



Ohio Revised Code

Section 3770.072 State income tax withholding and filing of report.

Effective: June 11, 2012

Legislation: House Bill 386 - 129th General Assembly

(A) As used in this section, "prize winner," "transferee," and "transferor" have the same meanings as in section 3770.10 of the Revised Code.

(B) The state lottery commission shall deduct amounts from lottery prize awards and file returns in accordance with sections 5747.062 and 5747.064 of the Revised Code and any rules adopted by the tax commissioner pursuant to those sections. This division also applies to lottery prize award payments the commission remits to transferees.

(C)(1)(a) Each transferee shall deduct and withhold from each gross amount payable to each prize winner four per cent of the gross amount payable prior to making any other reduction required by this chapter.

(b) Subject to division (C)(1)(c) of this section, each transferee, including any transferee that is a related member, as defined in section 5733.042 of the Revised Code, to the transferor, shall deduct and withhold from each amount payable to a transferor that is not a prize winner four per cent of the portion of the payment representing gain or income the transferor will recognize in connection with the payment.

(c) For purposes of division (C)(1)(b) of this section, the portion of any payment representing gain or income recognized by the transferor shall be computed in accordance with the Internal Revenue Code. The transferor shall prepare a written statement setting forth that amount and sign the statement under penalty of perjury. Within five days before the date on which the payment is to be made, the transferor shall deliver the written statement to the transferee and deliver a copy of the written statement to the tax commissioner. If the transferee does not receive the written statement by the time the payment is made, the transferee shall withhold four per cent of the entire amount of the payment. If the tax commissioner notifies the transferee that the transferor has erroneously computed the amount of gain or income recognized, the transferee shall withhold four per cent of the entire amount of each payment to be made after the transferee receives the notice.



(d) The tax commissioner may impose a penalty of up to one thousand dollars for any person failing to timely deliver to the tax commissioner the copy of the written statement as required by division (C)(1)(c) of this section. Proceeds from the imposition of the penalty shall be considered as revenue arising from the tax imposed under section 5733.06 or 5747.02 of the Revised Code, as applicable.

(2) With respect to amounts deducted and withheld pursuant to division (C)(1) of this section, each transferee shall comply with divisions (A)(2) to (4) of section 5747.062 of the Revised Code.

(3) An employee of a corporation, limited liability company, or business trust having control or supervision of or charged with the responsibility of filing the report and making the payment required by division (C) of this section and section 5747.062 of the Revised Code, or an officer, member, manager, or trustee of a corporation, limited liability company, or business trust who is responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, shall be personally liable for failure to file the report or pay the amount due as required by division (C) of this section and section 5747.062 of the Revised Code. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge a responsible officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay the amount due.

(4)(a) The tax commissioner may make an assessment against any person listed in division (C)(1) or (3) of this section for any deficiency for any period. Section 5747.13 of the Revised Code shall apply with respect to issuing assessments, filing petitions for reassessments, conducting hearings, issuing final determinations, making the assessment final, and filing the entry that makes the assessment final. Section 5717.02 of the Revised Code shall apply to appeals of the commissioner's final decision in connection with assessments issued pursuant to division (C)(4) of this section.

(b) An assessment issued against any person listed in division (C)(1) or (3) of this section shall not be considered an election of remedies or a bar to an assessment against any other person for the failure to comply with division (C)(1) of this section. No assessment shall be issued against any person who is so listed if the amount required to be withheld has been paid by another.



(c) The assessment shall include interest at the rate per annum prescribed by section 5703.47 of the Revised Code on liability from the time the payment is due until the date of assessment. Interest shall continue to accrue from the date of assessment until the date the assessment is paid in full. Any interest accruing subsequent to the date of the issuance of the assessment shall be considered to be an additional deficiency for which the tax commissioner may issue subsequent assessments. The initial assessment and any subsequent assessments may include a penalty in an amount not to exceed twice the applicable interest charged under this division.