Memorandum

To: The Honorable Helio Melo  
   Chairman, House Finance Committee

          The Honorable Daniel DaPonte  
          Chairman, Senate Finance Committee

From: Thomas A. Mullaney  
       Executive Director/State Budget Officer

Date: May 27, 2011

Subject: Article 24, Section 9 Amendment – 11-H-5894  
         Relating to Department of Revenue

   The Governor requests amendment to Article 24, Section 9 Relating to Department of Revenue in order to clarify language relating to the Department of Revenue acting as a debt collector on behalf of a government agency. Specifically, the new language affords the tax administrator all the rights and powers of the government agency on whose behalf it is acting, and it allows the right for set-off of debts already enumerated in existing tax law. The proposed amendment also indemnifies the tax administrator against actions that may arise from the collection or attempted collection of the outstanding debts owed to government agencies.

   There are two copies of the amended article section attached to this letter. The first version highlights the changes from the Governor’s original submission. In cases where we are striking previously proposed language, we show a double strike-out. Where we’re proposing new language in addition to previously submitted, we show the change as a double-underline. All single underlined and single strike-out language that remains reflects our original submission. The second version is a clean version of the article including all proposed revisions.

   If you have any questions or need any additional information concerning this article, please feel free to contact me at 222-6300.

TAM:sma 11-63

TDD#: 277-1227
Attachments

cc: Representative Brian Newberry
    Senator Dennis L. Algiere
    Sharon Reynolds Ferland
    Peter Marino
    Christine Hunsinger
    Elizabeth Leach
REVISED

ARTICLE 24

SECTION 9

SECTION 9. Chapter 42-142 of the General Laws entitled “Department of Revenue” is hereby amended by adding the following section:

§44-142-6 Collections of debts. (a) For the purpose of this section "Governmental entity" means the state and a state agency, board, commission, department, public institution of higher learning, all political subdivisions of the State, and quasi-state agency.

(b) Any governmental entity may contract to allow the tax administrator to collect an outstanding liability owed the governmental entity. In administering the provisions of those agreements, the tax administrator shall have all the rights and powers of collection provided pursuant to title 44 for the collection of taxes and all the rights and powers authorized the governmental entity to which the liability is owed. In addition, the tax administrator shall have all of the rights and powers of collection provided pursuant to title 44 for the collection of taxes including, but not limited to, the right to set-off debts enumerated in § 44-30.1 against any amounts collected under the agreements. Subject to subordination to any set-off for past-due child support, the tax administrator shall also have the right to set-off amounts owed to the division of taxation against amounts collected under the agreements.

(c) The tax administrator may charge and retain a reasonable fee for a collection effort made on behalf of a governmental entity. The amount of the fee must be negotiated between the governmental entity and the tax administrator. The debtor must be given full credit toward the satisfaction of the debt for the amount of the fee collected by the tax administrator pursuant to this section.
(d) Governmental entities that contract with the tax administrator pursuant to this section shall indemnify the tax administrator against injuries, actions, liabilities, or proceedings arising from the collection or attempted collection by the tax administrator of the liability owed to the governmental entity.

(e) The governmental entity shall notify the debtor of its intention to submit the liability to the tax administrator for collection and of the debtor's right to appeal not less than thirty days before the liability is submitted to the tax administrator for collection.
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(b) Any governmental entity may contract to allow the tax administrator to collect an outstanding liability owed the governmental entity. Governmental entities that contract with the tax administrator pursuant to this section shall indemnify the tax administrator against injuries, actions, liabilities, or proceedings arising from the collection or attempted collection by the tax administrator of the liability owned to the governmental entity. In administering the provisions of those agreements, the tax administrator shall have all the rights and powers of collection provided pursuant to title 44 for the collection of taxes and all the rights and powers authorized the governmental entity to which the liability is owed. In addition, the tax administrator shall have all of the rights and powers of collection provided pursuant to title 44 for the collection of taxes including, but not limited to, the right to set-off debts enumerated in § 44-30.1 against any amounts collected under the agreements. Subject to subordination to any set-off for past-due child support, the tax administrator shall also have the right to set-off amounts owed to the division of taxation against amounts collected under the agreements.

(c) The governmental entity shall notify the debtor of its intention to submit the liability to the tax administrator for collection and of the debtor's right to appeal not less than thirty days before the liability...
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(d) The tax administrator may charge and retain a reasonable fee for a collection effort made on behalf of a governmental entity. The amount of the fee shall be negotiated between the governmental entity and the tax administrator. For the amount of the fee collected by the tax administrator pursuant to this section, the debtor shall be given full credit toward the satisfaction of the debt. (d) Governmental entities that contract with the tax administrator pursuant to this section shall indemnify the tax administrator against injuries, actions, liabilities, or proceedings arising from the collection or attempted collection by the tax administrator of the liability owed to the governmental entity.

(e) The governmental entity shall notify the debtor of its intention to submit the liability to the tax administrator for collection and of the debtor’s right to appeal not less than thirty days before the liability is submitted to the tax administrator for collection.