

ASSESSMENT AND APPEAL RIGHTS

Making Sense of the New Law

Assessments per ORC



- ORC definition
- Tax office handling of an assessment
- Taxpayer appeal rights
- Taxpayer appeal requirements
- Local board of tax review
- Appeals further

Assessments



- Distinctions
 - ▣ Informal notices verses formal notices
 - ▣ Written determination verses opinion of the tax administrator
- Procedures
 - ▣ Requesting an assessment
 - ▣ Appealing an assessment
 - ▣ Appeals beyond the local board of tax review
- Rights and responsibilities

Assessments



- Assessment defined in ORC 718
 - When is an adjustment an assessment
 - Why is the adjustment called an assessment
 - Special treatment of assessment
 - Distinction from other notices
 - **At issue is due process for appealable issues**

Taxpayer rights and responsibilities

Sec. 718.01(QQ) "Taxpayers' rights and responsibilities" means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Revised Code and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax".

Rights and Responsibilities

- *Section 718.11 provides for the local board of tax review for taxpayer appeals beyond the tax office*
 - ▣ *This sections provides for the composition of the board*
 - ▣ *How they are to be selected or appointed and their terms*
 - ▣ *Filling of vacancies*
 - ▣ *Tax office notifications to taxpayers of their rights to appeal tax office decisions*
 - ▣ *Process by which appeals must flow*
 - ▣ *How the board is to conduct itself*
 - ▣ *And further appeals beyond the board*

Rights and Responsibilities

- *Section 718.12 covers the statute of limitations*
 - ▣ *Time limits local tax offices have to bring civil action to recover municipal income taxes*
 - ▣ *Time limits for taxpayers to file for refunds*
 - ▣ *Time limits for amending local returns in response to amended returns or adjustments at the federal or state level*
- *Section 718.19 discusses tax refund requests*
 - ▣ *Overpayments must be more than \$10.00*
 - ▣ *Request on prescribed form filed within 3 years*
 - ▣ *Originally filed annual returns with tax office adjusted amounts require informal notices sent in response*

Rights and Responsibilities

- *Section 718.23 provides tax offices the authority to examine books, records, documents, and federal and state returns to ascertain tax due*
- *Section 718.36 covers audit procedures permitted by tax offices and taxpayer rights during the process*
- *Section 718.37 allows taxpayers aggrieved by the tax administrator remedies against the municipality*
- *Section 718.38 describes tax administrator opinions, which differ from assessments*
- *Sections 5717.011 and 5717.03 specify the procedures for appeals beyond the local board of tax review*

Assessments

- **Sec. 718.01**(PP)(1) "Assessment" means a written finding by the tax administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the local board of tax review pursuant to section 718.11 of the Revised Code, and has "ASSESSMENT" written in all capital letters at the top of such finding.

Assessments

- (2) "Assessment" does not include an informal notice denying a request for refund issued under division (B)(3) of section 718.19 of the Revised Code, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a tax administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a tax administrator's other written correspondence to a person or taxpayer that does meet the criteria prescribed by division (PP)(1) of this section.

Informal Notices



- Informal notice denying a refund request
 - ▣ Reduction or denial of refund can be either informal or assessment – Amended returns require adjustments be set to assessment
- Bills for current or past due amounts
- Additional information
- Math error adjustment letters
- Other – delinquent letter, registration forms

Formal Notice - Assessment



- ❑ Must be distinct from informal notices
- ❑ Must have “ASSESSMENT” written across in all caps
- ❑ Must explain the reason for the assessment
- ❑ Must provide instructions to appeal
- ❑ Must inform taxpayer of time limits in which to appeal
- ❑ Must be delivered by personal service or certified mail

Assessment Delivery

- **Sec. 718.18(A)(1)** Subject to division (B) of this section, a copy of each assessment shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Revised Code.

Assessment Delivery



- Possible electronic delivery if requested
- What to do if certified is returned
- Delivery date commences 60 day appeal limit
- Provisions to dispute delivery

Appeals to Board of Review

- ORC 718.11(C) “Any person who has been issued an assessment may appeal the assessment to the board created pursuant to this section by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer received the assessment.”

Appeal of Assessment

- ❑ Must be in writing
- ❑ State reason assessment is incorrect or unlawful
- ❑ Filed within 60 days of delivery of assessment
- ❑ Sent to the tax administrator for the local tax office
- ❑ Commences the 60 day limit to schedule and hold the hearing

Local Board of Tax Review



- ORC 718.11
- Composed of 3 members
- Legislative body appoints 2 members
 - ▣ May not be an employee or elected official or contractors with the city during their term or within the prior 5 years of their term
 - ▣ Term is for 2 years
 - ▣ No limit to the number of terms

Board of Review



- Top administrative official appoints 1 member
 - ▣ May be an employee but not part of finance or tax
 - ▣ Serves at the discretion of the administrative official

Appeals Hearing



- Hearing must be scheduled to be held within 60 days of receipt of the appeal
- Taxpayer may be represented by an attorney, accountant, or other representation
- Taxpayer may request an extension of time to prepare if agreed upon by all parties
- Must be completed within 120 days after the first day of the hearing unless all parties agree to an extension of time

Waive the Hearing



- Taxpayer may waive right to hearing
- Taxpayer and tax administrator present their writings for determination by the board
- Board renders decision on the writings

Board Decision



- Board can affirm, reverse or modify all or part of the tax administrator's assessment
- Upon final determination, copy of decision must be mailed to all parties within 15 days
- Either party may appeal per ORC 5717.011
 - ▣ Either to state board of tax appeals
 - ▣ Or to common pleas court

Assessments – 2 Kinds



- Requested assessment
 - ▣ Taxpayer disagrees with adjustment notice
 - ▣ Taxpayer requests the tax administrator review and issue a formal assessment on the contested amount
- Automatic assessment
 - ▣ Refund request adjustments on amended returns
 - ▣ Non-compliant taxpayer issues

Requested Assessments



- Adjustment letter sent to taxpayer
- Taxpayer disagrees with reason for adjustment
- Taxpayer requests formal decision
- Upon written request for assessment, tax administrator will review, issue a formal determination per assessment rules for notification and delivery
- Assessment served and appeal time begun

Automatic Assessments



- Amended return with request for refund but adjusted
- Taxpayer refusal to pay balances owed
- Taxpayer refusal to file return
 - ▣ Tax office authority to estimate
 - ▣ Taxpayer provided due process on estimated liability

Opinion of the Tax Administrator



- Very different from assessment or written determination
- Involves specific facts and circumstances of a prospective nature
- Formal agreement of the taxpayer and tax administrator
- Each party relies on diligence of the other party

Opinion of the Tax Administrator



- Formal agreements in writing as with a contract with effective dates, all data involved, and signature of the parties
- Opinion agreements do not bind any other tax administrator of any other municipality
- These do not set precedence but are singular agreements between the taxpayer and the tax administrator

Code References

- <http://codes.ohio.gov/orc/>
- E-mail me at haasd@ottawahills.org