



Ohio Legislative Service Commission

Final Analysis

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ACT SUMMARY

Cigarette and tobacco excise taxes

- Shifts the duty of selling cigarette tax stamps and receiving cigarette tax returns from the Treasurer of State to the Tax Commissioner.
- Eliminates provisions in prior law that authorized the use of a metering device in lieu of tax stamps to show that the excise tax has been paid.
- Changes the due date for reporting and paying the "other tobacco product" (i.e., noncigarette) excise tax.

Elimination of Tobacco Settlement Enforcement Fund

- Eliminates the Tobacco Settlement Enforcement Fund.

Motor fuel excise tax

- Consolidates two existing motor fuel exporter licenses into a single license.
- Requires persons delivering motor fuel to locations in Ohio to register with the Tax Commissioner.

- Authorizes the Commissioner to impose and assess a penalty on persons that are required to file motor fuel reports but are not required to pay motor fuel excise tax for the failure to file timely reports.
- Authorizes the Tax Commissioner to require all or a class of motor fuel dealers to remit tax payments electronically, including through the Department of Taxation's website.
- Modifies the penalty for a motor fuel dealer's failure to remit tax payments electronically.
- Requires the monthly report the Commissioner is required to prepare showing information about motor fuel dealers to include each dealer's address and tax identification number.
- Allows the Commissioner to provide retail dealers with certain information about wholesaler dealers for the purpose of the retailer receiving a motor fuel tax refund for fuel lost through shrinkage and evaporation.
- Removes the requirement that a person apply to the Tax Commissioner for a refund permit before receiving certain motor fuel tax refunds.

Petroleum activity tax

- Renames the tax levied on the basis of gross receipts from the first sale of motor fuel in the state from the "motor fuel receipts tax" to the "petroleum activity tax" (PAT).
- Changes the basis on which the tax is computed, from a taxpayer's actual gross receipts to a per-gallon, average price-per-gallon basis.
- Further specifies the point at which the tax applies (the "first sale" in Ohio).
- Exempts receipts from certain exchanges between parties in which no money is paid other than to compensate for fuel grade, location, or handling.
- Permits taxpayers to bill or invoice the PAT to purchasers.
- Specifies that only persons that have a sufficient business presence in Ohio ("substantial nexus") are subject to the tax, but allows others to voluntarily register to be subject to the tax.
- Requires persons that knowingly acquire fuel from an unlicensed taxpayer to pay the tax on fuel received in or transported into Ohio.

- Prescribes a rebuttable presumption that gasoline and undyed diesel fuel is used on public roads or on waterways for the purpose of determining how the revenue is to be divided between highway and nonhighway expenditure.
- Modifies the existing CAT exclusion for receipts from selling motor fuel.
- Requires the Tax Commissioner to prepare a list of suppliers holding a PAT license each month and allows for public inspection of that list.

Tax credits

- Permits the Director of Development Services to reduce the amount, percentage, or term of a research and development loan tax credit if the loan recipient fails to comply with the terms of the loan agreement.
- Shortens the minimum holding period of investments, from five to two years, necessary for the investment to qualify for the small business investment income tax credit.
- Authorizes job creation and retention tax credits to be claimed against the PAT.
- Allows the recipient of a nonrefundable job retention tax credit to claim a credit initially awarded against the CAT against the PAT instead.
- Eliminates the part-year computation of the base used to compute the increase in an employer's Ohio income tax withholdings for the purpose of the job creation tax credit.
- Specifies that municipal corporations may award job creation or retention municipal income tax credits to taxpayers not awarded a corresponding state credit.

Tax administration and compliance

- Authorizes the Tax Commissioner to adopt rules requiring returns for any tax or fee administered by the Commissioner to be filed electronically or telephonically and for payments to be made electronically.
- Prescribes the date a document or payment sent by mail or electronically or delivered in person is considered to have been received by the Tax Commissioner.
- Prescribes the date a document sent by the Tax Commissioner by mail is considered to have been received by another person.



