



Ohio Administrative Code

Rule 122:28-1-04 Remedies.

Effective: February 8, 2021

In the matter of divisions (G) and (J) of section 122.175 of the Revised Code:

(A) Grantees are to satisfy the statutory minimums. If grantees fail to timely meet the statutory minimums, the authority may terminate the data center tax exemption agreement and grantor will not issue tax exemption certificates to the original grantee or any supplemental grantee. The authority may also have the grantees refund the state an amount equal to all or a portion of the exemption claimed.

(B) The grantees are noncompliant with the data center tax exemption if grantees have timely met the statutory minimums but subsequently during the term of the tax exemption agreement failed to meet the agreement metrics, including: (1) maintaining operations as an eligible computer data center; (2) meeting the identified investment target; or (3) meeting employment and payroll obligations (e.g., create and retain full-time equivalent employees and new payroll targets). In the event of such noncompliance, the director will notify the grantees and the tax credit authority. The grantees will have the opportunity to explain the noncompliance, and the authority may reduce the rate or term of the data center tax exemption for the current year and future years or terminate the exemption. The authority may consider the effect of market conditions on the eligible computer data center, whether the grantee continues to maintain other operations in this state, and, with respect to agreements involving multiple grantees, the specific grantee's level of responsibility for the noncompliance.

(C) If an original grantee or a supplemental grantee subject to an exemption agreement fails to meet or comply with any condition or requirement set forth in the exemption agreement, the director may amend the exemption agreement to reduce the percentage of the exemption or term during which the exemption applies to the computer data center equipment used or to be used by the noncompliant taxpayer at an eligible computer data center. The reduction of the percentage or term may take effect in the current calendar year.