

The Ohio Taxpayers' Bill of Rights

A brief explanation
of the rights and
obligations of citizens
as taxpayers...



... and the appeals
process when there
are disputes.

Ohio

Department of
Taxation

Introduction

This publication is intended to help taxpayers better understand their rights and responsibilities under the law, particularly when facing an audit or in other important interactions with the Ohio Department of Taxation.

Some of these rights are outlined in Ohio Revised Code sections 5703.50 through 5703.54. These code sections have come to be known as the "Ohio Taxpayers' Bill of Rights." This document is, in part, a summary of these rights, which apply to most major state taxes, including the commercial activity tax, the corporation franchise tax, the individual income tax (including employer withholding), the tangible personal property tax and the sales and use tax.

While the Department takes the responsibilities outlined in this publication seriously, please note that the failure of an employee of the Department or a county auditor's office to comply with a provision of the Taxpayers' Bill of Rights does not excuse a taxpayer from payment of taxes that are owed.

Tax Returns

A key responsibility for taxpayers is to periodically document tax liability through the filing of a tax return. The frequency with which returns must be filed varies according to the tax:

- Individual income and corporation franchise tax returns are filed annually.
- Commercial activity tax returns are filed quarterly or annually, depending on the amount of gross receipts realized by the taxpayer.
- Employer withholding tax returns are due quarterly, monthly or even more frequently, depending on the amount of tax withheld.
- Sales and use tax returns are filed monthly or as otherwise determined by the Department.



Starting in 2009, the vast majority of Ohio businesses were relieved of the responsibility to file a tax return documenting tangible personal property value with the phase-out of property taxes on such value. However, telephone companies and interexchange telecommunications companies must continue to file personal property tax returns through 2010. Also, certain public utilities will continue to be subject to taxes on their tangible personal property.

More information on the reporting responsibilities for each tax — including blank forms and instructions for completing them— is available at the Department of Taxation’s Web site: tax.Ohio.gov.

Audits

Sometimes the Department needs additional information from the taxpayer — beyond that contained in a return — in order to make certain that the correct amount of tax has been reported and paid, or the correct amount of taxable value of tangible personal property has been reported. Usually this is a simple matter and the taxpayer only needs to supply the information requested.

Occasionally, agents of the Department need to examine the basis of the reported tax or taxable values. This examination, or “Audit,” may take place at the taxpayer’s office, the office of the taxpayer’s representative, or one of the Department’s offices.

The Department’s role during an Audit is to review and examine the taxpayer’s books, records, and other materials to determine if the taxpayer has complied with the tax laws. The taxpayer’s role during the Audit is to cooperate with the Department’s tax agents and make the records available upon request.



In the event of an Audit, the taxpayer has the right to:

- Know when the Audit begins.*
- Have the Audit conducted during regular business hours after the Department has provided reasonable notice.*
- Be assisted or represented by an attorney, accountant, bookkeeper or other tax practitioner. Because of laws protecting taxpayer information from unauthorized disclosure, the Department will need a completed authorization form (a “TBOR 1” form, available at [tax.Ohio.gov](https://tax.ohio.gov)) before it provides information to the representative.
- Refuse to answer any questions during the course of the Audit until consulting with a tax adviser. However, the Department’s agents can continue to inspect the taxpayer’s records during this time.
- Record the Audit session.
- Pursue additional legal remedies if the tax agent acted outside the scope of the law.

Some Audits may indicate to the Department that the amount of tax paid was satisfactory or that the tangible personal property values reported on the original return were accurate.

Other Audits may indicate the possible overpayment of taxes or the over-reporting of tangible personal property value. In such cases, the taxpayer can expect to be notified of that fact by the Department. Taxpayers who overpay or who over-report personal property value have the right to obtain a refund. It is the taxpayer’s responsibility to file a refund application or an application for

* These two provisions may not apply if the taxpayer is being investigated for suspected criminal activity.

final assessment for the tangible personal property tax.

An Audit may also indicate that the taxpayer underpaid commercial activity, corporation franchise, employer withholding, individual income or sales and use tax. In such cases, the taxpayer can expect the Department to issue an assessment for the amount that is due.

If an Audit indicates the taxpayer underreported the value of tangible personal property, the taxpayer can expect the Department to issue an amended or final assessment for the value not reported.



Assessments

In most cases, an assessment is a formal bill from the state for taxes not paid or underpaid, plus interest and penalties, if applicable. Once an assessment is delivered, the taxpayer has 60 days to either pay it or to file a petition for reassessment.

Complete instructions for filing such petitions are included with the assessment.

In the case of the tangible personal property tax, amended and final assessments are not bills.

Instead, these assessments constitute an official legal notice of the value of tangible personal property, which may differ from the value originally reported by the taxpayer. If the taxpayer disagrees with an amended assessment, the taxpayer has 60 days from the date the assessment is mailed to file a petition for reassessment.

