of redemption exists according to this subsection.

A. Any person whose property has been levied upon and any person having a valid lien upon such property has the right to pay the amount due, together with the expenses of the proceeding, if any, to the assessor at any time prior to the sale of the property. Upon payment, the assessor shall restore the property to the taxpayer, and all further proceedings in connection with the levy must cease from the time of that payment. [1989, c. 880, Pt. E, §3 (NEW).]

B. The owners of any property sold as provided in subsection 6, their heirs, executors or administrators, or any person having any interest in or lien on the sold property, or any person in their behalf, are permitted to redeem the property sold at any time within 90 days after the sale of the property. The property may be redeemed upon payment to the assessor, for the use of the purchaser, or the heirs or assigns of the purchaser, of the amount paid by the purchaser and interest on that amount at the rate of interest established pursuant to section 186, together with the expenses of the proceeding. [1993, c. 395, §4 (AMD).]

[1993, c. 395, §4 (AMD) .]

10. **Certificates of sale; execution of deeds.** The assessor shall give the purchaser of property, sold as provided in subsection 6, a certificate of sale upon payment in full of the purchase price. In the case of real property, the certificate must set forth the real property purchased, for whose taxes the property was sold, the name of the purchaser and the price paid for the property.

A. In the case of any real property sold as provided in subsection 6 and not redeemed in the manner and within the time provided in subsection 9, the assessor shall execute to the purchaser of the real property, upon surrender of the certificate of sale by the purchaser, a deed of the real property stating the facts set forth in the certificate. [1989, c. 880, Pt. E, §3 (NEW).]

B. If real property is declared purchased by the State at a sale pursuant to subsection 6, the assessor shall, at the proper time, execute a deed for the property, and without delay cause the deed to be duly recorded in the proper registry of deeds. [1989, c. 880, Pt. E, §3 (NEW).]

[1989, c. 880, Pt. E, §3 (NEW) .]

11. **Effect of certificates of sale and deeds.** Certificates of sale and deeds have the following effects.

A. In cases of sale of property, other than real property, pursuant to subsections 6 and 7, the certificate of sale:

(1) Is prima facie evidence of the right of the assessor to make the sale and conclusive evidence of the regularity of proceedings in making the sale;

(2) Transfers to the purchaser of all right, title and interest of the delinquent party in and to the property sold subject to the applicable redemption period and subject to all senior liens determined under subsection 8, paragraph B. In the case of personal property, the assessor shall provide a final validation stamp following the expiration of the redemption period if the property is not redeemed;

(3) If the property consists of stocks, constitutes notice, when received, to any corporation, company or association of the transfer, and gives authority to the corporation, company or association to record the transfer in the same manner as if the stocks were transferred or assigned by the party holding them in lieu of any original or prior certificate, which is void, whether or not the certificate is canceled;

(4) If the subject of sale is securities or other evidences of debt, constitutes a valid receipt to the person holding the securities or evidences of debt, against any person holding or claiming to hold possession of the securities or other evidences of debt; and

(5) If the property consists of a motor vehicle, constitutes notice, when received, to the Secretary of State, or to any public official charged with the registration of title to motor vehicles in any other state, of the transfer and gives authority to the Secretary of State or other official to record the transfer in the same manner as if the certificate of title to the motor vehicle were transferred or assigned by the party holding the certificate in lieu of any original or prior certificate, which is void, whether or not the certificate is canceled. [1989, c. 880, Pt. E, §3 (NEW).]

B. In the case of the sale of real property pursuant to subsection 6, the deed of sale given pursuant to subsection 10, paragraph A, is prima facie evidence of the facts stated in the deed. If the proceedings of the assessor are substantially in accordance with the law, the deed operates as a conveyance of all the right, title and interest the delinquent party had in the real property sold at the time the lien of the State attached to the property, subject to all senior liens determined under subsection 8, paragraph B. [1989, c. 880, Pt. E, §3 (NEW).]

C. A certificate of sale of personal property given or a deed to real property executed pursuant to this section discharges the property from all liens, encumbrances and title over which the lien of the State, with respect to which the levy was made, had priority. [1989, c. 880, Pt. E, §3 (NEW).]

[1989, c. 880, Pt. E, §3 (NEW) .]

12. **Records of sales and redemption of real property.** The assessor shall keep records of all sales of property under subsections 6 and 7 and of all redemptions of that property. Each record must include the tax for which the sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making the sale, the amount of expenses, the names of the purchasers and the date of the deed. A copy of a record, or any part of a record, certified by the assessor is evidence in any court of the truth of the facts stated in that record.

[1989, c. 880, Pt. E, §3 (NEW) .]

13. **Expenses of levy and sale.** The assessor shall determine the expenses to be allowed in all cases of levy and sale. The assessor may pay the expenses from the revenue account intended to benefit by the receipts of the levy.

[1989, c. 880, Pt. E, §3 (NEW) .]

14. **Disposition of money realized under this section.** Any money realized by proceedings under this section by seizure, surrender under subsection 3, except pursuant to subsection 3, paragraph C, subparagraph (2), or sale of seized property, or by sale of property redeemed by the State must be applied in the following order of priority:

A. Against the expenses of the proceedings under this section; [1989, c. 880, Pt. E, §3 (NEW).]

B. The amount, if any, remaining after payment of senior claims and expenses is then applied against the liability for which the levy was made or the sale was conducted; and [1989, c. 880, Pt. E, §3 (NEW).]

C. Upon application and satisfactory proof in support of the application, credited or refunded by the assessor to the person or persons legally entitled to any remaining surplus proceeds. [1989, c. 880, Pt. E, §3 (NEW).]

[1989, c. 880, Pt. E, §3 (NEW) .]

15. **Actions permitted.** Any person, other than the taxpayer whose delinquency occasioned the levy:

A. Who claims an interest in property that has wrongfully been levied upon may apply to the assessor for a stay of proceedings under this section at any time before the property has been sold but within 5 days after receiving notice of levy. An action for a stay is governed by Title 5, section 11004; or [2011, c. 380, Pt. J, §16 (AMD).]

B. Who claims pecuniary loss because property was wrongfully levied upon and sold, may bring a civil action against the assessor in the Superior Court. A recovery in such an action may not exceed the proceeds of the sale. [1989, c. 880, Pt. E, §3 (NEW).]

Except as provided in this subsection, a suit contesting or restraining the collection of taxes pursuant to this section may not be maintained in any court of this State by any person. Any award must be paid from the revenue account to which the money was originally credited.

[2011, c. 380, Pt. J, §16 (AMD) .]

16. **Time for collection of taxes.** Taxes imposed by this Title must be collected by levy within 10 years after the assessment of the tax becomes final or before the expiration of the period of collection agreed upon in writing by the assessor and the taxpayer. Other obligations owed to the State and authorized to be collected by the bureau must be collected by levy within 10 years from the time the obligation arises. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. A levy action ordered by the assessor before the expiration of the 10-year period continues beyond the expiration of the 10-year period for a period of 6 months from the date the levy is first made or until the liability out of which the levy arose is satisfied or becomes unenforceable, whichever occurs first. The running of the 10-year period is stayed during the time that a consensual payment plan between the taxpayer and the assessor is in effect. When a taxpayer files for protection under the United States Bankruptcy Code, the assessor's right to collect the tax due by levy continues until 6 years after the date of discharge or dismissal of the bankruptcy proceeding or until 10 years after the assessment of the tax becomes final, whichever occurs later.

[1997, c. 526, §13 (AMD) .]

SECTION HISTORY
1989, c. 880, §E3 (NEW). 1991, c. 846, §3 (AMD). 1995, c. 639, §3 (AMD). 1997, c. 526, §§11-13 (AMD). 1999, c. 699, §D27 (AMD). 1999, c. 699, §D30 (AFF). 2001, c. 396, §§6,7 (AMD). 2001, c. 583, §§5,6 (AMD). 2005, c. 218, §6 (AMD). 2009, c. 434, §§8-10 (AMD). 2011, c. 380, Pt. J, §§9-16 (AMD).

§176-B. ACCESS TO FINANCIAL RECORDS OF INDIVIDUALS WHO OWE MAINE TAXES

1. **Definitions.** For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Customer" means any person who has an account, including, but not limited to, a deposit, loan, mortgage or credit card account, with any financial institution and for which the financial institution is obligated to maintain records. [2009, c. 213, Pt. AAAA, §8 (NEW).]

B. "Financial institution" means a trust company, savings bank, industrial bank, commercial bank, savings and loan association or credit union organized under the laws of this State or otherwise authorized to do business in this State. [2009, c. 213, Pt. AAAA, §8 (NEW).]

C. "Match" means an automated comparison by name and social security number or federal employer identification number of a list of taxpayers provided to a financial institution by the bureau and a list of customers of any financial institution. [2009, c. 213, Pt. AAAA, §8 (NEW).]

[2009, c. 213, Pt. AAAA, §8 (NEW) .]

2. **Computer data match.** Upon written request from the State Tax Assessor to a financial institution in this State with the technological capacity to perform a match, the financial institution shall perform a match using the list of taxpayer social security numbers or federal employer identification numbers provided by the bureau. The bureau is responsible for making its computer data compatible with the data of the financial institution with which a match is sought. The bureau's data, at a minimum, must include the name and social security number or federal employer identification number of and, when known, the amount of taxes owed by each taxpayer. The bureau may not request a financial institution to perform a match under this section more often than once every calendar quarter.

[2009, c. 213, Pt. AAAA, §8 (NEW) .]

3. **Compilation of match list.** After completing a match requested by the bureau under subsection 2, a financial institution shall compile for the bureau a list of those customers whose social security numbers or federal employer identification numbers match the list of social security numbers or federal employer identification numbers of taxpayers provided by the bureau. The list must contain the following information, if available to the financial institution through its matching procedure, for each account identified:

A. The taxpayer's name; [2009, c. 213, Pt. AAAA, §8 (NEW).]

B. The taxpayer's social security number or federal employer identification number; [2009, c. 213, Pt. AAAA, §8 (NEW).]

C. The financial institution account number; and [2009, c. 213, Pt. AAAA, §8 (NEW).]

D. The account type, account balance and any known encumbrances. [2009, c. 213, Pt. AAAA, §8 (NEW).]

[2009, c. 213, Pt. AAAA, §8 (NEW) .]

