

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out the title and substituting the following:

**'An Act To Require Certain Changes to Sales  
and Use Tax Policy Application or Practice'**

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'**Sec. 1. 36 MRSA §141, sub-§4** is enacted to read:

**4. Audit assessment limitation.** Notwithstanding any other provisions of this Title, after an audit of a taxpayer, the assessor may assess additional sales and use taxes against the taxpayer only if the assessor determines that a nonpayment or underpayment of taxes was the result of:

- A. The taxpayer's intentional disregard of the sales and use tax law or fraud with the intent to evade tax liability;
- B. A mathematical error in the calculation of sales and use taxes paid or owed by the taxpayer;
- C. An underpayment or nonpayment of sales and use taxes when at least of 80% of taxpayers currently pay taxes on the same types of sales or uses. Maine Revenue Services has the burden of proving that this 80% threshold has been met; or
- D. An underpayment or nonpayment of the sales and use tax when the taxpayer has previously demonstrated awareness of the obligation to pay the tax.

For the purpose of this subsection, "additional sales and use taxes" means taxes assessed on sales or uses that have not been previously assessed against the taxpayer for the same types of sales or uses.

If the assessor determines that a tax has not been paid or has been underpaid and the assessor is unable to assess additional sales and use taxes, interest or penalties because of restrictions described in paragraphs A to D, the assessor may submit recommended legislation to the joint standing committee of the Legislature having jurisdiction over taxation matters or propose major substantive rules pursuant to Title 5, chapter 375, subchapter 2#A to clarify the situations in which tax is due. The assessor shall notify all potentially affected taxpayers of the submission of recommended legislation or the proposal of major substantive rules and the date of any public hearings on the legislation or proposed rules.'

## SUMMARY

This amendment, which is the majority report, replaces the bill and provides that the State Tax Assessor may assess additional sales and use taxes as a result of nonpayment or underpayment only if there has been fraud with the intent to evade taxes, a mathematical error in the calculation of taxes owed

has occurred, the taxpayer has previously demonstrated awareness of the obligation to pay the tax or the obligation to pay the tax has been recognized by at least 80% of taxpayers in similar situations.

The amendment also authorizes the assessor to recommend legislation or to propose major substantive rules to clarify tax obligations if the conditions for assessing additional sales and use taxes are not met and requires the assessor to notify potentially affected taxpayers of any public hearings on the legislation or proposed rules.