



Ohio Revised Code Section 5753.07 Assessment.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A)(1) The tax commissioner may issue an assessment, based on any information in the tax commissioner's possession, against a casino operator who fails to pay the tax levied under section 5753.02 of the Revised Code or to file a return under section 5753.04 of the Revised Code. The tax commissioner shall give the casino operator written notice of the assessment under section 5703.37 of the Revised Code. With the notice, the tax commissioner shall include instructions on how to petition for reassessment and on how to request a hearing with respect to the petition.

(2) Unless the casino operator, within sixty days after service of the notice of assessment, files with the tax commissioner, either personally or by certified mail, a written petition signed by the casino operator, or by the casino operator's authorized agent who has knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the casino operator to the treasurer of state. The petition shall indicate the casino operator's objections to the assessment. Additional objections may be raised in writing if they are received by the tax commissioner before the date shown on the final determination.

(3) If a petition for reassessment has been properly filed, the tax commissioner shall proceed under section 5703.60 of the Revised Code.

(4) After an assessment becomes final, if any portion of the assessment, including penalties and accrued interest, remains unpaid, the tax commissioner may file a certified copy of the entry making the assessment final in the office of the clerk of the court of common pleas of Franklin county or in the office of the clerk of the court of common pleas of the county in which the casino operator resides, the casino operator's casino facility is located, or the casino operator's principal place of business in this state is located. Immediately upon the filing of the entry, the clerk shall enter a judgment for the state against the taxpayer assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled, "special judgments for the gross casino revenue tax." The judgment has the same effect as other judgments. Execution shall issue upon the judgment at the request of the tax commissioner, and all laws applicable to sales on



execution apply to sales made under the judgment.

(5) If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax commissioner issued the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax levied under section 5753.02 of the Revised Code and may be collected by the issuance of an assessment under this section.

(B) If the tax commissioner believes that collection of the tax levied under section 5753.02 of the Revised Code will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the casino operator who is liable for the tax. Immediately upon the issuance of a jeopardy assessment, the tax commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (A)(4) of this section, and the clerk shall proceed as directed in that division. Notice of the jeopardy assessment shall be served on the casino operator or the casino operator's authorized agent under section 5703.37 of the Revised Code within five days after the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the casino operator assessed files a petition for reassessment under division (A)(2) of this section and provides security in a form satisfactory to the tax commissioner that is in an amount sufficient to satisfy the unpaid balance of the assessment. If a petition for reassessment has been filed, and if satisfactory security has been provided, the tax commissioner shall proceed under division (A)(3) of this section. Full or partial payment of the assessment does not prejudice the tax commissioner's consideration of the petition for reassessment.

(C) The tax commissioner shall immediately forward to the treasurer of state all amounts the tax commissioner receives under this section, and the amounts forwarded shall be treated as if they were revenue arising from the tax levied under section 5753.02 of the Revised Code.



(D) Except as otherwise provided in this division, no assessment shall be issued against a casino operator for the tax levied under section 5753.02 of the Revised Code more than four years after the due date for filing the return for the tax period for which the tax was reported, or more than four years after the return for the tax period was filed, whichever is later. This division does not bar an assessment against a casino operator who fails to file a return as required by section 5753.04 of the Revised Code or who files a fraudulent return, or when the casino operator and the tax commissioner waive in writing the time limitation.

(E) If the tax commissioner possesses information that indicates that the amount of tax a casino operator is liable to pay under section 5753.02 of the Revised Code exceeds the amount the casino operator paid, the tax commissioner may audit a sample of the casino operator's gross casino revenue over a representative period of time to ascertain the amount of tax due, and may issue an assessment based on the audit. The tax commissioner shall make a good faith effort to reach agreement with the casino operator in selecting a representative sample. The tax commissioner may apply a sampling method only if the tax commissioner has prescribed the method by rule.

(F) If the whereabouts of a casino operator who is liable for the tax levied under section 5753.02 of the Revised Code are unknown to the tax commissioner, the tax commissioner shall proceed under section 5703.37 of the Revised Code.

(G) If a casino operator fails to pay the tax levied under section 5753.02 of the Revised Code within a period of one year after the due date for remitting the tax, the Ohio casino control commission may suspend the casino operator's license.