4. **Notice to bureau.** A financial institution that has compiled a match list under subsection 3 shall send the list to the bureau at the address designated by the bureau.

[2009, c. 213, Pt. AAAA, §8 (NEW) .]

5. **Notice to customer.** The financial institution may not provide notice in any form to a customer contained in a match list submitted to the bureau under subsection 4. Notwithstanding any other provision of law, failure to provide notice to a customer does not constitute a violation of the financial institution's duty of good faith to its customers.

[2009, c. 213, Pt. AAAA, §8 (NEW) .]

6. **Reasonable fee.** To cover the costs of carrying out the requirements of this section, a financial institution may assess a reasonable fee to the bureau not to exceed the actual costs incurred by the financial institution.

[2009, c. 213, Pt. AAAA, §8 (NEW) .]

7. **Confidentiality.** The list of taxpayers under subsection 3, with their social security numbers or federal employer identification numbers and the amount of the tax debt provided by the bureau to a financial institution, is confidential. The information may be used only for the purpose of carrying out the requirements of this section. Any person who willfully violates this subsection commits a Class E crime.

[2009, c. 213, Pt. AAAA, §8 (NEW) .]

8. **Immunity from liability; hold harmless.** A financial institution is immune from any liability for its good faith actions to comply with this section. The bureau shall defend and hold harmless, including compensation for attorney's fees, a financial institution that acts in good faith to carry out the requirements of this section.

[2009, c. 213, Pt. AAAA, §8 (NEW) .]

SECTION HISTORY
2009, c. 213, Pt. AAAA, §8 (NEW).

§177. TRUST FUND STATUS OF CERTAIN COLLECTIONS

1. **Generally.** All sales and use taxes collected by a person pursuant to Part 3, all taxes collected by a person under color of Part 3 that have not been properly returned or credited to the persons from whom they were collected, all taxes collected by or imposed on a person pursuant to chapter 451 or 459, all fees collected pursuant to chapter 719 and all taxes collected by a person pursuant to chapter 827 constitute a special fund in trust for the State Tax Assessor. The liability for the taxes or fees and the interest or penalty on taxes or fees is enforceable by assessment and collection, in the manner prescribed in this Part, against the person and against any officer, director, member, agent or employee of that person who, in that capacity, is responsible for the control or management of the funds or finances of that person or is responsible for the payment of that person's taxes. An assessment against a responsible individual pursuant to this section must be made within 6 years from the date on which the return on which the taxes were required to be reported was filed. An assessment pursuant to this section may be made at any time with respect to a time period for which a return has become due but has not been filed.

[1999, c. 708, §9 (AMD) .]

2. **Responsible individual.** Each person required to collect taxes that are designated by subsection 1 as trust funds shall inform the State Tax Assessor, at the time an audit of that person's trust fund obligation is performed by the assessor, of the name and position of the individual who generally is responsible for the control or management of that person's funds or finances and, if different, the individual who is specifically responsible for the collection and paying over of those trust funds.

[1999, c. 414, §8 (AMD) .]

3. **Notice to segregate.** Whenever the State Tax Assessor finds that the payment of the trust funds established under subsection 1 will be jeopardized by delay, neglect or misappropriation or whenever any person fails to make payment of taxes or file returns as required by Part 3, or by chapter 451, 459 or 827, the assessor may direct that person to segregate the trust funds from and not to commingle them with any other funds or assets of that person. All taxes that are collected after receipt of the notice of the segregation requirement must be paid on account to the assessor until the taxes are due. The assessor shall establish in the segregation notice the manner in which the taxes are to be paid. The segregation requirement remains in effect until a notice of cancellation is given by the assessor.

[2007, c. 438, §8 (AMD) .]

4. **Revocation for nonsegregation.** If any person who is a retailer under Part 3 or a fuel supplier, retailer, distributor or importer subject to Part 5 fails to make the required payments on account to the State Tax Assessor, the assessor may revoke any registration certificate that has been issued to that person. The revocation is reviewable in accordance with section 151.

[2003, c. 705, §2 (AMD) .]

5. **Stay of running of period of limitation.** The running of the period of limitation for assessment of trust fund taxes against a responsible officer, director, member, agent or employee of a person that has collected those taxes is stayed for the period of time, plus 120 days, during which an assessment against that person is subject to administrative or judicial review.

[1999, c. 414, §8 (AMD) .]

6. **Sale or cessation of business; purchaser liable for tax.** If a person liable for any trust fund taxes incurred in the course of operating a business sells the business or stock of goods or quits the business, the person shall make a final return and payment within 15 days after the date of selling or quitting the business. The successor, successors or assignees, if any, shall withhold a sufficient amount of the purchase money to cover the amount of those taxes, along with applicable interest and penalties, until such time as the former owner produces a receipt from the State Tax Assessor showing that the taxes have been paid, or a certificate from the assessor stating that no trust fund taxes, interest or penalties are due. The liability of a purchaser is limited to the amount of the purchase price. A purchaser who fails to withhold a sufficient amount of the purchase price is jointly and severally liable for the payment of the taxes, penalties and interest accrued and unpaid on account of the operation of the business by the former owner, owners or assignors and the assessor may make an assessment against the purchaser at any time within 6 years from the date of the sale, transfer or assignment.

[2001, c. 583, §7 (AMD) .]

SECTION HISTORY
1985, c. 691, §5 (NEW). 1987, c. 497, §§4-6 (AMD). 1987, c. 772, §§4,5 (AMD). 1991, c. 546, §1 (AMD). 1991, c. 846, §§4,5 (AMD). 1991, c. 846, §39 (AFF). 1995, c. 639, §4 (AMD). 1999, c. 414, §8 (AMD). 1999, c. 708, §9 (AMD). 1999, c. 790, §A41 (AMD). 2001, c. 583, §7 (AMD). 2003, c. 705, §2 (AMD). 2007, c. 438, §8 (AMD).

§178. PRIORITY OF TAX

Whenever the estate of a deceased person liable for any tax is insufficient to pay all the debts owed by the decedent or whenever the estate and effects of an absconding, concealed or absent person liable for any tax are levied upon by process of law, the tax, together with interest attaching thereto, must be first settled. This section may not be construed to give the State a preference over any recorded lien that attached prior to the date when the tax became due. [2005, c. 218, §7 (NEW).]

SECTION HISTORY
2005, c. 218, §7 (NEW).

§182. INJUNCTIONS

1. **Generally.** The State Tax Assessor may, through the Attorney General, file an action in Superior Court applying for an order to enjoin from doing business any person who has:

A. Failed to register with the assessor when the person is required to register by any provision of Part 3, chapter 358 or Part 5 or by any rule adopted pursuant to this Title, as long as the assessor has provided written notice and the person continues to fail to register 15 days after receiving notice from the assessor of such failure; [2007, c. 437, §2 (AMD).]

B. Failed to file with the assessor any overdue return required by Part 3, chapter 358 or Part 5 within 15 days after receiving notice from the assessor of such failure; [2007, c. 437, §2 (AMD).]

C. Failed to pay any tax required by Part 3, chapter 358 or Part 5 when the tax is shown to be due on a return filed by that person, or that is otherwise conceded by that person to be due, or has been determined by the assessor to be due and that determination has become final; [2007, c. 437, §2 (AMD).]

D. Knowingly filed a false return required by Part 3, chapter 358 or Part 5; or [2007, c. 437, §2 (AMD).]

E. Failed to deduct and withhold, or truthfully account for or pay over or make returns of, income taxes in violation of the provisions of chapter 827. [2001, c. 583, §8 (NEW).]

[2007, c. 437, §2 (AMD) .]

2. **Payroll processors.**

[2003, c. 668, §12 (AFF); 2003, c. 668, §8 (RP) .]

3. **Venue; form and content of complaint.** The complaint may be filed in the Superior Court in any county where the defendant has a regular place of business or in Kennebec County if the defendant has no regular place of business. The complaint must set forth the name and the address of the defendant as stated in the defendant's last return filed with the assessor or, if no such return was filed, the defendant's last known address; the breach of the law or rule committed by the defendant; and the assessor's prayer for relief. The complaint need not be verified.

[2001, c. 583, §8 (NEW) .]

4. **Procedure.** The Superior Court shall fix a time and place for hearing and cause notice of the time and place of the hearing to be given to the defendant. The defendant shall serve upon the assessor a copy of any answer to the complaint at least 3 days before the day of the hearing. The Superior Court may enter and change such orders and decrees from time to time as the nature of the case may require and, if necessary, may appoint a receiver.

[2001, c. 583, §8 (NEW) .]

5. **Other remedies no defense.** The existence of other civil or criminal remedies is not a defense to a proceeding brought pursuant to this section.

[2001, c. 583, §8 (NEW) .]

SECTION HISTORY
2001, c. 583, §8 (NEW). 2003, c. 668, §8 (AMD). 2003, c. 668, §12 (AFF). 2007, c. 437, §2 (AMD).

§183. CRIMINAL OFFENSES; STATUTE OF LIMITATIONS

Notwithstanding Title 17-A, section 8, prosecution of any crime defined in this Title must be commenced within 6 years after it has been committed. [1987, c. 772, §6 (NEW).]

SECTION HISTORY
1987, c. 772, §6 (NEW).

§183-A. SUBSEQUENT OFFENSES

1. **Prior conviction; Class D crimes.** A person who commits a Class D crime under this Title who has a prior conviction for a Class B, Class C or Class D crime under this Title commits a Class C crime.

[2009, c. 361, §6 (NEW) .]

2. **Prior conviction; Class C crimes.** A person who commits a Class C crime under this Title who has a prior conviction for a Class B, Class C or Class D crime under this Title commits a Class B crime.

[2009, c. 361, §6 (NEW) .]

3. **Allegation of prior conviction when sentence enhanced.** Title 17-A, section 9-A governs the use of prior convictions when determining a sentence under this section.

[2009, c. 361, §6 (NEW) .]

SECTION HISTORY
2009, c. 361, §6 (NEW).

§184. CRIMINAL OFFENSES

1. **Failure to collect, account for or pay over tax.** A person who is required under this Title to collect, truthfully account for and pay over any tax imposed by this Title and who intentionally fails to collect or truthfully account for or pay over that tax at the time required by law or rule, in addition to any other penalties provided by law, commits a Class D crime.

