

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

Amend the amendment by inserting after section 7 the following:

Amend the bill by inserting after section 4 the following:

‘**Sec. 5. 36 MRSA §1861-B** is enacted to read:

**§ 1861-B. Offset of use tax**

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

A. "Customer" means a person from whom sales tax was erroneously collected for the lease or rental of tangible personal property.

B. "Lessor" means a person who rents or leases tangible personal property.

**2. Offset allowed.** Notwithstanding any law to the contrary, a lessor who erroneously collects sales tax on the lease or rental of tangible personal property from a customer, remits that sales tax to the State and does not subsequently return that erroneously collected sales tax to that customer is entitled to an offset against an assessment for use tax owed by the lessor on that property as provided in this section.

**3. Application.** In order to receive the offset under this section, a lessor who meets the requirements of subsection 2 must apply to the assessor for the offset allowed under subsection 2 and provide any information the assessor requires, including, but not limited to, the names and last known addresses of the customers of the lessor to whom the lessor did not make a refund, the amount of the sales tax erroneously collected from those customers and the date of the collections. The lessor must submit a completed application to the assessor no later than 30 days following the assessment of use tax.

**4. Notice to customers; requirements of notice; refund.** Within 30 days of receipt of a completed application pursuant to subsection 3, the assessor shall determine whether any of the customers identified by the lessor under subsection 3 were provided a refund of the erroneously collected sales tax by the State pursuant to section 2011. The assessor shall provide written notification and an application for refund to those customers the assessor cannot determine received a refund. The written notice must state that the customer:

A. Is entitled to a refund of the erroneously collected sales tax unless the customer has already been refunded the erroneously collected sales tax;

B. Has 90 days to request the refund from the assessor and may not request a refund from the lessor; and

C. Notwithstanding any provision of law to the contrary, forfeits any right to the erroneously collected sales tax if the customer does not request a refund within the 90 days specified under paragraph B.

Upon receipt of a completed application for a refund, the assessor shall provide the customer with a refund of the sales tax that the assessor determines was erroneously collected from that customer. The customer is not entitled to interest for a refund made pursuant to this subsection.

**5. Amount of offset; reduction for refunds and administrative costs.** No later than 180 days after receipt of a completed application pursuant to subsection 3, the assessor shall determine the amount of the offset and provide an offset against a use tax assessment to a lessor that meets the requirements of this section. The amount of the offset is the lesser of:

A. The amount of the use tax assessment; and

B. The amount of the sales tax erroneously collected during the time period to which the assessment applies reduced by:

(1) Any refunds made by the assessor to customers pursuant to subsection 4 and sections 1814 and 2011 for an erroneous collection of sales tax on leases or rentals during the assessment period; and

(2) Any administrative costs incurred by the assessor in complying with subsection 4 and this subsection.

**6. Abandoned property .** Notwithstanding any law to the contrary, erroneously collected sales tax subject to this section is not considered property subject to the provisions of the Uniform Unclaimed Property Act.

Amend the amendment in section 13 by adding at the end the following new sentence: 'That section of this Act that enacts Title 36, section 1861-B applies retroactively to March 1, 2010.'

Amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

## SUMMARY

This amendment allows a lessor of tangible personal property who collects sales tax erroneously on the lease or rental of that property to use the erroneously collected sales tax, less any refunds of that erroneously collected tax to customers, to offset an assessment against that lessor for use tax on that property. The lessor is required to apply to the State Tax Assessor for the offset no later than 30 days following the use tax assessment and provide the names and last known addresses of the customers from whom the sales tax was erroneously collected and not refunded, the date of that collection and

the amount of the sales tax erroneously collected. The assessor is required to determine whether each customer received a refund of the erroneously collected sales tax and to notify in writing those customers who did not. A customer who fails to request a refund within 90 days following notification by the assessor forfeits any right to that refund. Following the refund of any erroneously collected sales tax, the assessor is required to provide an offset to the lessor of the amount of the sales tax erroneously collected, less any refunds and administrative costs, up to the amount of the use tax assessment. This amendment specifies that the erroneously collected sales tax is not subject to abandoned property laws. Finally, this amendment applies this provision retroactively to March 1, 2010.

**FISCAL NOTE REQUIRED**  
**(See attached)**