

Ohio Revised Code Horse Racing Law

Chapters 3769.087 to 3769.088

3769.087 Retaining additional tax and amount from certain wagering

(A) In addition to the commission of eighteen per cent retained by each permit holder as provided in section 3769.08 of the Revised Code, each permit holder shall retain an additional amount equal to four per cent of the total of all moneys wagered on each racing day on all wagering pools other than win, place, and show, of which amount retained an amount equal to three per cent of the total of all moneys wagered on each racing day on those pools shall be paid in the manner prescribed under section 3769.103 of the Revised Code, as a tax. Subject to the restrictions contained in divisions (B), (C), and (M) of section 3769.08 of the Revised Code, from such additional moneys paid to the tax commissioner:

(1) Four-sixths shall be allocated to fund distribution as provided in division (M) of section 3769.08 of the Revised Code.

(2) One-twelfth shall be paid into the Ohio fairs fund created by section 3769.082 of the Revised Code.

(3) One-sixth of the additional moneys paid to the tax commissioner by thoroughbred racing permit holders shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code.

(4) One-twelfth of the additional moneys paid to the tax commissioner by harness horse racing permit holders shall be paid to the Ohio standardbred development fund created by section 3769.085 of the Revised Code.

(5) One-sixth shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code.

The remaining one per cent that is retained of the total of all moneys wagered on each racing day on all pools other than win, place, and show, shall be retained by racing permit holders, and, except as otherwise provided in section 3769.089 of the Revised Code, racing permit holders shall use one-half for purse money and retain one-half.

(B) In addition to the commission of eighteen per cent retained by each permit holder as provided in section 3769.08 of the Revised Code and the additional amount retained by each permit holder as provided in division (A) of this section, each permit holder shall retain an additional amount equal to one-half of one per cent of the total of all moneys wagered on each racing day on all wagering pools other than win, place, and show. The additional amount retained under this division shall be paid in the manner prescribed under section 3769.103 of the Revised Code, as a tax. The tax commissioner shall pay the amount of the tax received under this division to the state racing commission operating fund created by section 3769.03 of the Revised Code.

(C) Unless otherwise agreed to by the video lottery sales agent and the applicable horsemen's association recognized by the state racing commission to represent such persons, within ninety days after September 29, 2013, for video lottery sales agents operating as such on September 29, 2013, or within six months after the date a video lottery sales agent begins operating as such for video lottery sales agents not operating as such on September 29, 2013, the state racing commission shall direct through rule that a percentage of the lottery sales agent's commission as determined by the state lottery commission for conducting video lottery terminal gaming on behalf of the state be paid to the state racing commission for the benefit of breeding and racing in this state. The percentage so determined shall not be less than nine per cent or more than eleven per cent of the video lottery terminal income, and shall be a sliding scale based upon capital expenditures necessary to build the video lottery sales agent's facility. The aggregate of one hundred per cent of video lottery terminal income minus the lottery sales agent's commission percentage as determined by the state lottery commission plus the percentage of the lottery sale agent's commission, as determined by the state racing commission or otherwise agreed to by the video lottery sales agent and the applicable horsemen's association recognized by the state racing commission to represent such persons, for the benefit of breeding and racing in this state shall not exceed forty-five per cent of the video lottery terminal income. In addition, beginning July 1, 2013, the state lottery commission shall adopt a rule to require the lottery sales agent conducting video lottery terminal gaming on behalf of the state to disperse to the state lottery commission one-half of one per cent of such a lottery sales agent's commission for the purpose of providing funding support to appropriate state agencies for programs that provide for gambling addiction and other related addiction services. The state lottery commission's rule also may require the lottery sales agent conducting video lottery terminal gaming on behalf of the state to disperse to the state lottery commission an additional amount up to one-half of one per cent of such a lottery sales agent's commission for that purpose. (2015 H 64, eff. 1-1-16; 2013 H 59; 2012 H 386; 2007 H 119; 2006 H 530; 2004 S 189; 2003 H 95; 2001 H 94; 1995 H 56; 1994 H 361; 1993 H 152; 1989 H 111; 1985 H 201; 1981 H 330)

3769.088 Making assessment for failure to pay taxes

(A)(1) If any permit holder required by this chapter to pay the taxes levied by sections 3769.08, 3769.087, 3769.26, and 3769.28 of the Revised Code fails to pay the taxes as required, the tax commissioner may make an assessment against the permit holder based upon any information in the commissioner's possession.

(2) If a permit holder required to remit taxes or file a report electronically in the manner prescribed under section 3769.103 of the Revised Code fails to do so, the tax commissioner may impose an additional penalty of fifty dollars or ten per cent of the tax due as shown on the report, whichever is greater.

(3) A penalty of up to fifteen per cent may be added to the amount of every assessment made under this section.

(4) The commissioner may adopt rules providing for the imposition and remission of penalties added to assessments made under this section.

(5) The commissioner shall give the party assessed written notice of the assessment in the manner 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.

(B) Unless the party assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the party assessed or that party's authorized agent having knowledge of the facts, the assessment becomes final and the amount of the assessment is due and payable from the party assessed to the commissioner. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition 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 remains unpaid, including accrued interest, 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 place, track, or enclosure for which the permit was issued is located or the county in which the party assessed resides or has its principal place of business. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of such entry, the clerk shall enter a judgment for the state against the party 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 state horse racing tax," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon 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 the day the assessment 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) All money collected by the commissioner under this section shall be treated as revenue arising from the taxes imposed by sections 3769.08, 3769.087, 3769.26, and 3769.28 of the Revised Code. (2013, H 59. effective 6-30-13; 2012 H 386; 2002 S 200; 2000 H 12; 1997 H 215; 1994 H 297; 1994 H 361; 1992 S 358; 1981 H 330)