[2003, c. 452, Pt. U, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

2. **Subsequent offense.**

[2009, c. 361, §7 (RP) .]

3. **"Person" defined.** For purposes of this section, the word "person" includes, in addition to its defined meaning in section 111, subsection 3, an officer, director, member, agent or employee of another person who, in that capacity, is responsible for the control or management of the funds and finances of that person or is responsible for either the collection or payment of that retailer's taxes.

[2003, c. 452, Pt. U, §1 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY
1985, c. 691, §6 (NEW). 1989, c. 880, §D1 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 452, §U1 (RPR). 2009, c. 361, §7 (AMD).

§184-A. INTENTIONAL EVASION OF TAX

1. **Tax amount of $2,000 or less.** A person who intentionally attempts in any manner to evade or defeat any tax in an amount of $2,000 or less imposed by this Title or the payment of the assessed tax, in addition to any other penalties provided by law, commits a Class D crime.

[2003, c. 452, Pt. U, §2 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

1-A. **Tax amount of $2000 or less, subsequent offense.**

[2009, c. 361, §8 (RP) .]

2. **Tax amount over $2,000.** A person who intentionally attempts in any manner to evade or defeat any tax in an amount over $2,000 imposed by this Title or the payment of the assessed tax, in addition to any other penalties provided by law, commits a Class C crime.

[2003, c. 452, Pt. U, §2 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

2-A. **Tax amount over $2,000, subsequent offense.**

[2009, c. 361, §9 (RP) .]

3. **Date of prior conviction.**

[2003, c. 452, Pt. U, §2 (RP); 2003, c. 452, Pt. X, §2 (AFF) .]

SECTION HISTORY
1997, c. 504, §3 (NEW). 2003, c. 452, §U2 (AMD). 2003, c. 452, §X2 (AFF). 2009, c. 361, §§8, 9 (AMD).

§185. SET-OFF

1. **Obligation owed to taxpayer.** The State or a department, agency or official acting in an official capacity may assign to the State Tax Assessor, in payment of any liquidated tax liability of a taxpayer under this Title, an obligation owed to that taxpayer by the State or that department, agency or official.

[2005, c. 12, Pt. NNNN, §1 (NEW) .]

2. **Liquidated tax liability.** Payments to a person pursuant to a contract with agencies and departments of the legislative, executive and judicial branches of State Government are automatically assigned to the State Tax Assessor if that person has a liquidated tax liability to the State under this Title, but only to the extent of the liquidated tax liability.

[2005, c. 12, Pt. NNNN, §1 (NEW) .]

3. **Setoff of lottery winnings against debts.** The State Tax Assessor shall periodically notify the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, referred to in this subsection as "the bureau," of all persons who have a liquidated tax liability to the State under this Title. Prior to paying any lottery winnings that must be paid directly by the bureau, the bureau shall determine whether the lottery winner is on the list of persons who have a liquidated tax liability to the State under this Title. If the winner is on the list of persons who have a liquidated tax liability to the State under this Title, the bureau shall suspend payment of the winnings and provide notice to the winner of its intention to set off the winnings against the tax debt. The bureau may assign the winnings due to the winner to the State Tax Assessor in payment of any liquidated tax liability of the winner under this Title. Any remaining winnings must be paid to the winner by the bureau.

[2007, c. 539, Pt. M, §1 (NEW) .]

4. **Restitution.** For purposes of this section, "liquidated tax liability" includes monetary restitution ordered to be paid to the bureau as part of a sentence imposed for a violation of this Title or Title 17-A.

[2009, c. 361, §10 (NEW) .]

SECTION HISTORY
1981, c. 364, §13 (NEW). 2005, c. 12, §NNNN1 (RPR). 2007, c. 539, Pt. M, §1 (AMD). 2009, c. 361, §10 (AMD).

§186. INTEREST

A person who fails to pay any tax, other than a tax imposed pursuant to chapter 105, on or before the last date prescribed for payment is liable for interest on the tax, calculated from that date and compounded monthly. The rate of interest for any calendar year equals the highest prime rate as published in the Wall Street Journal on the first day of September of the preceding calendar year or, if the first day of September

falls on a weekend or holiday, on the next succeeding business day, rounded up to the next whole percent plus 3 percentage points. For purposes of this section, the last date prescribed for payment of tax must be determined without regard to any extension of time permitted for filing a return. A tax that is upheld on administrative or judicial review bears interest from the date on which payment would have been due in the absence of review. Any amount that has been erroneously refunded and is recoverable by the assessor bears interest at the rate determined pursuant to this section from the date of payment of the refund. A credit or reimbursement that has been allowed or paid pursuant to this Title and is recoverable by the assessor bears interest at the rate determined pursuant to this section from the date it was allowed or paid. Interest accrues automatically, without being assessed by the assessor, and is recoverable by the assessor in the same manner as if it were a tax assessed under this Title. If the failure to pay a tax when required is explained to the satisfaction of the assessor, the assessor may abate or waive the payment of all or any part of that interest. [2009, c. 625, §3 (AMD).]

Except as otherwise provided in this Title, and except for taxes imposed pursuant to chapter 105, interest at the rate determined pursuant to this section must be paid on overpayments of tax from the date the return listing the overpayment was filed or the date payment was made, whichever is later. [2009, c. 625, §3 (AMD).]

SECTION HISTORY
1977, c. 679, §1 (NEW). 1981, c. 22, §§1,2 (AMD). 1981, c. 180, §1 (AMD). 1981, c. 364, §14 (AMD). 1981, c. 706, §§3,4 (AMD). 1985, c. 333, §§1,3 (AMD). 1987, c. 772, §7 (AMD). 1989, c. 502, §§A164,A165 (AMD). 1991, c. 846, §6 (AMD). 1997, c. 668, §13 (AMD). 1999, c. 414, §9 (AMD). 2001, c. 583, §9 (AMD). 2001, c. 583, §24 (AFF). 2003, c. 673, §KK1 (AMD). 2003, c. 673, §KK3 (AFF). 2009, c. 625, §3 (AMD).

§186-A. ADDITIONAL INTEREST

Notwithstanding section 186, for the period from July 1, 2004 to December 31, 2004, the interest rate calculated pursuant to section 186 for calendar year 2004 is increased by one percentage point. [2003, c. 673, Pt. KK, §2 (NEW); 2003, c. 673, Pt. KK, §3 (AFF).]

SECTION HISTORY
2003, c. 673, §KK2 (NEW). 2003, c. 673, §KK3 (AFF).

§187. PENALTIES

(REPEALED)

SECTION HISTORY
1977, c. 679, §1 (NEW). 1981, c. 364, §§15,16 (AMD). 1985, c. 691, §7 (AMD). 1991, c. 546, §§2-6 (AMD). 1991, c. 873, §8 (AFF). 1991, c. 873, §4 (RP).

§187-A. PREPARER PENALTY

If any part of any understatement of liability with respect to any return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who prepares those returns or claims for compensation, or whose employees do so, that person shall pay a penalty of $500 with respect to each return or claim. [1987, c. 772, §8 (NEW).]

SECTION HISTORY
1987, c. 772, §8 (NEW).

§187-B. PENALTIES

1. **Failure to file return.** A person who fails to make and file any return required under this Title at or before the time the return becomes due is liable for one of the following penalties if the person's tax liability shown on that return or otherwise determined to be due is greater than $25.

A. If the return is filed before or within 60 days after the taxpayer receives from the assessor a formal demand that the return be filed, or if the return is not filed but the tax due is assessed by the assessor before the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is $25 or 10% of the tax due, whichever is greater. [2011, c. 644, §2 (AMD); 2011, c. 644, §33 (AFF).]

B. If the return is not filed within 60 days after the taxpayer receives from the assessor a formal demand that the return be filed, the penalty is $25 or 25% of the tax due, whichever is greater. The period provided by this paragraph must be extended for up to 90 days if the taxpayer requests an extension in writing prior to the expiration of the original 60-day period. [2011, c. 644, §3 (AMD); 2011, c. 644, §33 (AFF).]

C. If the return is not filed and the assessor makes a determination of jeopardy pursuant to section 145, the penalty is 25% of the tax due. [2011, c. 380, Pt. K, §1 (AMD); 2011, c. 380, Pt. K, §2 (AFF).]

This subsection does not apply to a return required pursuant to chapter 459 that is administered pursuant to the International Fuel Tax Agreement.

[2011, c. 644, §§2, 3 (AMD); 2011, c. 644, §33 (AFF) .]

1-A. **Failure to file information return.**

[2013, c. 424, Pt. A, §22 (RP) .]

2. **Failure to pay.** The following penalties apply.

A. Any person who fails to pay, on or before the due date, any amount shown as tax on any return required under this Title is liable for a penalty of 1% of the unpaid tax for each month or fraction of a month during which the failure continues, to a maximum in the aggregate of 25% of the unpaid tax. [1999, c. 708, §10 (AMD).]

A-1. Any person who fails to make and file any return required under this Title at or before the time the return becomes due against whom the assessor has made an assessment of tax pursuant to section 141 and who has not paid the tax on or before the date specified in that assessment is liable for a penalty of 1% of the unpaid tax for each month or fraction of a month during which the tax remains unpaid, calculated retroactively from the original due date of the unfiled return, to a maximum in the aggregate of 25% of the unpaid tax. [1999, c. 708, §11 (NEW).]

B. Any person who fails to pay a tax assessment for which no further administrative or judicial review is available pursuant to section 151 and the Maine Administrative Procedure Act is liable for a penalty in the amount of 25% of the amount of the tax due if the payment of the tax is not made within 10 days of the person's receipt of notice of demand for payment as provided by this Title. This penalty must be explained in the notice of demand and is final when levied. [1995, c. 281, §8 (AMD).]

This subsection does not apply to taxes due pursuant to chapter 459 and administered pursuant to the terms of the International Fuel Tax Agreement.

[2001, c. 396, §9 (AMD) .]

3. **Negligence; fraud.**

[1991, c. 873, §5 (NEW); 1991, c. 873, §9 (AFF); T. 36, §187-B, sub-§3 (RP) .]

