



Ohio Revised Code

Section 5733.12 Crediting of payments to funds - filing of refund application.

Effective: December 1, 2007

Legislation: House Bill 119 - 127th General Assembly

(A) All payments received from the taxes imposed under sections 5733.06 and 5733.41 of the Revised Code shall be credited to the general revenue fund.

(B) Except as otherwise provided under divisions (C) and (D) of this section, an application to refund to the corporation the amount of taxes imposed under section 5733.06 of the Revised Code that are overpaid, paid illegally or erroneously, or paid on any illegal, erroneous, or excessive assessment, with interest thereon as provided by section 5733.26 of the Revised Code, shall be filed with the tax commissioner, on the form prescribed by the commissioner, within three years from the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (C)(2) of section 5733.031, division (D)(2) of section 5733.067, or division (A) of section 5733.11 of the Revised Code. For purposes of division (B) of this section, any payment that the applicant made before the due date or extended due date for filing the report to which the payment relates shall be deemed to have been made on the due date or extended due date.

On the filing of the refund application, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not 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.

(C) "Ninety days" shall be substituted for "three years" in division (B) of this section if the taxpayer satisfies both of the following:

(1) The taxpayer has applied for a refund based in whole or in part upon section 5733.0611 of the Revised Code;

(2) The taxpayer asserts that the imposition or collection of the tax imposed or charged by section 5733.06 of the Revised Code or any portion of such tax violates the Constitution of the United



States or the Constitution of this state.

(D)(1) Division (D)(2) of this section applies only if all of the following conditions are satisfied:

(a) A qualifying pass-through entity pays an amount of the tax imposed by section 5733.41 of the Revised Code;

(b) The taxpayer is a qualifying investor as to that qualifying pass-through entity;

(c) The taxpayer did not claim the credit provided for in section 5733.0611 of the Revised Code as to the tax described in division (D)(1)(a) of this section;

(d) The three-year period described in division (B) of this section has ended as to the taxable year for which the taxpayer otherwise would have claimed that credit.

(2) A taxpayer shall file an application for refund pursuant to this division within one year after the date the payment described in division (D)(1)(a) of this section is made. An application filed under this division shall only claim refund of overpayments resulting from the taxpayer's failure to claim the credit described in division (D)(1)(c) of this section. Nothing in this division shall be construed to relieve a taxpayer from complying with the provisions of division (I)(14) of section 5733.04 of the Revised Code.