



Ohio Revised Code

Section 5741.13 Assessment for failure to make return or pay tax.

Effective: July 18, 2019

Legislation: House Bill 166 - 133rd General Assembly

(A) Except as provided in division (B) of this section:

(1) If any person required by section 5741.12 of the Revised Code to make a return to the tax commissioner fails to make such return at the time required by or under authority of such section, the commissioner may make an assessment against such person, based upon any information within the commissioner's possession. The commissioner shall give to such person written notice of the assessment as provided in section 5703.37 of the Revised Code.

(2) If information in the possession of the commissioner indicates that the tax paid by any consumer is less than that due, the commissioner may audit a representative sample of that consumer's purchases and may issue an assessment based thereon. The commissioner shall make a good faith effort to reach agreement with the consumer on selecting a representative sample.

(3) If information in the possession of the commissioner indicates that the amount required to be collected or paid under this chapter is greater than the amount remitted by the seller, the commissioner may audit a representative sample of the seller's sales to determine the per cent of exempt or taxable transactions or the effective tax rate and may issue an assessment based on the audit. The commissioner shall make a good faith effort to reach agreement with the seller in selecting a representative sample.

(B) The commissioner may audit only the marketplace facilitator for sales with respect to which the marketplace facilitator is treated as the seller pursuant to division (E) of section 5741.01 of the Revised Code and may not audit the marketplace seller on behalf of which the sale was facilitated. This division does not absolve a marketplace seller or the purchaser from personal liability under division (B) of section 5741.11 of the Revised Code for taxes that are not properly collected, paid, or remitted due to the inability of the marketplace facilitator to obtain accurate information about the sale from the marketplace seller.