3-A. **Negligence; fraud.** A person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to negligence or intentional disregard of this Title or rules adopted pursuant to this Title, but is not attributable to fraud with intent to evade the tax, is liable for a penalty in the amount of $25 or 25% of that portion of the underpayment, whichever is greater. A person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to fraud with intent to evade the tax, is liable for a penalty in the amount of $75 or 75% of that portion of the underpayment, whichever is greater. For the purposes of this section, "negligence" means any failure to make a reasonable attempt to comply with the provisions of this Title.

[2007, c. 627, §7 (AMD) .]

4. **Substantial understatement.**

[1991, c. 873, §5 (NEW); 1991, c. 873, §9 (AFF); T. 36, §187-B, sub-§4 (RP) .]

4-A. **Substantial understatement.** A person who files a return under this Title that results in an underpayment of tax, any portion of which is attributable to a substantial understatement of tax, without negligence or intentional disregard of this Title or rules adopted pursuant to this Title and without fraud with intent to evade the tax, is liable for a penalty of $5 or 1% of that portion of the underpayment, whichever is greater, for each month or fraction of a month during which the failure to pay that portion of the underpayment continues, up to a maximum in the aggregate of $25 or 25% of the underpayment, whichever is greater.

There is a substantial understatement of tax if the amount of the understatement on the return or returns for the period covered by the assessment exceeds 10% of the total tax required to be shown on the return or returns for that period or $1,000, whichever is greater. For purposes of determining whether an understatement is substantial and calculating the amount of a substantial understatement that is subject to penalty under this subsection, the amount of an understatement is reduced by that portion of the understatement that is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for that treatment.

[2007, c. 627, §8 (AMD) .]

4-B. **Excessive refund.** A person who files a claim for refund or reimbursement under Part 5 that is the basis for the receipt of a refund or reimbursement that substantially exceeds the amount to which the person is legally entitled is liable for a penalty of $5 or 1% of the excess amount, whichever is greater, for each month or fraction of a month during which the failure to repay that portion of the refund or reimbursement continues, to a maximum in the aggregate of $25 or 25% of the overpayment, whichever is greater. For purposes of this subsection, a refund or reimbursement substantially exceeds the amount to which the person is legally entitled if the amount of the refund or reimbursement exceeds the amount to which the person is legally entitled by more than 10% of the corrected amount or $1,000, whichever is greater. For purposes of this subsection, the amount by which a refund or reimbursement exceeds the amount to which the person is legally entitled and the excess amount that is subject to penalty under this subsection must be reduced by any portion of the excessive claim for which the person has substantial authority supporting its position.

[2007, c. 437, §4 (NEW) .]

5. **Insufficient funds.** Any person who makes payment of an amount due under this Title by means of a check or electronic funds transfer that is returned unpaid by the bank on which it is drawn because of insufficient funds or the closing or nonexistence of the account on which it is drawn is liable for a penalty of $20 or 1% of the payment amount, whichever is greater.

[1999, c. 708, §12 (AMD) .]

5-A. **Electronic funds transfers.** Any person required by the assessor to remit taxes by electronic funds transfer that fails to remit electronically is liable for a penalty of the lesser of 5% of the tax due or $5,000. For purposes of this section, a person fails to remit electronically when:

A. Two or more required payments in any consecutive 6-month period are either not made or are made by the person by means other than electronic funds transfer and the person has been notified in writing by the assessor of that person's noncompliance and of the fact that the penalty imposed by this section may be imposed; or [1997, c. 668, §15 (NEW).]

B. The person makes 2 or more required electronic payments in any consecutive 6-month period that do not comply with the specifications set forth in a rule issued by the assessor pursuant to section 193. [1999, c. 414, §10 (AMD).]

[1999, c. 414, §10 (AMD) .]

5-B. **Electronic data submission.** Any person required by the State Tax Assessor to file returns by electronic data submission that fails to file electronically is liable for a penalty of $50. For purposes of this subsection, a person fails to file electronically when:

A. Two or more required returns in any consecutive 6-month period either are not filed or are filed by the person by means other than electronic data submission and the person has been notified in writing by the State Tax Assessor of that person's noncompliance and of the fact that the penalty authorized by this subsection may be imposed; or [2005, c. 332, §4 (NEW); 2005, c. 332, §30 (AFF).]

B. The person files 2 or more required electronic returns in any consecutive 6-month period that do not comply with the specifications set forth in rules adopted by the State Tax Assessor pursuant to section 193. [2005, c. 332, §4 (NEW); 2005, c. 332, §30 (AFF).]

[2005, c. 332, §4 (NEW); 2005, c. 332, §30 (AFF) .]

6. **Penalties not exclusive.** Each penalty provided under this section is in addition to any interest and other penalties provided under this section and other law, except as otherwise provided in this section. Interest may not accrue on the penalty. This section does not apply to any filing or payment responsibility pursuant to Part 2 except that this section does apply to a filing or payment responsibility pursuant to the state telecommunications excise tax imposed under section 457. The penalties imposed under subsections 1 and 2 accrue automatically, without being assessed by the State Tax Assessor. Each penalty imposed under this section is recoverable by the assessor in the same manner as if it were a tax assessed under this Title.

[2013, c. 331, Pt. C, §7 (AMD) .]

7. **Reasonable cause.** The assessor shall waive or abate or, in the case of those penalties that do not accrue automatically under subsection 6, refrain from imposing any penalty imposed by subsection 1, 2, 4-A, 4-B, 5-A or 5-B or by the terms of the International Fuel Tax Agreement if grounds constituting reasonable cause are established by the taxpayer or if the assessor determines that grounds constituting reasonable cause are otherwise apparent. Reasonable cause includes, but is not limited to, the following circumstances:

A. The failure to file or pay resulted directly from erroneous information provided by the Bureau of Revenue Services; [1991, c. 873, §5 (NEW); 1991, c. 873, §8, 9 (AFF); 1997, c. 526, §14 (AMD).]

B. The failure to file or pay resulted directly from the death or serious illness of the taxpayer or a member of the taxpayer's immediate family; [1991, c. 873, §5 (NEW); 1991, c. 873, §8, 9 (AFF).]

C. The failure to file or pay resulted directly from a natural disaster; [1991, c. 873, §5 (NEW); 1991, c. 873, §8, 9 (AFF).]

D. A return that was due monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 12 months were timely; [1995, c. 281, §9 (AMD).]

E. A return that was due other than monthly was filed and paid less than one month late and all of the taxpayer's returns and payments during the preceding 3 years were timely; [1995, c. 281, §9 (AMD).]

F. The taxpayer has supplied substantial authority justifying the failure to file or pay; or [1991, c. 873, §5 (NEW); 1991, c. 873, §8, 9 (AFF).]

G. The amount subject to a penalty imposed by subsection 1, 2, 4-A or 5-A is de minimis when considered in relation to the amount otherwise properly paid, the reason for the failure to file or pay and the taxpayer's compliance history. [2011, c. 380, Pt. L, §1 (AMD).]

Absent a determination by the assessor that grounds constituting reasonable cause are otherwise apparent, the burden of establishing grounds for waiver or abatement is on the taxpayer.

[2011, c. 655, Pt. QQ, §3 (AMD); 2011, c. 655, Pt. QQ, §8 (AFF) .]

For purposes of this section, the term "person" includes an individual, corporation or partnership or any officer or employee of a corporation, including a dissolved corporation, or a member or employee of a partnership who, as the officer, employee or member, is under a duty to perform the act in respect of which a violation occurs. [1993, c. 395, §6 (AMD).]

SECTION HISTORY
1991, c. 873, §§6, 7 (AMD). 1991, c. 873, §§8, 9 (AFF). 1991, c. 873, §5 (NEW). 1993, c. 395, §6 (AMD). 1995, c. 281, §§8, 9 (AMD). 1995, c. 395, §K1 (AMD). 1995, c. 639, §5 (AMD). 1995, c. 657, §7 (AMD). 1995, c. 657, §10 (AFF). 1997, c. 526, §14 (AMD). 1997, c. 668, §§14-16 (AMD). 1999, c. 414, §10 (AMD). 1999, c. 521, §§A2, 3 (AMD). 1999, c. 708, §§10-13 (AMD). 2001, c. 396, §§8-10 (AMD). 2005, c. 332, §§4, 5 (AMD). 2005, c. 332, §30 (AFF). 2007, c. 437, §§3-5 (AMD). 2007, c. 437, §22 (AFF). 2007, c. 438, §9 (AMD). 2007, c. 627, §§6-8 (AMD). 2007, c. 693, §6 (AMD). 2011, c. 380, Pt. K, §1 (AMD). 2011, c. 380, Pt. K, §2 (AFF). 2011, c. 380, Pt. L, §1 (AMD). 2011, c. 644, §§2-4 (AMD). 2011, c. 644, §33 (AFF). 2011, c. 655, Pt. QQ, §§2, 3 (AMD). 2011, c. 655, Pt. QQ, §8 (AFF). 2013, c. 331, Pt. C, §7 (AMD). 2013, c. 424, Pt. A, §22 (AMD).

§188. REMEDIES NOT EXCLUSIVE

Each remedy provided in this Title is not exclusive and is in addition to all other remedies prescribed in this Title for the enforcement and collection of any tax imposed by this Title. [1981, c. 364, §17 (NEW).]

SECTION HISTORY
1981, c. 364, §17 (NEW).

§189. TAXES AS ADDITIONAL

Unless otherwise specifically provided, any tax imposed under this Title shall be in addition to all other taxes legally imposed upon the subject of the tax by any other law of the State now or hereafter in force. [1981, c. 364, §17 (NEW).]

SECTION HISTORY
1981, c. 364, §17 (NEW).

§190. EFFECT OF REPEAL

The repeal of an Act or resolve, or part thereof, imposing a tax or taxes shall have no effect upon the reporting, collecting or refunding of taxes accrued to the date of that repeal. The procedures relating to the reporting, collecting or refunding of taxes in effect at the date of the repeal shall remain in full force and effect until the liabilities incurred pursuant to the Act or resolve, or part thereof, are satisfied. [1981, c. 364, §17 (NEW).]

SECTION HISTORY
1981, c. 364, §17 (NEW).

