



## Ohio Revised Code

### Section 3769.20 Major capital improvement project tax reduction.

Effective: July 1, 2011

Legislation: House Bill 153 - 129th General Assembly

(A) To encourage the renovation of existing racing facilities for the benefit of the public, breeders, and horse owners and to increase the revenue to the state from the increase in pari-mutuel wagering resulting from such improvement, the taxes paid by a permit holder to the state, in excess of the amount paid into the nursing home franchise permit fee fund, shall be reduced by one per cent of the total amount wagered for those permit holders who carry out a major capital improvement project. The percentage of the reduction that may be taken each racing day shall equal seventy-five per cent of the amount of the taxes levied under divisions (B) and (C) of section 3769.08, section 3769.087, and division (F)(2) of section 3769.26 of the Revised Code, as applicable, divided by the calculated amount each fund should receive under divisions (B) and (C) of section 3769.08, section 3769.087, and division (F)(2) of section 3769.26 of the Revised Code and the reduction provided for in this section. If the resulting percentage is less than one, that percentage shall be multiplied by the amount of the reduction provided for in this section. Otherwise, the permit holder shall receive the full reduction provided for in this section. The amount of the allowable reduction not received shall be carried forward and added to any other reduction balance and applied against future tax liability. After any reductions expire, any reduction carried forward shall be treated as a reduction as provided for in this section. If the amount of allowable reduction exceeds the amount of taxes derived from a permit holder, the amount of the allowable reduction not used may be carried forward and applied against future tax liability.

If more than one permit holder is authorized to conduct racing at the facility that is being improved, the cost of the major capital improvement project shall be allocated between or among all the permit holders in the ratio that each permit holder's number of racing days bears to the total number of racing days conducted at the facility.

A reduction for a major capital improvement project shall start from the day racing is first conducted following the date on which the major capital improvement project is completed and the construction cost has been approved by the state racing commission, except as otherwise provided in division (E) of this section, and shall continue until the total tax reduction equals the cost of the



major capital improvement project plus debt service applicable to the project. In no event, however, shall any tax reduction, excluding any reduction balances, be permitted under this section after December 31, 2017. The total tax reduction because of the major capital improvement project shall not during any one year exceed for all permit holders using any one track one per cent of the total amount wagered. The racing commission shall notify the tax commissioner when the reduction of tax begins and when it ends.

(B) Each fiscal year, the racing commission shall submit a report to the tax commissioner, the office of budget and management, and the legislative service commission. The report shall identify each capital improvement project undertaken under this section and in progress at each race track, indicate the total cost of each project, state the tax reduction that resulted from each project during the immediately preceding fiscal year, estimate the tax reduction that will result from each project during the current fiscal year, state the total tax reduction that resulted from all such projects at all race tracks during the immediately preceding fiscal year, and estimate the total tax reduction that will result from all such projects at all race tracks during the current fiscal year.

(C) The tax reduction granted pursuant to this section shall be in addition to any tax reductions for capital improvements and new race tracks provided for in section 3769.08 of the Revised Code and approved by the racing commission.

(D) In order to qualify for the reduction in tax, a permit holder shall apply to the racing commission in such form as the commission may require and shall provide full details of the major capital improvement project, including plans and specifications, a schedule for the project's construction and completion, and a breakdown of proposed costs. In addition, the permit holder shall have commenced construction of the major capital improvement project or shall have had the application for the project approved by the racing commission prior to March 29, 1988. The racing commission shall not approve an application unless the permit holder shows that a contract for the major capital improvement project has been let under an unrestricted competitive bidding procedure, unless the contract is exempted by the controlling board because of its unusual nature. In determining whether to approve an application, the racing commission shall consider whether the major capital improvement project will promote the safety, convenience, and comfort of the racing public and horse owners and generally tend toward the improvement of racing in this state.



(E) If the major capital improvement project is approved by the racing commission and construction has started, the tax reduction may be authorized by the commission upon presentation of copies of paid bills in excess of five hundred thousand dollars. After the initial authorization, the permit holder shall present copies of paid bills in the amount of not less than five hundred thousand dollars. If the permit holder is in substantial compliance with the schedule for construction and completion of the major capital improvement project, the racing commission may authorize the continuance of the tax reduction upon the presentation of the additional paid bills in increments of five hundred thousand dollars. The racing commission may terminate the tax reduction if a permit holder fails to complete the major capital improvement project or fails to comply substantially with the schedule for construction and completion of the major capital improvement project. If the time for completion of the major capital improvement project is delayed by acts of God, strikes, or the unavailability of labor or materials, the time for completion as set forth in the schedule shall be extended by the period of the delay. If a permit holder fails to complete the major capital improvement project, the racing commission shall order the permit holder to repay to the state the total amount of tax reduced, unless the permit holder has spent at least six million dollars on the project. The normal tax paid by the permit holder under section 3769.08 of the Revised Code shall be increased by one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced. Any action taken by the racing commission pursuant to this section in terminating the tax adjustment or requiring repayment of the amount of tax reduced shall be subject to Chapter 119. of the Revised Code.

(F) As used in this section, "major capital improvement project" means the renovation, reconstruction, or remodeling, costing at least six million dollars, of a race track facility, including, but not limited to, the construction of barns used exclusively for that race track facility, backstretch facilities for horsemen, paddock facilities, pari-mutuel and totalizator equipment and appurtenances to that equipment purchased by the track, new access roads, new parking areas, the complete reconstruction, reshaping, and leveling of the racing surface and appurtenances, grandstand enclosure, installation of permanent new heating or air conditioning, roof replacement, and installations of a permanent nature forming a part of the track structure.

(G) The cost and expenses to which the tax reduction granted under this section applies shall be determined by generally accepted accounting principles and be verified by an audit of the permit holder's records, upon completion of the major capital improvement project, either by the racing



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commission or by an independent certified public accountant selected by the permit holder and approved by the commission.

(H) This section and section 3769.201 of the Revised Code govern any tax reduction granted to a permit holder for the cost to the permit holder of any cleanup, repair, or improvement required as a result of damage caused by the 1997 Ohio river flood to the place, track, or enclosure for which the permit is issued.