



Ohio Revised Code

Section 5733.065 Additional tax on corporations for privilege of manufacturing or selling litter stream products in state.

Effective: July 1, 2005

Legislation: House Bill 66 - 126th General Assembly

(A) As used in this section, "litter stream products" means:

(1) Intoxicating liquor, beer, wine, mixed beverages, or spirituous liquor as defined in section 4301.01 of the Revised Code;

(2) Soft drinks as defined in section 913.22 of the Revised Code;

(3) Glass, metal, plastic, or fiber containers with a capacity of less than two gallons sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;

(4) Container crowns and closures sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;

(5) Packaging materials transferred or intended for transfer of use or possession in conjunction with retail sales of products enumerated in divisions (A)(1) and (2) of this section;

(6) Packaging materials in the finished form in which they are to be used, including sacks, bags, cups, lids, straws, plates, wrappings, boxes, or containers of any type used in the packaging or serving of food or beverages, when the food or beverages are prepared for human consumption by a restaurant or take-out food outlet at the premises where sold at retail and are delivered to a purchaser for consumption off the premises where the food or beverages are sold;

(7) Cigarettes, cigars, tobacco, matches, candy, and gum.

(B) For the purpose of providing additional funding for recycling and litter prevention, there is hereby levied an additional tax on corporations for the privilege of manufacturing or selling litter



stream products in this state. The tax imposed by this section is in addition to the tax charged under section 5733.06 of the Revised Code, computed at the rate prescribed by section 5733.066 of the Revised Code.

(C) The tax shall be imposed upon each corporation subject to the tax imposed by section 5733.06 of the Revised Code that manufactures or sells litter stream products in this state. The tax for each year shall be in an amount equal to the greater of either:

(1) Twenty-two hundredths of one per cent upon the value of that portion of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code that is subject to the rate contained in division (B) of section 5733.06 of the Revised Code;

(2) Fourteen one-hundredths of a mill times the value of the taxpayer's issued and outstanding shares of stock as determined under division (C) of section 5733.05 of the Revised Code.

The additional tax charged any taxpayer or group of combined taxpayers pursuant to this section for any tax year shall not exceed five thousand dollars.

(D)(1) In the case of a corporation engaged in the business of manufacturing litter stream products, no tax shall be due under this section unless the sale of litter stream products in this state during the taxable year exceeds five per cent of the total sales in this state of the corporation during that period or unless the total sales in this state of litter stream products by the corporation during the taxable year exceed ten million dollars.

(2) In the case of a corporation engaged in the business of selling litter stream products in the form in which the item is or is to be received, no tax shall be due under this section unless the corporation's sales of litter stream products in this state during the taxable year constitute more than five per cent of its total sales in this state during that period.

(3) In the case of a corporation transferring possession of litter stream products included in division (A)(6) of this section, in which food or beverages prepared for human consumption are placed, when the food or beverages are prepared for retail sale at the premises where sold and are delivered to a purchaser for consumption off the premises where the food or beverages are sold, no tax shall be due



under this section unless such sales for off-premises consumption during the taxable year exceed five per cent of the corporation's total annual sales during the taxable year.

(E)(1) The tax imposed by this section is due in the proportions and on the dates on which the tax imposed by section 5733.06 of the Revised Code may be paid without penalty.

(2) Payment of the tax and any reports or returns required to enable the tax commissioner to determine the correct amount of the tax shall be submitted with and are due at the same time as payments and reports required to be submitted under this chapter.

(3) If the tax is not paid in full on or before the date required by division (E)(1) of this section, the unpaid portion of the tax due and unpaid shall be subject to all provisions of this chapter for the collection of unpaid, delinquent taxes imposed by section 5733.06 of the Revised Code, except that all such taxes, interest, and penalties, when collected, shall be treated as proceeds arising from the tax imposed by this section and shall be deposited in the general revenue fund.

The tax levied on corporations under this section does not prohibit or otherwise limit the authority of municipal corporations to impose an income tax on the income of such corporations.