



Ohio Revised Code

Section 5733.28 Failing to file complying report or pay tax.

Effective: September 6, 2002

Legislation: Senate Bill 200 - 124th General Assembly

(A) In addition to any other penalty imposed by this chapter or Chapter 5703. of the Revised Code, the following penalties shall apply:

(1) If a taxpayer required to file any report, including an informational notice or report, under this chapter fails to make and file the report within the time prescribed, including any extensions of time granted by the tax commissioner, a penalty may be imposed not exceeding the greater of fifty dollars per month or fraction of a month, not to exceed five hundred dollars, or five per cent per month or fraction of a month, not to exceed fifty per cent, of the tax required to be shown on the report, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which filed.

(2) Except as provided in division (C) of section 5733.021 of the Revised Code, if a taxpayer fails to pay the amount of tax required to be paid under this chapter, by the dates prescribed in this chapter for payment, a penalty may be imposed not exceeding fifteen per cent of the delinquent payment.

(3) If a taxpayer files what purports to be a report required by this chapter that does not contain information upon which the substantial correctness of the report may be judged or contains information that on its face indicates that the report is substantially incorrect, and the filing of the report in that manner is due to a position that is frivolous or a desire that is apparent from the report to delay or impede the administration of the tax levied by this chapter, a penalty of up to five hundred dollars may be imposed.

(4) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any report required under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the report.

(5) If any person makes a false or fraudulent claim for a refund under this chapter, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. The



penalty imposed under division (A)(5) of this section, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 5733.11 of the Revised Code as tax, penalty, or interest imposed under this chapter without regard to whether the person making the claim is otherwise subject to the provisions of this chapter, and without regard to any time limitation for the assessment imposed by division (A) of section 5733.11 of the Revised Code.

(B) For purposes of this section, the tax required to be shown on the report shall be reduced by the amount of any part of the tax paid on or before the date, including extensions of the date, prescribed for filing the report.

(C) Each penalty imposed under this section shall be in addition to any other penalty provided in this section. All or part of any penalty imposed under this section shall be abated by the commissioner if the taxpayer shows that the failure to comply with the provisions of this chapter is due to reasonable cause and not willful neglect.