

STATE OF MAINE
Inter-Departmental Memorandum

To: Norman P. Ledew, Director **Dept.** Property Tax Division
From: Stephen L. Wessler, Asst. Atty. Gen. **Dept.** Attorney General
Subject: 36 MRSA § 384 (Supp. 1976) **Date:** January 11, 1977

STATUTORY BACKGROUND:

Pursuant to § 384, the State Tax Assessor (hereinafter Assessor) is empowered "to order the reassessment" of property in any jurisdiction, where in his judgment a reassessment is necessary to ensure "that all classes of property are assessed in compliance with the law".
36 MRSA § 384 (Supp. 1976).

QUESTIONS:

1. Does the word "reassessment" in 36 MRSA § 384 (Supp. 1976) mean a retroactive corrective assessment of taxes already assessed?
2. Does the word "reassessment" in 36 MRSA § 384 (Supp. 1976) encompass the term "revaluation"?
3. Can the Assessor be compelled to order a reassessment?

ANSWER & REASONING (1):

The reassessment of taxes contemplates a retroactive corrective assessment of taxes already assessed. The prefix re is commonly understood to "mean simply again or anew". Webster's New World Dictionary, 2nd Coll. Ed. 1181 (1074). Thus, a reassessment refers to the act of assessing again. Although, the Legislature could have empowered the Assessor to order changes in subsequent assessments, the Legislature has not done so. To interpret "reassessment" so as to permit the Assessor to order changes in an assessment not yet made, would unduly strain the meaning of the word.

Sec. 384 provides for appeals from reassessments in the following language: "Any person aggrieved because of such reassessment shall have the same right of petition and appeal as from the original assessment". (emphasis added) The use of the underlined words in the above sentence implies that the reassessment is based upon or replaces a prior assessment. If "reassessment" applied only prospectively no "original assessment" would exist.

Finally, it should be noted that the interpretation of "reassessment" reached in the Opinion is supported by a prior opinion of the Attorney General. Opin. of Att. Gen., Sept. 24, 1946 (on file in Bureau of Taxation). See also 72 Am. Jur.2d, State and Local Taxation § 831 at 138 (1974).

36 MRSA § 384 (Supp. 1976)

Page 2

ANSWER & REASONING (2):

The process of assessment, by necessity, includes the process of valuation. An assessor cannot assess a tax upon an estate without determining the value of the estate. This conclusion is buttressed by an examination of 36 MRSA C. 105. Sec. 701 states that "[i]n the assessment of all taxes, assessors shall govern themselves by this chapter [c. 105] . . ." Secs 701-A and 708, which are found within C. 105, both deal with the assessor's obligations regarding valuation of property. The juxtaposition of § 701 with §§ 701-A and 708 clearly indicates that valuation is part of the assessment process. Therefore, the Assessor's authority to order a reassessment

includes the authority to order a partial or total revaluation. However, since the Assessor has no authority under § 384 to order changes in subsequent assessments, he also lack authority under § 384 to order prospective changes in valuations.

ANSWER & REASONING (3):

The Supreme Judicial Court, in Young v. Johnson, 161 Me. 64, 72, (1965), held that the Assessor's authority to order a reassessment under § 384 is discretionary. Moreover, the court concluded that the Assessor could not be compelled through an action for mandamus to order a reassessment, unless "there ha[d] been an abuse of discretion. . . [resulting] in manifest injustice". 161 Me. 64, at 70, 74.

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