§191. CONFIDENTIALITY OF TAX RECORDS

(CONFLICT)

1. **Basic prohibition.** It is unlawful for any public official or any employee or agent of the bureau to inspect willfully any return or examine information contained on any return, for any purpose other than the conduct of official duties. Except as otherwise provided by law, it is unlawful for any person who, pursuant to this Title, has been permitted to receive or view any portion of the original or a copy of any report, return or other information provided pursuant to this Title to divulge or make known in any manner any information set forth in any of those documents or obtained from examination or inspection under this Title of the premises or property of any taxpayer. This prohibition applies to both state tax information and federal tax information filed as part of a state tax return.

[1997, c. 668, §17 (AMD) .]

2. **Exemptions.** This section shall not be construed to prohibit:

A. The delivery to a taxpayer or his duly authorized representative of a certified copy of any return, report or other information filed by the taxpayer pursuant to this Title; [1977, c. 668, §2 (NEW).]

A-1. The disclosure to an authorized representative of the Maine Potato Board of information obtained by the assessor in the administration of chapter 710; [2013, c. 10, §1 (NEW).]

B. The publication of statistics so classified to prevent the identification of particular reports or returns and the items thereof; [1977, c. 668, §2 (NEW).]

C. The inspection by the Attorney General of information filed by any taxpayer who has requested review of any tax under this Title or against whom an action or proceeding for collection of tax has been instituted; or the production in court or to the board on behalf of the State Tax Assessor or any other party to an action or proceeding under this Title of so much and no more of the information as is pertinent to the action or proceeding; [2011, c. 694, §7 (AMD).]

D. The disclosure of information to duly authorized officers of the United States and of other states, districts and territories of the United States and of Canada and its provinces for use in administration and enforcement of this Title or of the tax laws of those jurisdictions. With respect to enforcement of the tax laws of other jurisdictions, the information may not be given to the duly authorized officer unless

the officer's government permits a substantially similar disclosure of information to the taxing officials of this State and provides for the confidentiality of information in a manner substantially similar to the manner provided in this section; [2009, c. 496, §6 (AMD).]

E. The provision of information, pursuant to a contract for administrative services, to a person retained on an independent contract basis or the authorized employees of that person or the provision of information to state employees outside the Bureau of Revenue Services for the purpose of acquiring assistance in the administration of this Title and the return to employees of the Bureau of Revenue Services of the information provided and additional information generated as a product of the administrative services provided; [1977, c. 668, §2 (NEW); 1997, c. 526, §14 (AMD).]

F. The transmission of information among employees of the Bureau of Revenue Services for the purposes of enforcing and administering the tax laws of this State and the delivery by a register of deeds to the State Tax Assessor or delivery by the State Tax Assessor to the appropriate municipal assessor or to the Maine Land Use Planning Commission or the Department of Health and Human Services of "declarations of value" in accordance with section 4641-D. The State Tax Assessor may require entities requesting information pursuant to this paragraph other than municipal assessors to provide resources sufficient to cover the cost of providing the forms; [2011, c. 655, Pt. I, §9 (AMD); 2011, c. 655, Pt. I, §11 (AFF); 2011, c. 682, §38 (REV).]

G. The disclosure to the Attorney General of information related to a person who is the subject of a criminal investigation or prosecution, and the subsequent disclosure of that information by the Attorney General to a district attorney, an assistant district attorney or a state, county or local law enforcement agency that is participating in the criminal investigation or prosecution of that person. A request from the Attorney General for information related to a person who is the subject of a criminal investigation or prosecution must be submitted to the State Tax Assessor in writing and must include:

(1) The name and address of the person to whom the requested information relates;

(2) The taxable period or periods to which the requested information relates;

(3) The statutory authority under which the criminal investigation or prosecution is being conducted; and

(4) The specific reason the requested information is, or may be, relevant to the criminal investigation or prosecution.

The Attorney General or a district attorney, assistant district attorney or law enforcement agency to which the Attorney General has disclosed tax information related to a person who is the subject of a criminal investigation or prosecution shall retain physical control of that information until the conclusion of the criminal investigation or prosecution for which the information was requested, after which the information must be returned immediately to the assessor; [2011, c. 240, §2 (AMD).]

H. The disclosure by the State Tax Assessor of the fact that a person is or is not registered under this Title or disclosure of both the fact that a registration under this Title has been revoked and the reasons for revocation; [1981, c. 698, §176 (RPR).]

I. The disclosure of information acquired pursuant to Part 2; [1985, c. 764, §3 (AMD).]

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; [1987, c. 19, §1 (AMD); 1987, c. 210, §1 (AMD).]

K. The disclosure by a municipal assessor, or by the State Tax Assessor with regard to the unorganized territory, of information contained on a declaration of value filed pursuant to section 4641-D or the Internet publication by the State Tax Assessor of information, other than taxpayer identification numbers, obtained from declarations of value filed pursuant to section 4641-D, except that, upon request by an individual who is certified by the Secretary of State as a participant in the Address Confidentiality Program pursuant to Title 5, section 90-B, the municipal assessor shall redact the name of that individual on the declaration of value form prior to disclosure; [2015, c. 313, §4 (AMD).]

L. The listing of gasoline distributors possessing a certificate under section 2904 and the number of taxable gallons sold by each gasoline distributor in this State each month; [2013, c. 25, §1 (AMD).]

M. The disclosure by employees of the Bureau of Revenue Services, in connection with their official duties relating to any examination, collection activity, civil or criminal tax investigation or any other offense under this Title, of return information to the limited extent that disclosure is necessary in obtaining information, which is not otherwise available, with respect to the correct determination of tax, liability for tax or the amount to be collected or with respect to the enforcement of this Title; [1987, c. 769, Pt. A, §147 (RPR); 1997, c. 526, §14 (AMD).]

N. The disclosure by the State Tax Assessor of computerized individual income tax data, without identification by taxpayer name, number or address, to a research agency of the Legislature; [1991, c. 820, §5 (AMD).]

O. The disclosure to an authorized representative of the Department of Health and Human Services of an individual's residence, employer, income and assets for child support enforcement purposes as required by the Social Security Act, 42 United States Code, Chapter 7, subchapter IV, Part D (1966), when a request containing the payor's social security number is made by the department; [2009, c. 434, §11 (AMD).]

P. The public disclosure by the State Tax Assessor of the name, last known business address and title of the professional license or certificate of any person whose license or certificate of authority to conduct a profession, trade or business in this State has not been renewed, reissued or otherwise extended by order of the assessor pursuant to section 175. This disclosure may be made only after no further administrative or judicial review of the order is available under section 151 or the Maine Administrative Procedure Act; [1995, c. 368, Pt. W, §6 (AMD); 1995, c. 419, §30 (AMD).]

Q. The listing of persons possessing certificates under section 3204 and the number of taxable gallons sold by each person possessing a certificate in this State each month; [2013, c. 25, §2 (AMD).]

R. The disclosure to the Department of Health and Human Services of information relating to the administration and collection of the taxes imposed by chapter 358, chapter 373, chapter 375 and chapter 377; [2005, c. 332, §6 (AMD).]

S. The disclosure to an authorized representative of the Department of Health and Human Services of the names and social security numbers of applicants for the Maine Residents Property Tax Relief Program for the purpose of identifying those who are not eligible for that program pursuant to section 6207, subsection 3. The Department of Health and Human Services may not disclose names or social security numbers to any person, agency or organization, other than the Bureau of Revenue Services, nor may those names and social security numbers be used for any purpose other than the purpose stated in this paragraph; [1995, c. 2, §89 (COR); 1997, c. 526, §14 (AMD); 2003, c. 689, Pt. B, §6 (REV).]

T. The disclosure to an authorized representative of the Department of Health and Human Services of information in the possession of the bureau identifying the location of an interest-bearing account in the name and social security number of a delinquent payor of child support as requested by the Department of Health and Human Services; [1995, c. 2, §90 (COR); 2003, c. 689, Pt. B, §6 (REV).]

U. The disclosure by employees of the Bureau of Revenue Services to designated representatives of the Secretary of State of information required by the Secretary of State for the administration of the special fuel tax imposed by chapter 459; [1997, c. 703, §2 (AMD).]

V. The disclosure by employees of the Bureau of Revenue Services, to designated representatives of the Department of Labor, of all information required by the State Tax Assessor and the Commissioner of Labor for the administration of the taxes imposed by Part 8 and by Title 26, chapter 13 and the

Competitive Skills Scholarship Fund contribution imposed by Title 26, section 1166 and of all information required by the Director of the Bureau of Labor Standards within the Department of Labor for the enforcement of Title 26, section 872; [2009, c. 637, §13 (AMD).]

W. The disclosure by the State Tax Assessor to the State Auditor when necessary to the performance of the State Auditor's official duties; [1999, c. 708, §14 (AMD).]

X. [2001, c. 691, §6 (AFF); 2001, c. 691, §3 (RP).]

Y. The disclosure by the State Tax Assessor, upon request in writing of any individual against whom an assessment has been made pursuant to section 177, subsection 1, of the following information:

(1) Information regarding the underlying tax liability to the extent necessary to apprise the individual of the basis of the assessment;

(2) The name of any other individual against whom an assessment has been made for the same underlying tax debt; and

(3) The general nature of any steps taken by the assessor to collect the underlying tax debt from any other individuals and the amount collected; [2003, c. 390, §2 (AMD).]

Z. The disclosure to the Treasurer of State when necessary for the performance of the Treasurer of State's official duties as administrator under Title 33, chapter 41 of the following information:

(1) The current mailing address for a taxpayer for purposes of returning unclaimed or abandoned property to the rightful owner or heir; and

(2) The names and mailing addresses of all Maine corporate income tax filers in an electronic medium prescribed by the State Tax Assessor; [2003, c. 390, §3 (AMD).]

AA. The disclosure by employees of the bureau to designated representatives of the Finance Authority of Maine necessary for the administration of section 6656, subsection 3 and section 6758, subsection 4 and of information required to ensure that recipients of certain benefits under Title 20-A, chapter 417-E are eligible to receive such benefits; [2013, c. 67, §1 (AMD).]

BB. The disclosure to an authorized representative of the Department of Health and Human Services, Office of Child Care and Head Start of taxpayer information directly relating to the certification of investments eligible for or the eligibility of a taxpayer for the quality child care investment credit provided by section 5219-Q; [2005, c. 683, Pt. A, §60 (RPR).]

CC. The disclosure to an authorized representative of the Department of Professional and Financial Regulation of information necessary for the administration of Title 10, chapter 222; [2005, c. 683, Pt. A, §61 (RPR).]