- Requires the Tax Commissioner to include interest when refunding any overpayments of natural gas distribution tax, kilowatt-hour tax, and tire fees.
- Authorizes the Department of Taxation to disclose information to the Development Services Agency (DSA) that is necessary to ensure compliance with tax laws or to verify information provided to DSA regarding tax credits or other financial assistance.
- Authorizes the Tax Commissioner to retroactively exempt real property that is subject to an enterprise zone agreement if it otherwise qualifies except for a failure to comply with tax exemption application procedures.

PUCO for-hire motor carrier tax receipts

- Requires the Public Utility Commission of Ohio (PUCO) to provide to for-hire motor carriers, instead of a single receipt, a tax receipt for each of the carrier's motor vehicles for which a tax has been paid under the for-hire motor carrier law.
- Requires that the appropriate tax receipt be kept in each motor vehicle operated by the carrier.
- Requires the carrier to maintain records that track to which motor vehicle each tax receipt is assigned.

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CONTENT AND OPERATION

Cigarette and tobacco excise taxes

Ohio levies an excise tax on the sale, distribution, or use of cigarettes at a rate of \$1.25 per pack. In addition, any county government may levy a tax of up to 4.5¢ per pack for the purpose of funding the operation or servicing of debt of a sports facility, and Cuyahoga County may levy a tax of up to 30¢ per pack to support arts and cultural activities and facilities (Cuyahoga County currently levies both taxes at the maximum allowable rates; no other county levies a cigarette excise tax). The tax is paid primarily by wholesale dealers through the purchase of stamps that are affixed to packs of cigarettes. Retail sellers must pay the tax on cigarettes that are not taxed at the wholesale dealer level. A separate tax is levied on tobacco products other than cigarettes at the rate of 17% of the wholesale price. Revenue from the state cigarette and other tobacco product taxes is credited to the General Revenue Fund (GRF).

Tax stamps and returns

(R.C. 5743.01, 5743.021, 5743.024, 5743.025, 5743.03, 5743.04, 5743.05, 5743.051, 5743.06 (repealed), 5743.112, 5743.52, and 5743.65)

The act shifts the duty of selling cigarette tax stamps and receiving cigarette and tobacco product tax returns from the Treasurer of State to the Tax Commissioner. Under prior law, cigarette tax stamps were sold by the Treasurer of State and by county treasurers that were appointed as deputies of the Treasurer of State for that purpose. Wholesale dealers, persons with untaxed cigarettes, and distributors and importers of other tobacco products were required to file returns with the Treasurer of State who, after marking the date of receipt, was required to transmit the return to the



Commissioner. The act instead requires that the Commissioner exclusively sell the cigarette tax stamps and that returns be made and filed directly to the Commissioner. Unlike prior law with respect to sales by the Treasurer of State, the act does not permit the Commissioner to sell cigarette tax stamps through designated agents.

In conjunction with the Commissioner assuming the role of selling the stamps and receiving the returns, the act requires that amounts collected from charges for the costs of shipping cigarette tax stamps to wholesale dealers be credited to the Cigarette Tax Enforcement Fund rather than the Cigarette Tax Administrative Fund. Furthermore, the act eliminates provisions in prior law that authorized the use of a metering device in lieu of tax stamps to show that the cigarette excise tax had been paid.

Tobacco product excise tax filing and payment

(R.C. 5743.52)

The act changes the due date for reporting and paying the "other tobacco product" (i.e., noncigarette) excise tax from the last day of each month to the 23rd day of each month. The act also requires reports and payments to be made to the Tax Commissioner instead of to the Treasurer of State.

Elimination of Tobacco Settlement Enforcement Fund

(R.C. 183.35, repealed)

The act eliminates the Tobacco Settlement Enforcement Fund. The Fund was used by the Tax Commissioner to enforce provisions of law related to the sale of tobacco products that were not covered by the Tobacco Master Settlement Agreement, which settled various government lawsuits against the tobacco industry covering most major manufacturers.

Motor fuel excise tax

Ohio imposes excise taxes at a total rate of 28¢ per gallon of gasoline, diesel, and other forms of motor fuel sold or distributed in Ohio by fuel dealers, with the revenue devoted to highway-related purposes. The act makes several changes to the law imposing the taxes.

