



Ohio Revised Code

Section 3769.088 Making assessment for failure to pay taxes.

Effective: October 1, 2013

Legislation: House Bill 59 - 130th General Assembly

(A)(1) If any permit holder required by this chapter to pay the taxes levied by sections 3769.08, 3769.087, 3769.26, and 3769.28 of the Revised Code fails to pay the taxes as required, the tax commissioner may make an assessment against the permit holder based upon any information in the commissioner's possession.

(2) If a permit holder required to remit taxes or file a report electronically in the manner prescribed under section 3769.103 of the Revised Code fails to do so, the tax commissioner may impose an additional penalty of fifty dollars or ten per cent of the tax due as shown on the report, whichever is greater.

(3) A penalty of up to fifteen per cent may be added to the amount of every assessment made under this section.

(4) The commissioner may adopt rules providing for the imposition and remission of penalties added to assessments made under this section.

(5) The commissioner shall give the party assessed written notice of the assessment in the manner provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the party assessed to the commissioner. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.



(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the place, track, or enclosure for which the permit was issued is located or the county in which the party assessed resides or has its principal place of business. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state horse racing tax," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issues the assessment until the day the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the tax commissioner under this section shall be treated as revenue arising from the taxes imposed by sections 3769.08, 3769.087, 3769.26, and 3769.28 of the Revised Code.