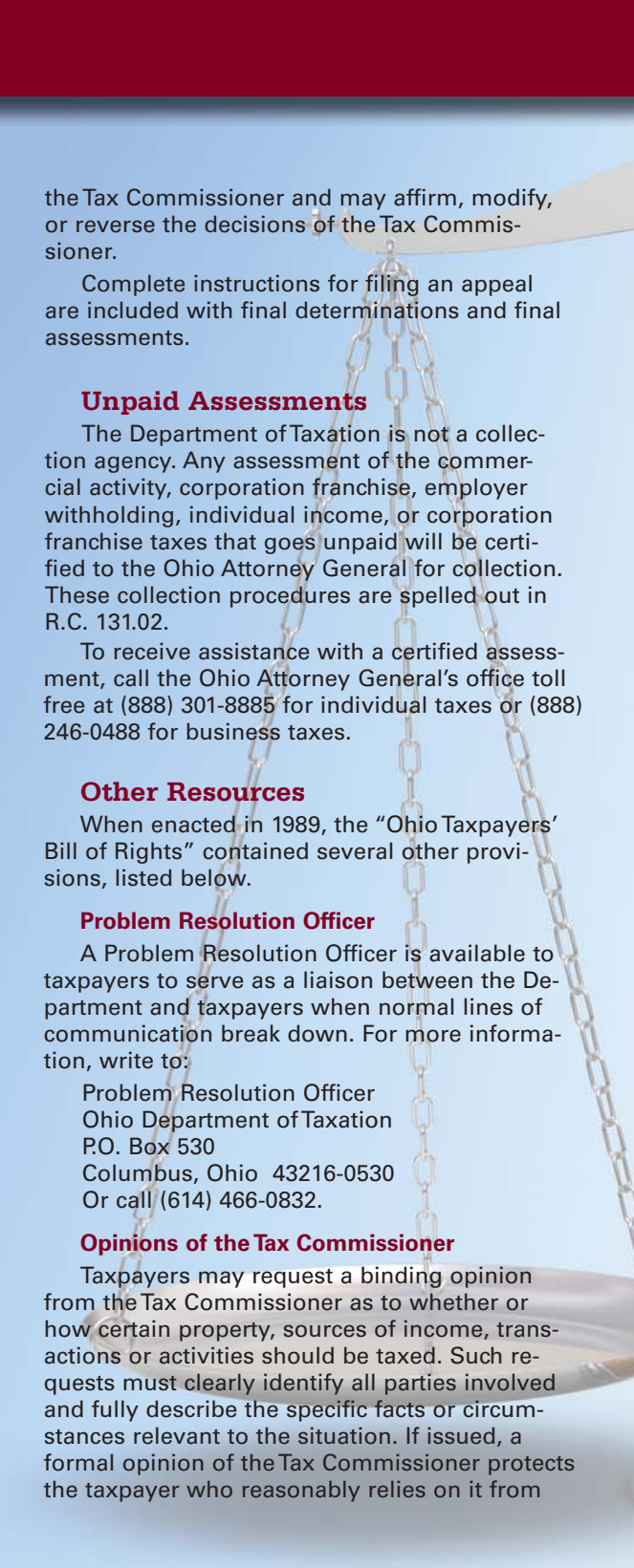


Final Determinations and Appeals

A petition for reassessment is the first step in the appeal of an assessment with which the taxpayer disagrees. All petitions for reassessment receive an administrative review by the Department. When this review is complete, a corrected assessment or a final determination is issued by the Tax Commissioner, who is the Department's director.

The taxpayer has the right to appeal a final determination or final assessment to the Board of Tax Appeals (BTA). An appeal must be made within 60 days and must be mailed to both the BTA and the Tax Commissioner.

The BTA will provide a quasi-judicial hearing, review the facts and interpret the law. The BTA is independent of the Department and of



the Tax Commissioner and may affirm, modify, or reverse the decisions of the Tax Commissioner.

Complete instructions for filing an appeal are included with final determinations and final assessments.

Unpaid Assessments

The Department of Taxation is not a collection agency. Any assessment of the commercial activity, corporation franchise, employer withholding, individual income, or corporation franchise taxes that goes unpaid will be certified to the Ohio Attorney General for collection. These collection procedures are spelled out in R.C. 131.02.

To receive assistance with a certified assessment, call the Ohio Attorney General's office toll free at (888) 301-8885 for individual taxes or (888) 246-0488 for business taxes.

Other Resources

When enacted in 1989, the "Ohio Taxpayers' Bill of Rights" contained several other provisions, listed below.

Problem Resolution Officer

A Problem Resolution Officer is available to taxpayers to serve as a liaison between the Department and taxpayers when normal lines of communication break down. For more information, write to:

Problem Resolution Officer
Ohio Department of Taxation
P.O. Box 530
Columbus, Ohio 43216-0530
Or call (614) 466-0832.

Opinions of the Tax Commissioner

Taxpayers may request a binding opinion from the Tax Commissioner as to whether or how certain property, sources of income, transactions or activities should be taxed. Such requests must clearly identify all parties involved and fully describe the specific facts or circumstances relevant to the situation. If issued, a formal opinion of the Tax Commissioner protects the taxpayer who reasonably relies on it from

liability for any taxes, penalty or interest that would otherwise be due until circumstances change, rules change, the law changes, or the opinion is withdrawn. See R.C. 5703.53 for details.

Actions for Damages

Under certain limited circumstances, an aggrieved taxpayer may bring an action for damages in the Court of Claims. Such claims must meet a high standard — specifically, that a Department action or omission concerning an audit or an assessment showed “frivolous disregard” for a statute or rule. This means the Department’s action or inaction must either be clearly unsupportable under the law or serve merely to harass or to maliciously injure the taxpayer. For more information, see R.C. 5703.54.

For More Information

For more information about the Taxpayer Bill of Rights contact:

Ohio Department of Taxation
Office of Chief Counsel, Appeals Management
30 E. Broad St., 21st Floor
Columbus, Ohio 43215

Or call (614) 387-2988.