Exporter's license

(R.C. 5735.01, 5735.026, and 5735.05)

The act consolidates two motor fuel exporter licenses that existed under prior law into a single license.



Under continuing law, an exporter of motor fuel is either (1) a person licensed to collect and remit motor fuel taxes in a state to which the motor fuel is destined (type A exporter) or (2) a person that is prohibited from obtaining a license to collect and remit motor fuel taxes in a destination state but that is licensed to sell or distribute tax-paid motor fuel in that state (type B exporter). Exporters do not owe the tax on fuel exported from Ohio but are required to file monthly statements with the Commissioner reporting the quantity of motor fuel so exported.

Prior law required an exporter of motor fuel to apply for one of two separate licenses, depending on whether the exporter was a type A or type B exporter. The act eliminates both of those licenses and creates a single exporter's license. To obtain the new license, an applicant must demonstrate to the Commissioner that the applicant satisfies the qualifications as a type A or type B exporter. Under the act, an exporter satisfying the type A exporter qualification is required to include copies of the exporter's licenses to collect and remit motor fuel taxes in other states as part of the application.

Transporter license

(R.C. 5735.01 and 5735.09)

The act requires any railroad, pipeline, water transportation company, or any other person that delivers motor fuel to locations in Ohio to register with the Tax Commissioner. Under continuing law, such persons are required to file monthly reports disclosing all deliveries of motor fuel the person makes to Ohio locations. The act also defines any such person as a "transporter" for the purpose of the motor fuel excise tax law.

Penalty for failure to file reports

(R.C. 5735.12)

The act authorizes the Tax Commissioner to impose a penalty on a person that is required to file motor fuel reports but is not required to pay motor fuel excise tax, such as an exporter or transporter, for the person's failure to file timely reports. The penalty may be up to \$50. If the person does not pay the full amount of the penalty, the Commissioner may assess the person for the unpaid amount. An assessment is a formal notice of an unpaid liability and instructs the recipient how to appeal; it also establishes the beginning of the time period during which appeals may be made.

Under continuing law, the Commissioner may impose and assess a similar penalty on a motor fuel dealer for failing to timely file reports or pay motor fuel excise



tax, but the penalty for a motor fuel dealer may equal up to the greater of \$50 or 10% of the dealer's tax liability for the month reflected by the report or payment.

Electronic payments

(R.C. 5735.062)

The act authorizes the Tax Commissioner to require any motor fuel dealer to remit motor fuel excise tax payments electronically under rules adopted by the Treasurer of State or through the Department of Taxation's website. The act also modifies the penalty the Commissioner may impose for a dealer's failure to remit tax electronically if so required.

Electronic payment requirements

Under prior law, if the amount of motor fuel tax remitted by a dealer exceeded \$600,000 in a calendar year, the dealer was required to make all future tax payments by electronic funds transfer, in accordance with rules adopted by the Treasurer of State. The Commissioner was required to certify a list of the dealers required to remit tax payments by electronic funds transfer to the Treasurer. The Treasurer could excuse a dealer from making payments by electronic funds transfer for good cause shown.

The act removes the mandatory electronic funds transfer requirement and instead authorizes the Commissioner to adopt rules requiring dealers or any class of dealers to remit tax electronically, either in accordance with rules adopted by the Treasurer or through the Department of Taxation's website. The act removes the requirement that the Commissioner certify to the Treasurer a list of dealers required to remit tax electronically. The act also authorizes the Commissioner, instead of the Treasurer, to excuse a dealer from making payments electronically.

Penalty for failing to file electronically

Under prior law, if a dealer required to make tax payments by electronic funds transfer failed to do so, the Commissioner could impose a penalty on the dealer not to exceed \$5,000 or 5% of the payment. The act modifies this penalty. For the first reporting period the dealer fails to pay tax electronically, the penalty is the greater of \$25 or 5% of the amount of the payment. For each subsequent period of noncompliance, the penalty is the greater of \$50 or 10% of the payment.



