



Ohio Revised Code

Section 5743.05 Sale of stamps; delivery; redemption of stamps.

Effective: September 29, 2015

Legislation: House Bill 64 - 131st General Assembly

The tax commissioner shall sell all stamps provided for by section 5743.03 of the Revised Code. The stamps shall be sold at their face value, except the commissioner shall, by rule, authorize the sale of stamps to wholesale dealers in this state, or to wholesale dealers outside this state, at a discount of not less than one and eight-tenths per cent or more than ten per cent of their face value, as a commission for affixing and canceling the stamps.

The commissioner, by rule, shall authorize the delivery of stamps to wholesale dealers in this state and to wholesale dealers outside this state on credit. If such a dealer has not been in good credit standing with this state for five consecutive years preceding the purchase, the commissioner shall require the dealer to file with the commissioner a bond to the state in the amount and in the form prescribed by the commissioner, with surety to the satisfaction of the commissioner, conditioned on payment to the treasurer of state or the commissioner within thirty days or the following twenty-third day of June, whichever comes first for stamps delivered within that time. If such a dealer has been in good credit standing with this state for five consecutive years preceding the purchase, the commissioner shall not require that the dealer file such a bond but shall require payment for the stamps within thirty days after purchase of the stamps or the following twenty-third day of June, whichever comes first. Stamps sold to a dealer not required to file a bond shall be sold at face value. The maximum amount that may be sold on credit to a dealer not required to file a bond shall equal one hundred ten per cent of the dealer's average monthly purchases over the preceding calendar year. The maximum amount shall be adjusted to reflect any changes in the tax rate and may be adjusted, upon application to the commissioner by the dealer, to reflect changes in the business operations of the dealer. The maximum amount shall be applicable to the period between the first day of July to the following twenty-third day of June. Payment by a dealer not required to file a bond shall be remitted by electronic funds transfer as prescribed by section 5743.051 of the Revised Code. If a dealer not required to file a bond fails to make the payment in full within the required payment period, the commissioner shall not thereafter sell stamps to that dealer until the dealer pays the outstanding amount, including penalty and interest on that amount as prescribed in this chapter, and the commissioner thereafter may require the dealer to file a bond until the dealer is restored to good



standing. The commissioner shall limit delivery of stamps on credit to the period running from the first day of July of the fiscal year until the twenty-third day of the following June. Any discount allowed as a commission for affixing and canceling stamps shall be allowed with respect to sales of stamps on credit.

The commissioner shall redeem and pay for any destroyed, unused, or spoiled tax stamps at their net value, and shall refund to wholesale dealers the net amount of state and county taxes paid erroneously or paid on cigarettes that have been sold in interstate or foreign commerce or that have become unsalable, and the net amount of county taxes that were paid on cigarettes that have been sold at retail or for retail sale outside a taxing county.

An application for a refund of tax shall be filed with the commissioner, on the form prescribed by the commissioner for that purpose, within three years from the date the tax stamps are destroyed or spoiled, from the date of the erroneous payment, or from the date that cigarettes on which taxes have been paid have been sold in interstate or foreign commerce or have become unsalable.

On the filing of the application, the commissioner shall determine the amount of refund to which the applicant is entitled, payable from receipts of the state tax, and, if applicable, payable from receipts of a county tax. If the amount is less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

If a refund is granted for payment of an illegal or erroneous assessment issued by the department, the refund shall include interest on the amount of the refund from the date of the overpayment. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code.