



Ohio Revised Code

Section 5727.26 Assessment for failure to file return or pay amount due - judgment against company.

Effective: September 29, 2013

Legislation: House Bill 59 - 130th General Assembly

(A) The tax commissioner may make an assessment, based on any information in the commissioner's possession, against any natural gas company or combined company that fails to file a return or pay any tax, interest, or additional charge as required by sections 5727.24 to 5727.29 of the Revised Code. The commissioner shall give the company assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition. A penalty of up to fifteen per cent may be added to all amounts assessed under this section. The tax commissioner may adopt rules providing for the imposition and remission of the penalty.

(B) Unless the company assessed, 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 company's authorized agent having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the company assessed to the treasurer of state. The petition shall indicate the objections of the company assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination.

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

(C) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the natural gas company's or combined company's principal place of business is located, or in the office of the clerk of court of common pleas of Franklin county.

Immediately on the filing of the entry, the clerk shall enter judgment for the state against the company 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 public utility excise tax on natural gas and combined companies," and shall have 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 shall apply to sales made under the judgment.

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 issues the assessment until it 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 and may be collected by the issuance of an assessment under this section.

(D) If the tax commissioner believes that collection of the tax 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 company liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the company assessed or the company's authorized agent in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the company assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(E) The tax commissioner shall immediately forward to the treasurer of state all amounts that the tax commissioner receives under this section, and such amounts shall be considered revenue arising from the tax imposed by section 5727.24 of the Revised Code.

(F) No assessment shall be made or issued against a natural gas company or combined company for



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the tax imposed by section 5727.24 of the Revised Code more than four years after the return date for the period in which the tax was reported, or more than four years after the return for the period was filed, whichever is later.