Dealer's report

(R.C. 5735.07)

Under continuing law, the Tax Commissioner is required to report monthly certain information about motor fuel dealers that remit motor fuel tax and make that information available for public inspection. The act modifies the required content of the monthly reports by requiring reporting of motor fuel dealers' addresses and tax identification numbers. Additionally, the act authorizes the Commissioner to post the report on the Department of Taxation's website.

Evaporation and shrinkage allowance administration

(R.C. 5735.141)

The act authorizes the Tax Commissioner to provide retail fuel dealers with information about "wholesale dealers" for the purpose of the retailer receiving a refund of motor fuel tax for fuel lost by the retail dealer through shrinkage and evaporation. Specifically, the Commissioner is authorized to furnish a wholesale dealer's federal identification number or other motor fuel tax account number to a retail dealer upon request. "Wholesale dealer" is not defined in the context of the motor fuel excise tax, but presumably refers to the dealers that are required to pay the tax.

Continuing law provides a shrinkage and evaporation allowance to retail dealers. Under continuing law, the allowance equals 0.5% of the tax on the motor fuel purchased by a retail dealer.¹

Vendee refund permit

(R.C. 5735.16 (repealed) and 5735.23)

The act removes the requirement that a person obtain a permit before receiving certain motor fuel excise tax refunds. Prior law required a person to apply to the Tax Commissioner for a permit before receiving certain refunds of the tax. The permit was required before a person could receive any of the following motor fuel excise tax refunds:

- (1) A shrinkage and evaporation allowance.
- (2) A refund on fuel not used for the operation of a motor vehicle on Ohio highways or waters.

¹ See Section 757.10 of Am. Sub. H.B. 51 of the 130th General Assembly.



(3) A refund on fuel used in transit buses.

(4) A refund on fuel used for school district, educational service center, or county board of developmental disability operations.

Petroleum activity tax

Name of tax

(R.C. 5736.06, 5736.09, 5736.13, and 5751.20; Section 6)

Beginning July 1, 2014, the commercial activity tax (CAT), as that tax applied to receipts from the sale or exchange of motor fuel, is replaced with a separate tax – referred to under prior law as the "motor fuel receipts tax " (MFRT). The MFRT was enacted in 2013 by H.B. 59.

The act changes the name of the MFRT to the "petroleum activity tax" (PAT).

Basis of the tax

(R.C. 5736.01(B), (D), and (E) and 5736.02; Section 4)

The PAT is modeled on the CAT, but is based solely on receipts from one sale or exchange of motor fuel. Unlike the CAT, which may apply to multiple sequential transactions involving the same motor fuel, the PAT is designed to apply to only one transaction in the motor fuel distribution chain – previously, the first transaction in which motor fuel is sold for delivery to a location in the state. The rate of the PAT is 0.65% of a taxpayer's gross receipts. Revenue from the tax is used to fund the same highway-related purposes motor fuel excise tax revenue is used to the extent the MFRT arises from fuel to be used on roads or waterways (after 1% is earmarked for administrative expenses). The remainder is credited to the GRF.

The act changes how the tax is computed and further specifies when the first sale occurs for the purpose of determining the receipts that are the basis of the tax, effective July 1, 2015. (From July 1, 2014, through June 30, 2015, the tax will be computed and the first sale will be determined under the prior law.) Previously, a taxpayer ("supplier") owed tax on the basis of that taxpayer's actual gross receipts from its first sale of fuel in Ohio. Under the act, the tax would not be based on a taxpayer's actual gross receipts but on a "calculated" basis that applies an average price-per-gallon index to the number of gallons first sold in Ohio by a taxpayer. The price basis would be published quarterly by the Tax Commissioner on the basis of an observed statewide average wholesale price per gallon obtained from the U.S. Energy Information Administration (or other published source if not available from EIA). Separate indices would apply to gasoline and to diesel; the average price used to compute the tax would exclude federal and state



excise taxes and the PAT, and the average price for gasoline would be for unleaded regular gasoline.