DD. The delivery of a certified copy of any return, report or other information provided or filed pursuant to this Title by a partnership, corporation, trust or estate or any report of any examination of a return filed by a partnership, corporation, trust or estate to any person:

(1) Who signed the return;

(2) Who is the personal representative or executor of the estate filing the return;

(3) Who was a member of the partnership filing the return during any part of the period covered by the return;

(4) Who is a trustee of the trust filing the return;

(5) Who was a shareholder during any part of the period covered by the return filed by an S corporation;

(6) Who is an officer, or a bona fide shareholder of record owning 1% or more of the outstanding stock, of the corporation filing the return;

(7) Who is the person authorized to act for the corporation if the corporation has been dissolved; or

(8) Who is the duly authorized representative of any of the persons described in subparagraphs (1) to (7).

The exception under this paragraph does not include the disclosure of confidential information of a particular partner, shareholder, beneficiary or trustee or other person receiving income from one of the entities described in subparagraphs (1) to (8) unless otherwise authorized; [2005, c. 332, §9 (NEW).]

DD. (REALLOCATED TO T. 36, §191, sub-§2, ¶HH) [2005, c. 1, §18 (RAL); 2005, c. 395, §3 (NEW).]

DD. (REALLOCATED TO T. 36, §191, sub-§2, ¶II) [2005, c. 1, §19 (RAL); 2005, c. 396, §7 (NEW).]

EE. The disclosure by the State Tax Assessor of the fact that a person has or has not been issued a certificate of exemption pursuant to section 1760, 2013 or 2557, a provisional resale certificate pursuant to section 1754-B, subsection 2-B or a resale certificate pursuant to section 1754-B, subsection 2-C; [2007, c. 438, §10 (AMD).]

FF. The disclosure to the Department of the Secretary of State, Bureau of Motor Vehicles of whether the person seeking registration of a vehicle has paid the tax imposed by Part 3 with respect to that vehicle; [2005, c. 683, Pt. A, §62 (AMD).]

GG. The disclosure to the Department of Inland Fisheries and Wildlife, Division of Licensing and Registration of whether the person seeking registration of a snowmobile, all-terrain vehicle or watercraft has paid the tax imposed by Part 3 with respect to that snowmobile, all-terrain vehicle or watercraft; [2011, c. 253, §37 (AMD).]

HH. (REALLOCATED FROM T. 36, §191, sub-§2, ¶DD) [2015, c. 300, Pt. A, §5 (RP).]

II. (REALLOCATED FROM T. 36, §191, sub-§2, ¶DD) The disclosure to an authorized representative of the Maine Milk Commission of information on the quantity of packaged milk handled in the State and subject to the milk handling fee established in section 4902 and other information obtained by the assessor in the administration of chapter 721; [2007, c. 539, Pt. M, §2 (AMD); 2007, c. 539, Pt. OO, §5 (AMD); 2007, c. 693, §7 (AMD); 2007, c. 694, §1 (AMD).]

JJ. The disclosure to the State Purchasing Agent of a person's sales tax standing as necessary to enforce Title 5, section 1825-B, subsection 14; [2009, c. 361, §12 (AMD).]

KK. The disclosure of information necessary to administer the setoff of liquidated tax debts pursuant to section 185, subsection 3; [2009, c. 361, §13 (AMD).]

(Paragraph KK as enacted by PL 2007, c. 539, Pt. OO, §7 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH LL)

(Paragraph KK as enacted by PL 2007, c. 693, §9 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH MM)

(Paragraph KK as enacted by PL 2007, c. 694, §3 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH NN)

LL. (REALLOCATED FROM T. 36, §191, sub-§2, ¶KK) The disclosure to any state agency of information relating to the administration and collection of any debt transferred to the bureau for collection pursuant to section 112-A; [2009, c. 652, Pt. A, §50 (AMD).]

MM. (REALLOCATED FROM T. 36, §191, sub-§2, ¶KK) The disclosure to an authorized representative of the Department of Economic and Community Development of information required for the administration of the visual media production credit under section 5219-Y, the employment tax

increment financing program under chapter 917, the visual media production reimbursement program under chapter 919-A or the Pine Tree Development Zone program under Title 30-A, chapter 206, subchapter 4; [2009, c. 652, Pt. A, §51 (AMD).]

NN. (REALLOCATED FROM T. 36, §191, sub-§2, ¶KK) The disclosure to an authorized representative of the Wild Blueberry Commission of Maine of information required for or submitted to the assessor in connection with the administration of the tax imposed under chapter 701; [2011, c. 240, §3 (AMD).]

OO. The disclosure to duly authorized officers of the Federal Government and of other state governments of information necessary to administer a set-off agreement pursuant to section 112, subsection 13. The information may not be disclosed unless the officer's government permits a substantially similar disclosure of information to the taxing officials of this State and protects the confidentiality of the information in a manner substantially similar to that provided by this section; [2009, c. 2, §106 (COR).]

PP. The disclosure to the Department of Agriculture, Conservation and Forestry of information contained on the commercial forestry excise tax return filed pursuant to section 2726, such as the landowner name, address and acreage, to facilitate the administration of chapter 367; [2011, c. 211, §19 (AMD); 2011, c. 331, §9 (AMD); 2011, c. 331, §§16, 17 (AFF); 2011, c. 439, §5 (AMD); 2011, c. 439, §12 (AFF); 2011, c. 657, Pt. W, §5 (REV).]

(Paragraph PP as enacted by PL 2009, c. 592, §2 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH QQ)

QQ. (REALLOCATED FROM T. 36, §191, sub-§2, ¶PP) The disclosure of registration, reporting and payment information to the Department of Environmental Protection necessary for the administration of Title 38, chapter 33; [2015, c. 166, §12 (AMD).]

RR. The disclosure to the Finance Authority of Maine of the cumulative value of eligible premiums submitted for reimbursement pursuant to Title 10, section 1020-C; [2011, c. 1, §51 (COR).]

(Paragraph RR as enacted by PL 2011, c. 331, §11 and affected by §§16 and 17 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH TT)

(Paragraph RR as enacted by PL 2011, c. 439, §7 and affected by §12 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH UU)

SS. The disclosure of information to the Finance Authority of Maine necessary for the administration of the new markets capital investment credit in sections 2533 and 5219-HH and to the Commissioner of Administrative and Financial Services as necessary for the execution of the memorandum of agreement pursuant to section 5219-HH, subsection 3; [2011, c. 548, §11 (AMD).]

(Paragraph SS as enacted by PL 2011, c. 439, §8 and affected by §12 is REALLOCATED TO TITLE 36, SECTION 191, SUBSECTION 2, PARAGRAPH VV)

TT. (REALLOCATED FROM T. 36, §191, sub-§2, ¶RR) The disclosure to tax officials of other states, and to clearinghouses and other administrative entities acting on behalf of participating states, of information necessary for the administration of a multistate agreement entered into pursuant to section 2532; [2011, c. 548, §12 (AMD).]

UU. (REALLOCATED FROM T. 36, §191, sub-§2, ¶RR) The production in court on behalf of the assessor or any other party to an action or proceeding under this Title, or the production pursuant to a discovery request under the Maine Rules of Civil Procedure or a request under the freedom of access laws, of any reconsideration decision or advisory ruling issued on or after July 1, 2012, in redacted format so as not to reveal information from which the taxpayer may be identified, except that federal returns and federal return information provided to the State by the Internal Revenue Service may not be disclosed except as permitted by federal law. A person requesting the production of any such document

shall pay, at the time the request is made, all direct and indirect costs associated with the redacting of information from which the taxpayer or other interested party may be identified, plus an additional fee of $100 per request; [2013, c. 424, Pt. A, §23 (RPR).]

VV. (REALLOCATED FROM T. 36, §191, sub-§2, ¶SS) The disclosure by the assessor to the taxpayer advocate under section 151-C of information related to a petition for reconsideration filed by a taxpayer pursuant to section 151. The taxpayer advocate is prohibited from disclosing information obtained pursuant to this paragraph other than to the particular taxpayer to whom the information pertains; [2013, c. 331, Pt. B, §3 (AMD).]

WW. The disclosure of information to the Department of Inland Fisheries and Wildlife necessary for the administration of the credit for Maine fishery infrastructure investment under section 5216-D; [2013, c. 331, Pt. B, §4 (RPR).]

XX. The disclosure of information by the assessor to the board, except that such disclosure is limited to information that is pertinent to an appeal or other action or proceeding before the board; [2015, c. 300, Pt. A, §6 (AMD); 2015, c. 344, §6 (AMD).]

YY. The inspection and disclosure of information by the board to the extent necessary to conduct appeals procedures pursuant to this Title and issue a decision on an appeal to the parties. The board may make available to the public redacted decisions that do not disclose the identity of a taxpayer or any information made confidential by state or federal statute; [2015, c. 490, §2 (AMD); 2015, c. 494, Pt. A, §41 (AMD).]

ZZ. (CONFLICT: Text as repealed and replaced by PL 2015, c. 490, §3) The disclosure by the State Tax Assessor to a qualified Pine Tree Development Zone business that has filed a claim for reimbursement under section 2016 of information related to any insufficiency of the claim, including records of a contractor or subcontractor that assigned the claim for reimbursement to the qualified Pine Tree Development Zone business and records of the vendors of the contractor or subcontractor; [2015, c. 490, §3 (RPR).]

ZZ. (CONFLICT: Text as repealed and replaced by PL 2015, c. 494, Pt. A, §42) The disclosure by the State Tax Assessor to a qualified Pine Tree Development Zone business that has filed a claim for reimbursement under section 2016 of information related to any insufficiency of the claim, including records of a contractor or subcontractor that assigned the claim for reimbursement to the qualified Pine Tree Development Zone business and records of the vendors of the contractor or subcontractor; and [2015, c. 494, Pt. A, §42 (RPR).]

AAA. (CONFLICT: Text as enacted by PL 2015, c. 490, §4) The disclosure of information by the State Tax Assessor or the Associate Commissioner for Tax Policy to the Office of Program Evaluation and Government Accountability under Title 3, section 991 for the review and evaluation of tax expenditures pursuant to Title 3, chapter 37; and [2015, c. 490, §4 (NEW).]

