



Ohio Revised Code

Section 319.36 Clerical errors in taxes.

Effective: May 8, 1996

Legislation: Senate Bill 158 - 121st General Assembly

If, after having delivered a duplicate to the county treasurer for collection, the county auditor is satisfied that any tax, assessment, recoupment charge, or any part thereof has been erroneously charged as a result of a clerical error as defined in section 319.35 of the Revised Code, the county auditor shall give the person so charged a certificate to that effect to be presented to the treasurer, who shall deduct the amount from such tax, assessment, or charge. If, at any time, the auditor discovers that erroneous taxes, assessments, or charges have been charged or collected in previous years as a result of a clerical error, except for public utility taxes covered under section 5727.471 of the Revised Code, the auditor shall call the attention of the county board of revision to such charge or collection at a regular or special session of the board. If the board finds that taxes, assessments, or charges have been erroneously charged or collected, as a result of a clerical error, it shall certify that finding to the county auditor. Upon receipt of the board's certification, and in all cases where the tax commissioner has certified such a determination under section 5711.32 of the Revised Code, the auditor shall do one of the following:

(A) In the event of erroneous charges that have not been collected, give the person so charged a certificate of erroneous assessments to be presented to the treasurer, who shall deduct the amount from such taxes, assessments, or charges;

(B) In the event of erroneous charges that have been collected, do one of the following:

(1) Draw a warrant on the treasurer in favor of the person paying the erroneous charges, or the personal representative of the person paying the erroneous charges, for the full amount of the taxes, assessments so charged and collected with any applicable interest thereon as prescribed by division (E) of this section or by section 5719.041 of the Revised Code;

(2) Refund a portion of the overpayment and any interest and prorate the remaining balance as a credit against future taxes that may be charged to the person;



(3) Prorate the full amount of the overpayment and any interest as a credit against future taxes that may be charged to the person;

(4) Enter into a written undertaking with the person providing for refund of the overpayment in installments. The terms of such an undertaking shall include the amount payable and the due date of each installment, including the due date of the final payment, which shall not be later than two years after the due date of the first installment. Notwithstanding section 5719.041 of the Revised Code to the contrary, any applicable interest on the overpayment allowed under that section shall not accrue beyond the day on which the undertaking is entered into.

(C) The auditor shall have discretion as to which method to use and shall advise the person of the decision within sixty days after receipt of the board's or tax commissioner's certification. The auditor shall draw a warrant for payment of any refund under division (B)(1) or (2) of this section within ninety days after receipt of the certification. Any amount to be credited under division (B)(2) or (3) of this section shall be applied to all or a part of the taxes otherwise due from the person on any property tax due dates after the date on which the certification was received, but shall not be spread over more than the next ten ensuing due dates. If any portion of the overpayment has not been refunded or credited by the tenth such tax due date or by a time when the auditor determines that the person and the property of the person are not shown on any tax list for the county, the auditor immediately shall draw a warrant to refund that portion.

Interest allowed under division (E) of this section or by section 5719.041 of the Revised Code shall continue to accrue on portions of overpayments credited against future taxes until the last day of the month preceding the day the portion of the overpayment is credited, and shall be computed separately on each portion credited. In computing the interest on a portion of an overpayment credited against current taxes due, the portion shall be considered to have been credited on the last day on which those taxes may be paid without penalty.

(D) The treasurer shall pay a refund warrant from the undivided general property tax fund and such refund or any prorated refund credit, including interest paid thereon, shall be properly apportioned by the auditor among the subdivision accounts to which the overpayment originally was paid. When the auditor finds that there are insufficient funds present in the undivided tax fund to the credit of any subdivision account for the full repayment of a refund, the auditor may draw a warrant in an amount



not exceeding the amount present and the balance, with accrued interest, shall be paid as funds become available. In no instance shall taxes that are to be apportioned to any one subdivision be used to refund erroneous payments that have been previously distributed to any other subdivision. Except for taxes required to be refunded by the county auditor pursuant to division (A) of section 5711.32 of the Revised Code, no taxes or assessments shall be refunded unless they have been erroneously charged or collected in the five years next preceding the discovery of such charge or collection by the auditor.

(E) In the event of an erroneous tax, assessment, or charge against real property, the county auditor shall add the accrued interest to the overpayment, which interest becomes part of the overpayment. The interest accrues on the overpayment from the first day of the month following the date of overpayment until the last day of the month preceding the date of the drawing of the warrant pursuant to division (A) of this section. The date of overpayment with respect to persons who pay their real property taxes in two installments is the date of the second installment payment. The rate at which the interest accrues is the rate per calendar month, rounded to the nearest one-hundredth of one per cent, equal to one-twelfth of the rate per annum prescribed by section 5703.47 of the Revised Code for the calendar year that includes the month for which the charge accrues. The interest shall be paid on a pro-rata basis from the fund or funds to which the overpayment was credited.

(F) The payment of interest under division (E) of this section shall not be made on an overpayment resulting from a reduction in the appraised true value, other than such a reduction resulting from the correction of a clerical error.