The juncture at which the first sale is deemed to occur is refined by adding that the first sale for delivery in Ohio must be outside the motor fuel "distribution system." Continuing law defines the distribution system as the bulk transfer or terminal system for distributing fuel consisting of refineries, pipelines, marine vessels, and terminals, including fuel en route to refineries or terminals via a marine vessel. The act broadens the en route part of the definition somewhat to incorporate any means of transport. In addition to requiring that a first sale occurs only outside a distribution system, the act specifies that the location of the sale and where title transfers, or other conditions of sale, do not otherwise affect whether fuel is first sold in Ohio for PAT purposes. Further, whether fuel is sold for delivery in Ohio is to be determined by the bill of lading or similar document.

Exemption for nonmonetary exchanges

(R.C. 5736.01(D) and (M))

The act exempts certain kinds of fuel exchanges. To be exempted, fuel must be exchanged between taxpayers or motor fuel dealers licensed for the purposes of the existing motor fuel excise tax (R.C. Ch. 5735.), the fuel must be delivered at a refinery, terminal, pipeline, or marine vessel, and the parties must agree that no monetary compensation is to be paid except to account for differences in location, grade, or handling. (A similar exemption is available under the CAT.) The exemption takes effect July 1, 2015.

Billing PAT to purchasers

(R.C. 5736.02(D))

The act expressly states that the PAT law does not prohibit a taxpayer from separately or proportionately billing or invoicing the tax paid by the taxpayer to purchasers of fuel. Prior law did not prohibit such a practice, but billing or invoicing customers for the CAT paid by a CAT taxpayer is prohibited, so the provision apparently is intended to distinguish the PAT from the CAT in this regard.

Nexus requirements

(R.C. 5736.02(E))

The act specifies that the PAT applies only to fuel suppliers that have a "substantial nexus" with Ohio, and that suppliers that lack such nexus nevertheless may voluntarily register as taxpayers. The standard for substantial nexus is the same as



under the CAT: generally, a person has substantial nexus if the person owns or uses a part or all of its capital in Ohio, has authority to do business in Ohio, has "bright-line presence" in Ohio, or otherwise has nexus such that the state can constitutionally compel the person to remit the tax. A person has "bright-line presence" if the person holds property in Ohio valued in total of \$50,000, has annual payroll in Ohio of \$50,000, has taxable gross receipts (for CAT purposes) of \$500,000, has at least 25% of the person's total property, total payroll, or total gross receipts in Ohio, or is domiciled in Ohio as an individual or for corporate, commercial, or other business purposes.

Purchases from unlicensed fuel suppliers

(R.C. 5736.01(I) and 5736.03(B))

The act requires any person that knowingly purchases motor fuel from a supplier that is not a licensed PAT taxpayer to be treated as a PAT taxpayer and to report and pay the tax on the basis of fuel received in or transported into Ohio.

On-road versus off-road fuel

(R.C. 5736.04(A))

The act prescribes a rebuttable presumption that any gasoline and undyed diesel fuel is used on public roads or on waterways. The purpose of the presumption is to determine how the revenue from the PAT on such fuel is to be divided between highway and nonhighway expenditure. Under continuing law, all PAT revenue arising from gross receipts from fuel sold for use on public highways or waterways must be used for highway-related purposes pursuant to a constitutional requirement after a 1% earmark for administrative expenses (Article XII, Section 5a). All other revenue is credited to the GRF. Continuing law requires taxpayers to report according to whether fuel sold is used on public roads or waterways or not.

CAT deduction for PAT

(R.C. 5751.01(F)(2)(r))

The act modifies the current CAT exclusion for receipts from selling motor fuel. Previously, the exclusion applied to receipts from selling motor fuel subject to the PAT without further qualification. The act qualifies the exclusion by specifying that it must equal the value of the fuel, including state and federal excise taxes and any receipts from billing or invoicing the PAT to other persons. The provision does not apply until July 1, 2015.



PAT supplier list

(R.C. 5736.041)

The act requires the Tax Commissioner to prepare and maintain a list of suppliers holding an active PAT license. The Commissioner must allow public inspection of the list and may post the list on the Department of Taxation's website. The list must include each supplier's name, address, and PAT account number.