AAA. (CONFLICT: Text as enacted by PL 2015, c. 494, Pt. A, §43) The disclosure of information by the State Tax Assessor or the Associate Commissioner for Tax Policy to the Office of Program Evaluation and Government Accountability under Title 3, section 991 for the review and evaluation of tax expenditures pursuant to Title 3, chapter 37. [2015, c. 494, Pt. A, §43 (NEW).]

BBB. The disclosure to an authorized representative of the Department of Professional and Financial Regulation, Bureau of Insurance of information necessary to determine whether a long-term disability income protection plan or short-term disability income protection plan as described in section 5219-NN, subsection 1 qualifies for the disability income protection plans in the workplace credit provided by section 5219-NN. [2015, c. 490, §4 (NEW).]

[2015, c. 490, §§2-4 (AMD); 2015, c. 494, Pt. A, §§41-43 (AMD) .]

3. **Additional restrictions for information provided by Internal Revenue Service.** Federal returns and federal return information provided to the State by the Internal Revenue Service may not be disclosed to other states, districts and territories of the United States or provinces of Canada, to legislative committees or the agents of the committees or to the Attorney General for the purpose of criminal investigations and prosecutions unrelated to this Title. These restrictions are in addition to those imposed by subsection 1.

[1999, c. 708, §17 (AMD) .]

3-A. **Additional restrictions for proprietary information provided to assessor.** Information and materials provided in confidence to the assessor and used by the bureau for the purpose of preparing legislation or legislative analysis, including the preparation of fiscal estimates for the Office of Fiscal and Program Review, are to be accorded the same confidentiality as established by this section for tax information.

[2003, c. 390, §5 (NEW) .]

3-B. **Additional restrictions for certain information provided by the Department of Health and Human Services.** Information provided to the assessor by the Department of Health and Human Services pursuant to section 175 and Title 22, section 2425, subsection 8, paragraph L may be used by the bureau only for the administration and enforcement of taxes imposed under this Title. These restrictions are in addition to those imposed by subsection 1.

[2013, c. 595, Pt. J, §2 (NEW); 2013, c. 595, Pt. J, §4 (AFF) .]

4. **Penalties.** A person who willfully violates this section commits a Class E crime. An offender who is an officer or employee of the State must be dismissed from office.

[2009, c. 496, §7 (AMD) .]

SECTION HISTORY
1977, c. 668, §2 (NEW). 1979, c. 127, §193 (AMD). 1981, c. 364, §18 (AMD). 1981, c. 504, §§1,2 (AMD). 1981, c. 698, §176 (AMD). 1985, c. 764, §§3-5 (AMD). 1987, c. 19, §§1-3 (AMD). 1987, c. 43, (AMD). 1987, c. 201, §§1-3 (AMD). 1987, c. 402, §§B22-B27 (AMD). 1987, c. 497, §§7-9 (AMD). 1987, c. 769, §§A145-A149 (AMD). 1991, c. 546, §7 (AMD). 1991, c. 820, §§5-7 (AMD). 1991, c. 837, §B18 (AMD). 1993, c. 395, §7 (AMD). RR 1995, c. 2, §§89-92 (COR). 1995, c. 178, §§1-3 (AMD). 1995, c. 368, §§W6-8 (AMD). 1995, c. 395, §§S1-3 (AMD). 1995, c. 419, §§30-33 (AMD). 1995, c. 625, §§A46-49 (AMD). 1995, c. 639, §6 (AMD). 1995, c. 657, §8 (AMD). 1995, c. 657, §10 (AFF). 1995, c. 694, §D61 (AMD). 1995, c. 694, §E2 (AFF). 1997, c. 504, §4 (AMD). 1997, c. 526, §14 (AMD). 1997, c. 537, §60 (AMD). 1997, c. 537, §62 (AFF). 1997, c. 668, §17 (AMD). 1997, c. 703, §§2-4 (AMD). 1999, c. 414, §§11-13 (AMD). 1999, c. 708, §§14-17 (AMD). 2001, c. 23, §1 (AMD). 2001, c. 293, §6 (AMD). 2001, c. 396, §11 (AMD). 2001, c. 439, §§L6-8 (AMD). 2001, c. 691, §3 (AMD). 2001, c. 691, §6 (AFF). 2001, c. 714, §CC2 (AMD). 2001, c. 714, §CC8 (AFF). RR 2003, c. 2, §114 (COR). 2003, c. 390, §§1-5 (AMD). 2003, c. 390, §55 (AFF). 2003, c. 668, §§9,10 (AMD). 2003, c. 668, §12 (AFF). 2003, c. 673, §DD2 (AMD). 2003, c. 689, §B6 (REV). 2003, c. 705, §3 (AMD). RR 2005, c. 1, §§18,19 (COR). 2005, c. 332, §§6-9 (AMD). 2005, c. 395, §§1-3 (AMD). 2005, c. 396, §§5-7 (AMD). 2005, c. 683, §§A60-64 (AMD). 2007, c. 328, §§2-4 (AMD). 2007, c. 352, Pt. A, §4 (AMD). 2007, c. 438, §10 (AMD). 2007, c. 539, Pt. M, §§2-4 (AMD). 2007, c. 539, Pt. OO, §§5-7 (AMD). 2007, c. 693, §§7-9 (AMD). 2007, c. 694, §§1-3 (AMD).

RR 2009, c. 2, §§105-108 (COR). 2009, c. 340, §27 (AMD). 2009, c. 361, §§11-17 (AMD). 2009, c. 434, §§11, 12 (AMD). 2009, c. 470, §4 (AMD). 2009, c. 496, §§6, 7 (AMD). 2009, c. 568, §2 (AMD). 2009, c. 592, §2 (AMD). 2009, c. 637, §13 (AMD). 2009, c. 652, Pt. A, §§50-52 (AMD). RR 2011, c. 1, §§49-53 (COR). 2011, c. 211, §§19-21 (AMD). 2011, c. 240, §§2, 3 (AMD). 2011, c. 253, §37 (AMD). 2011, c. 331, §§9-11 (AMD). 2011, c. 331, §§16, 17 (AFF). 2011, c. 380, Pt. Q, §§2-4 (AMD). 2011, c. 380, Pt. Q, §7 (AFF). 2011, c. 439, §§5-8 (AMD). 2011, c. 439, §12 (AFF). 2011, c. 548, §§11, 12 (AMD). 2011, c. 644, §§5-7 (AMD). 2011, c. 655, Pt. I, §9 (AMD). 2011, c. 655, Pt. I, §11 (AFF). 2011, c. 657, Pt. W, §5 (REV). 2011, c. 682, §38 (REV). 2011, c. 694, §§7-10 (AMD). 2013, c. 10, §1 (AMD). 2013, c. 25, §§1, 2 (AMD). 2013, c. 67, §1 (AMD). 2013, c. 331, Pt. B, §§3-5 (AMD). 2013, c. 424, Pt. A, §23 (AMD). 2013, c. 595, Pt. J, §2 (AMD). 2013, c. 595, Pt. J, §4 (AFF). 2015, c. 166, §12 (AMD). 2015, c. 300, Pt. A, §§5-7 (AMD). 2015, c. 313, §4 (AMD). 2015, c. 344, §§6, 7 (AMD). 2015, c. 490, §§2-4 (AMD). 2015, c. 494, Pt. A, §§41-43 (AMD).

§192. MISCELLANEOUS

1. **Expenses.** The reasonable and necessary traveling expenses of the State Tax Assessor and of his employees while actually engaged in the performance of their duties, certified upon vouchers approved by the State Tax Assessor, shall be paid by the Treasurer of State upon warrant of the State Controller.

[1981, c. 364, §19 (NEW) .]

2. **Facsimile signature.** A facsimile of the signature of the State Tax Assessor imprinted by or at his direction upon any license, registration certificate, notice of assessment or statutory demand notice issued by him under authority of this Title shall have the same validity as his written signature.

[1981, c. 364, §19 (NEW) .]

3. **Small payments.** No payment of less than $1 may be made pursuant to this Title, except in the case of an overpayment of tax when a specific written request is made by the taxpayer.

[1981, c. 364, §19 (NEW) .]

SECTION HISTORY
1981, c. 364, §19 (NEW).

§193. RETURNS; DECLARATION COVERING PERJURY; SUBMISSION OF RETURNS AND FUNDS BY ELECTRONIC MEANS

1. **Declaration required.** Any return, report or other document required to be filed pursuant to this Title must contain a declaration, in a form prescribed by the State Tax Assessor, that the statements contained in the return, report or other document are true and are made under the penalties of perjury. When a tax return is filed electronically by a taxpayer or with the taxpayer's permission, the filing of that return constitutes a sworn statement by the taxpayer, made under the penalties of perjury, that the tax liability shown on the return is correct.

[2005, c. 332, §10 (NEW) .]

2. **Electronic filing.** The State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services may adopt a rule allowing or requiring the filing of a return or document by electronic data submission. The rule must establish thresholds or phase-in periods to assist taxpayers and preparers in complying with any electronic data submission requirement.

A. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of an employer that submits returns in accordance with section 5253 with respect to 100 or more employees, whether the returns are submitted directly by the employer or by a 3rd party on behalf of the employer, the assessor may require that the returns be filed by electronic data submission. [2007, c. 437, §6 (AMD).]

B. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222 that submits returns pursuant to section 5253 or Title 26, chapter 13, subchapter 5 or 7 for 100 or more employers, the assessor may require that the returns be filed by electronic data submission. [2007, c. 693, §10 (AMD).]

C. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of an employer that submits returns pursuant to Title 26, chapter 13, subchapter 5 or 7, the assessor may require that the returns be filed by electronic data submission. [2015, c. 300, Pt. A, §8 (NEW).]

[2015, c. 300, Pt. A, §8 (AMD) .]

3. **Payment by electronic funds transfer.** The State Tax Assessor, with the approval of the Commissioner of Administrative and Financial Services, may adopt a rule allowing or requiring the payment of a tax or the refund of a tax by electronic funds transfer. An electronic funds transfer allowed or required by the assessor pursuant to this subsection in payment of a tax obligation to the State is considered a return. For the purposes of this subsection, "tax" includes Competitive Skills Scholarship Fund contributions and unemployment insurance contributions required to be paid to the State pursuant to Title 26.

A. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a person that is liable for $200,000 or more per year pursuant to section 5253 or for $400,000 or more per year in payments of any other single tax type, the assessor may require payment or refund of that tax by electronic funds transfer. [2007, c. 437, §6 (AMD).]

B. Unless otherwise provided by a rule adopted pursuant to this subsection, in the case of a payroll processor as defined in Title 10, chapter 222, the assessor may require payment or refund of taxes pursuant to section 5253 and payment or refund of Competitive Skills Scholarship Fund contributions and unemployment insurance contributions pursuant to Title 26, chapter 13, subchapters 5 and 7, respectively, by electronic funds transfer. [2007, c. 693, §11 (AMD).]

[2007, c. 693, §11 (AMD) .]

4. **Adoption of rules.** Rules adopted pursuant to this section are routine technical rules for the purposes of Title 5, chapter 375, subchapter 2-A.

[2007, c. 437, §6 (AMD) .]

SECTION HISTORY
1995, c. 639, §7 (NEW). 1997, c. 504, §5 (AMD). 1997, c. 668, §18 (AMD). 1999, c. 708, §18 (AMD). 2005, c. 332, §30 (AFF). 2005, c. 332, §10 (RPR). 2007, c. 437, §6 (AMD). 2007, c. 693, §§10, 11 (AMD). 2015, c. 300, Pt. A, §8 (AMD).

§194. DATA WAREHOUSE

1. **Information provided to State Tax Assessor; use and confidentiality of data.** Notwithstanding any other provision of law, the Secretary of State and all executive branch departments, boards, commissions, divisions, authorities, districts or other executive branch agencies of the State shall annually provide to the State Tax Assessor, within 3 months of the request of the assessor, and in such form as the assessor may prescribe, electronic data that those entities possess unless such release is prohibited by federal law. Information provided to the assessor pursuant to this section must be treated as though it is tax return information that is subject to the confidentiality and disclosure provisions of section 191 and its disclosure is further restricted as requested by the agency providing the information and as agreed to by the Commissioner of Administrative and Financial Services.

[2009, c. 213, Pt. TTTT, §1 (NEW) .]

2. **Expense of creating and maintaining data warehouse; transfer of funds.** The State Controller shall transfer from the General Fund an amount authorized by the assessor equal to the expenses incurred in creating and maintaining the data warehouse authorized by this section and in collecting the debts arising from the operation of the data warehouse. These expenses are limited to those resulting from 3rd-party contingency fee contracts for the services referenced in this section and include any associated expense charged by the Department of Administrative and Financial Services, Office of Information Technology for directly related services. The amount transferred must be deposited into a dedicated, nonlapsing account to be used solely for the purpose of creating and maintaining the data warehouse. Interest earned on balances in the account accrue to the account.

[2009, c. 213, Pt. TTTT, §1 (NEW) .]

3. **Report to Legislature.** The assessor shall annually report to the joint standing committees of the Legislature having jurisdiction over taxation matters and appropriations and financial affairs the costs incurred in creating and maintaining, and the tax revenues collected by using, the data warehouse authorized by this section.

[2009, c. 213, Pt. TTTT, §1 (NEW) .]

SECTION HISTORY
2009, c. 213, Pt. TTTT, §1 (NEW).

§194-A. REVIEW OF CERTAIN CHANGES IN THE APPLICATION OF SALES AND USE TAX LAW

1. **Consultation.** Before implementing a significant change in policy, practice or interpretation of the sales and use tax law that would result in additional revenue, the bureau shall consult with the Office of the Attorney General to determine if the change should be reviewed by the appropriate legislative committee of oversight. If the consultation results in an agreement that a proposed change in policy, practice or interpretation of the sales and use tax law is a significant change that would result in additional revenue and should be reviewed by the appropriate legislative committee of oversight, the bureau shall notify the appropriate legislative committee of oversight pursuant to subsection 2.

[2011, c. 503, §1 (NEW) .]

2. **Notification and review.** If, pursuant to subsection 1, the Office of the Attorney General and the bureau agree that a proposed change in policy, practice or interpretation of the sales and use tax law is a significant change that would result in additional revenue and should be reviewed by the appropriate legislative committee of oversight, the bureau shall notify the chairs of the appropriate legislative committee of oversight of the results of the consultation at least 45 days prior to implementation of the change in policy,

practice or interpretation of the sales and use tax law, if reasonably practicable. The chairs of the legislative committee of oversight shall notify all committee members in writing of the proposed change in policy, practice or interpretation of the sales and use tax law and may schedule a time for committee review and discussion.

[2011, c. 503, §1 (NEW) .]

3. **Report.** The bureau shall report annually by January 15th to the joint standing committee of the Legislature having jurisdiction over taxation matters regarding the consultation process and, consistent with attorney-client privilege and any other legal privilege and legal confidentiality requirements, provide a brief summary of the issues for which a consultation was sought and the results of each consultation.

[2011, c. 503, §1 (NEW) .]

4. **Assessment validity.** The provisions of this section establish a procedural consultation and reporting requirement to assist routine legislative oversight. It does not affect the validity of any assessment or tax liability under this Title.

[2011, c. 503, §1 (NEW) .]

SECTION HISTORY
2011, c. 503, §1 (NEW).

§194-B. NATIONAL CRIMINAL HISTORY RECORD INFORMATION

As part of the process of evaluating an applicant for employment with the bureau, the assessor shall perform a national criminal history record check in accordance with this section, except the Associate Commissioner for Tax Policy shall perform a national criminal history record check for an applicant for employment with the Office of Tax Policy. [2015, c. 300, Pt. B, §6 (AMD).]

1. **Criminal history record information obtained from the Federal Bureau of Investigation.** The assessor shall obtain national criminal history record information from the Federal Bureau of Investigation for any person not then employed with the Bureau of Revenue Services who has applied for and may be offered employment, except that for a person who has applied for and may be offered employment with the bureau's Office of Tax Policy, the Associate Commissioner for Tax Policy shall obtain the national criminal history record information.

[2015, c. 300, Pt. B, §7 (AMD) .]

2. **Fingerprinting.** An individual not then employed with the Bureau of Revenue Services applying for employment with the bureau must consent to having fingerprints taken for use in accordance with this section before the individual may be employed by the bureau. The State Police shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the Department of Public Safety, State Bureau of Identification so that the State Bureau of Identification can conduct state and national criminal history record checks for the Bureau of Revenue Services. The State Police may charge the Bureau of Revenue Services for the expenses incurred in processing state and national criminal history record checks. The full fee charged under this subsection must be deposited in a dedicated revenue account for the State Bureau of Identification with the purpose of paying costs associated with the maintenance and replacement of the criminal history record systems.

[2013, c. 546, §7 (NEW) .]

3. **Confidentiality.** All information obtained by the assessor or the Associate Commissioner for Tax Policy pursuant to this section is confidential and not a public record pursuant to Title 1, chapter 13.

[2015, c. 300, Pt. B, §8 (AMD) .]

4. **Applicant's access to criminal history record information.** The Bureau of Revenue Services shall provide an applicant with access to information obtained pursuant to this section, if requested, by providing a paper copy of the criminal history record information directly to the applicant, but only after the Bureau of Revenue Services confirms that the applicant is the subject of the record. In addition, the Bureau of Revenue Services shall publish guidance on requesting such information from the Federal Bureau of Investigation.

[2013, c. 546, §7 (NEW) .]

SECTION HISTORY
2013, c. 546, §7 (NEW). 2015, c. 300, Pt. B, §§6-8 (AMD).

§194-C. NATIONAL CRIMINAL HISTORY RECORD INFORMATION OF PROVIDERS OF CONTRACT SERVICES

The assessor shall perform a national criminal history record check of all the bureau's contractors and their respective employees, subcontractors and subcontractors' employees who provide services to the bureau under an identified contract. For purposes of this section, "identified contract" means a contract that the assessor determines involves access or the substantial possibility of access to the bureau's information technology systems or to confidential taxpayer information. [2015, c. 300, Pt. B, §9 (NEW); 2015, c. 300, Pt. B, §10 (AFF).]

1. **Criminal history record information obtained from the Federal Bureau of Investigation.** The assessor shall obtain national criminal history record information from the Federal Bureau of Investigation for any individual who provides or is assigned to provide services to the Bureau of Revenue Services pursuant to an identified contract.

[2015, c. 300, Pt. B, §9 (NEW); 2015, c. 300, Pt. B, §10 (AFF) .]

2. **Fingerprinting.** An individual who is assigned to provide services to the Bureau of Revenue Services pursuant to an identified contract must consent to having fingerprints taken for use in accordance with this section before the individual may provide these services. The State Police shall take or cause to be taken the individual's fingerprints and shall forward the fingerprints to the Department of Public Safety, State Bureau of Identification so that the State Bureau of Identification can conduct the state and national criminal history record checks. The State Police may charge the Bureau of Revenue Services for the expenses incurred in processing state and national criminal history record checks. The full fee charged under this subsection must be deposited in a dedicated revenue account for the State Bureau of Identification with the purpose of paying costs associated with the maintenance and replacement of its criminal history record systems.

[2015, c. 300, Pt. B, §9 (NEW); 2015, c. 300, Pt. B, §10 (AFF) .]

3. **Confidentiality.** All information obtained by the assessor pursuant to this section is confidential and not a public record pursuant to Title 1, chapter 13.

[2015, c. 300, Pt. B, §9 (NEW); 2015, c. 300, Pt. B, §10 (AFF) .]

4. **Individual's access to criminal history record information.** The Bureau of Revenue Services shall provide an individual who provides fingerprints pursuant to subsection 2 with access to information obtained pursuant to this section, if requested, by providing a paper copy of the criminal history record information

directly to the individual, but only after the Bureau of Revenue Services confirms that the individual is the subject of the record. In addition, the Bureau of Revenue Services shall publish guidance on requesting such information from the Federal Bureau of Investigation.

[2015, c. 300, Pt. B, §9 (NEW); 2015, c. 300, Pt. B, §10 (AFF) .]

5. **Application to other state agencies.** This section does not apply to services provided by another agency of this State.

[2015, c. 300, Pt. B, §9 (NEW); 2015, c. 300, Pt. B, §10 (AFF) .]

SECTION HISTORY
2015, c. 300, Pt. B, §9 (NEW). 2015, c. 300, Pt. B, §10 (AFF).

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