



Ohio Revised Code

Section 5743.082 Jeopardy assessments.

Effective: July 1, 2007

Legislation: House Bill 241 - 126th General Assembly

(A) If the tax commissioner finds that a wholesale dealer or retail dealer, liable for tax under sections 5743.01 to 5743.20 of the Revised Code, is about to depart from the state, remove the wholesale or retail dealer's property from the state, conceal the wholesale or retail dealer's person or property, or do any other act tending to prejudice, obstruct, or render wholly or partly ineffectual proceedings to collect the tax, unless the proceedings are commenced without delay, or if the commissioner believes that the collection of the amount due from any wholesale dealer or retail dealer will be jeopardized by delay, the commissioner may issue a jeopardy assessment against the wholesale or retail dealer for the amount of the tax, plus a penalty of up to thirty per cent. Upon issuance of a jeopardy assessment under this division, the total amount assessed shall immediately be due and payable unless security is provided pursuant to division (C) of this section. Any assessment issued under this section shall bear interest as prescribed by section 5743.081 of the Revised Code.

(B) The commissioner immediately shall file an entry with the clerk of the court of common pleas in the same manner and with the same effect as provided in section 5743.081 of the Revised Code. Notice of the jeopardy assessment shall be served on the dealer assessed or the dealer's legal representative, as provided in section 5703.37 of the Revised Code, within five days of the filing of the entry. The dealer assessed may petition for reassessment within sixty days of receipt of the notice of jeopardy assessment in the same manner as provided in section 5743.081 of the Revised Code. Full or partial payment of the assessment shall not prejudice the commissioner's consideration of the merits of the assessment as contested by the petition for reassessment. Upon notification of the existence of the judgment filed pursuant to this division, any public official having control or custody of any funds or property of the person assessed immediately shall pay or deliver the funds or property to the commissioner as full or partial satisfaction of the jeopardy assessment. However, funds or property needed as evidence in criminal proceedings or that is expected to be forfeited pursuant to Chapter 2981. of the Revised Code, need not be relinquished by the public official. Upon disposition of criminal and forfeiture proceedings, funds and property not needed as evidence and not forfeited shall be delivered to the commissioner.



(C) If the dealer subject to a jeopardy assessment files a petition for reassessment and posts security satisfactory to the commissioner in an amount sufficient to satisfy the unpaid balance of the assessment, execution on the judgment shall be stayed pending disposition of the petition for reassessment and all appeals resulting from the petition. If the security is sufficient to satisfy the full amount of the assessment, the commissioner shall return any funds or property of the dealer that previously were seized. Upon satisfaction of the assessment the commissioner shall order the security released and the judgment vacated.

(D) The commissioner may adopt rules providing for the imposition and remission of penalties imposed under this section.