Continuing law requires suppliers subject to the PAT to obtain from the Commissioner and hold a license before distributing or importing motor fuel for Ohio consumption. Upon request, the supplier may cancel the license. The Commissioner may revoke the license if the supplier does not comply with the supplier's PAT obligations.

Tax credits

Research and development loan tax credit noncompliance

(R.C. 166.21)

Continuing law authorizes the Director of Development Services to provide low-interest loans to businesses engaged in research and development projects.² A business that receives such a loan may also claim a nonrefundable credit against the income tax or commercial activity tax for the amount of loan payments (principal and interest) the business made during the previous year, up to \$150,000.

The act permits the Director to reduce the amount, percentage, or term of a research and development loan tax credit if the loan recipient does not comply with the terms of the loan agreement, including any terms related to job creation or job retention. Under prior law, the Director was required to certify that each loan recipient was in compliance with its loan agreement each year, but was not explicitly authorized to disallow or reduce a credit in instances of noncompliance.

²"Eligible research and development projects" include projects "undertaken for the purpose of discovering information that is technological in nature and the application of which is intended to be useful in the development of a new or improved product, process, technique, formula, or invention, a new product or process based on new technology, or the creative application of existing technology." R.C. 166.01.



Business investment tax credit holding period

(R.C. 122.86; Section 3)

The act shortens the minimum holding period of investments in smaller businesses, from five to two years, necessary for the investment to qualify for an income tax credit. Previously, investments made on or after July 1, 2013, had to be held for at least five years. (There was a two-year holding period for investments made between July 1, 2011, and June 30, 2013.) Shortening the holding period also shortens the period during which the business must hold any assets it must acquire after receiving a qualifying investment.

Continuing law grants income tax credits for investors in businesses having not more than \$50 million in assets or \$10 million in annual sales and having specified minimum employment in Ohio (50 full-time equivalent employees in Ohio or at least one-half of its U.S. employment in Ohio). Within six months after an investment, a business must spend at least the amount of the investment to purchase or acquire assets or to pay employees (new or existing) in Ohio.

Job creation and retention credits against the PAT

(R.C. 122.17, 122.171, and 5736.50; Section 4)

The act authorizes job creation and retention tax credits to be claimed against the PAT.

Under continuing law, the Tax Credit Authority, upon the application of a taxpayer and the recommendation of JobsOhio and the Director of Development Services, may enter into an agreement with a taxpayer to authorize the taxpayer to claim refundable credits for increasing the taxpayer's payroll (job creation credit). The Authority may also enter into an agreement with a taxpayer to authorize the taxpayer to claim a nonrefundable or, under certain circumstances, refundable tax credit for retaining jobs and making a capital investment in the state (job retention credit). Under prior law, both credits could be claimed against the CAT, financial institutions tax, domestic or foreign insurance company premiums taxes, or personal income tax.

The act authorizes the Authority to award job creation or retention credits that a taxpayer may claim against the PAT for tax periods beginning on or after July 1, 2014. The act also permits the recipient of a nonrefundable job retention tax credit to claim a credit that the Authority initially awarded for the CAT against the PAT to the extent the taxpayer could not claim the full amount of that credit against the CAT. The act specifies that if a taxpayer is allowed more than one of the credits for the same tax period, the nonrefundable credit must be subtracted before the refundable credit.



Job creation tax credit computation

(R.C. 122.17(A))

The act eliminates the part-year computation of the base used to compute the increase in an employer's Ohio income tax withholdings for the purpose of the job creation tax credit. Previously, an employer's credit amount depended on how much its annual Ohio income tax withholdings for employees exceeded those withholdings for a 12-month base period that ended when the credit agreement was approved (or, in some cases, recommended for approval). But if the credit was approved after the beginning of the employer's annual tax period, the base period for the first year's credit was shortened proportionately. The act eliminates this part-year computation.

Municipal job creation and retention tax credits

(R.C. 718.15 and 718.151)

The act specifies that a municipal corporation may award a job creation or retention credit against its income tax even if a state job creation or retention tax credit is not awarded to the employer. Prior law stated that a municipal corporation could offer such a credit only to an employer that received a state job creation or retention credit.

Tax administration and compliance

Electronic and telephonic tax filing

(R.C. 5703.059)

The act authorizes the Tax Commissioner to adopt rules requiring returns for any tax or fee administered by the Commissioner to be filed electronically, filed through the online Ohio Business Gateway portal, or filed telephonically using the "telefile" system. Additionally, the act authorizes the Commissioner to adopt rules requiring payments for any of those taxes or fees to be made electronically or in another prescribed manner. The act authorizes those rules to apply to returns filed or payments made after the rule's effective date rather than six months after the rule's effective date, as under prior law.

Under prior law, the Commissioner could adopt such rules only with respect to employer income tax withholding and the motor fuel tax, cigarette and tobacco product excise taxes, severance tax, use tax, CAT, financial institutions tax, motor fuel receipts tax (renamed the PAT under the act), and horse racing taxes. Under continuing law, a taxpayer may apply to the Commissioner to be excused from the filing and payment methods otherwise required by such rules.



Receipt of tax payments and documents

(R.C. 5703.056, 5726.08 (repealed), 5727.47, 5733.30 (repealed), 5745.10 (repealed), 5747.08, and 5747.98)

The act prescribes a date that a document or payment delivered by mail, electronically, or in person is considered to have been received by the Tax Commissioner and when a document mailed by the Commissioner is received by the recipient. Such dates determine whether tax returns, tax payments, and other tax filings are made by the prescribed deadlines, and when various time-limited responses must be made (e.g., a taxpayer's request for an administrative appeal hearing must be made within 60 days after receiving an assessment is received).

Under the act, a document or payment is considered to have been received by the Commissioner or the recipient on the following dates:

Method of delivery	Receipt date of document or payment sent to Tax Commissioner	Receipt date of document sent by Tax Commissioner
Mail, including certified or foreign mail and approved delivery service	Date of postmark affixed by the postal or delivery service on the receipt provided to the sender. If no postmarked receipt is issued to the sender, the receipt date is the date of the postmark on the package containing the payment or document.	Same. Same.
Electronically or by fax	Date on timestamp assigned by the electronic system first receiving the payment or document.	Not prescribed.
By personal service	Date delivered to the Commissioner's office during business hours.	Not prescribed.

The act amends several statutory references in prior law that prescribed delivery dates for such documents and payments to be consistent with the dates of receipt prescribed above.

The act also specifies that, for any statute that allows or requires a person to deliver a document to the Commissioner or the Board of Tax Appeals by personal service, that person may, to effectuate that delivery, instead use a delivery service



approved by the Tax Commissioner. Under continuing law, the Commissioner may authorize the use of a delivery service if the service meets certain criteria, including that the service is comparable to the United States Postal Service and available to the public.

Tax refund procedures

(R.C. 3734.905 and 5727.91)

The act changes the refund procedures for overpayments of the natural gas distribution tax, kilowatt-hour tax, and tire fees to conform with the procedures associated with most other state taxes. Specifically, the act requires the Tax Commissioner to include interest when refunding any overpayment of such taxes and fees. Under prior law, interest was included only when the overpayment was due to an illegal or erroneous assessment.

The natural gas distribution tax is an excise tax on natural gas distribution companies for the purpose of raising revenue for the General Revenue Fund and reimbursing taxing authorities for past reductions in public utility property taxes. The tax is levied on every natural gas distribution company for all natural gas volumes billed by, or on behalf of, the company and distributed through the "meter of an end user in this state."³

The kilowatt-hour tax is levied on electric distribution companies with end users in Ohio. Revenue funds the GRF and partly reimburses taxing authorities for past reductions in public utility property taxes.⁴

The state currently levies a \$1 per-tire fee on the sale of tires. Fifty cents of the fee is used to fund the scrap tire management program and the remaining 50¢ is credited to the Soil and Water Conservation District Assistance Fund. The fee sunsets on June 30, 2016.⁵

Information sharing: Department of Taxation and Development Services

(R.C. 5703.21(C)(16))

The act authorizes the Department of Taxation to disclose information to the Development Services Agency (DSA) that is necessary to ensure compliance with tax laws or to verify information provided to DSA by applicants for or recipients of tax

³ R.C. 5727.811, not in the act.

⁴ R.C. 5727.81, not in the act.

⁵ R.C. 3734.901, not in the act.



credits or other financial assistance. Such disclosure is authorized only if it is solely to facilitate the evaluation of tax credits, grants, or loans. Disclosure continues to be prohibited if it would violate federal taxpayer confidentiality law.

Under continuing law, taxpayer information possessed by DOT may not be disclosed to anyone unless the law specifically permits disclosure.

Property tax abatement

(Section 5)

The act authorizes the Tax Commissioner to retroactively exempt certain real property that is subject to and eligible for a tax exemption under an enterprise zone agreement but that did not receive the exemption because of the owner's failure to comply with continuing law's tax exemption procedures. For property to qualify for the retroactive exemption, the enterprise zone agreement must be between the property's owner of record ("record owner") and a board of county commissioners of a county with a 2010 population between 500,000 and 600,000 — Montgomery and Summit counties — and consented to by a municipal corporation with a 2010 population between 15,000 and 20,000 ("qualified property").

Under continuing law, enterprise zones are designated areas of land in which businesses can receive tax incentives, including property tax exemptions on eligible property. The zone's geographic area is identified by the local governments involved in the creation of the zone. Tax incentives are negotiated with the business at the local level, and an enterprise zone agreement must be in place before a project begins. Continuing law generally requires a property's owner to file an application with the Commissioner requesting that the owner's property be exempt from taxation, including property that is exempt pursuant to an enterprise zone agreement. The application must be filed before December 31 of the tax year for which exemption is requested.

The act allows a qualified property's record owner to apply for the exemption within three months after the act's effective date by filing an exemption application with the Commissioner, as under continuing law. If the Commissioner finds that the property qualifies for the exemption, the act requires the Commissioner to add the property to the tax list of exempted parcels, abate past-due taxes that were billed to the record owner for years the property would have qualified for the exemption, and refund any taxes paid by the record owner for those years. However, if the Commissioner finds that the property is not eligible for the exemption, the act requires the Commissioner to order the county treasurer of the county in which the property is located to collect all unpaid taxes, penalties, and interest that accrued for the years for which the record owner requested the exemption.



The act authorizes the Commissioner to apply the retroactive exemption to qualified property subject to a tax exemption application pending before the Commissioner or a pending appeal of the Commissioner's decision on such an application.

PUCO for-hire motor carrier tax receipts

(R.C. 4921.13 and 4921.19)

The act requires the Public Utilities Commission of Ohio (PUCO) to issue to a for-hire motor carrier a tax receipt for each motor vehicle for which a tax has been paid. The receipts are issued if the carrier has done the following:

- Paid the applicable taxes upon issuance of a certificate of public convenience and necessity and the annual taxes imposed thereafter;
- Met the applicable requirements to obtain a certificate of public convenience and necessity;
- Filed with the PUCO a complete and accurate annual update form;
- Provided proof of financial responsibility that remains in effect;
- Paid applicable registration fees under rules adopted by the PUCO pursuant to the federal Unified Carrier Registration Plan and any forfeitures imposed for any violations of the motor carrier law.

The act also requires the carrier to keep the appropriate tax receipt in each motor vehicle operated by the carrier and to maintain tax receipt records that specify to which motor vehicle each tax receipt is assigned. Previously, after a carrier paid the applicable taxes and met the above conditions, the PUCO issued a single tax receipt to a carrier for all motor vehicles operated by the carrier. The carrier had to maintain the original copy of the tax receipt at the carrier's primary place of business and also had to carry a copy in each motor vehicle operated by the carrier.

In a conforming change, the act specifies that a carrier may not be issued *any tax receipt* rather than *a tax receipt* if the conditions described above are not met.



HISTORY

ACTION	DATE
Introduced	03-18-14
Reported, H. Ways & Means	04-03-14
Passed House (92-0)	04-09-14
Reported, S. Finance	05-20-14
Passed Senate (32-0)	05-28-14
House concurred in Senate amendments (64-30)	06-03-14

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