

S. B. No. 235

As Passed by the Senate

_____ moved to amend as follows:

In line 1 of the title, after "sections" insert "128.47, 718.91, 1
3734.905, 4307.05, 5725.222, 5726.30, 5727.28, 5727.91, 5728.061, 2
5729.102, 5735.11, 5735.122, 5736.08,"; delete "and"; after "5739.03" 3
insert ", 5739.07, 5739.104, 5741.10, 5743.53, 5745.11, 5747.11, 5749.08, 4
5751.08, and 5753.06" 5

In line 4 of the title, after "taxation" insert "and to specifically 6
authorize the refund of penalties assessed on state taxes" 7

In line 5, after "sections" insert "128.47, 718.91, 3734.905, 8
4307.05, 5725.222, 5726.30, 5727.28, 5727.91, 5728.061, 5729.102, 5735.11, 9
5735.122, 5736.08,"; delete "and"; after "5739.03" insert ", 5739.07, 10
5739.104, 5741.10, 5743.53, 5745.11, 5747.11, 5749.08, 5751.08, and 11
5753.06" 12

After line 6, insert: 13

"Sec. 128.47. Beginning January 1, 2014: 14

(A) A wireless service provider, reseller, seller, 15
wireless service subscriber, or consumer of a prepaid wireless 16



calling service may apply to the tax commissioner for a refund 17
of wireless 9-1-1 charges described in division (B) of this 18
section and of any penalties assessed with respect to such 19
charges. The application shall be made on the form prescribed by 20
the tax commissioner. The application shall be made not later 21
than four years after the date of the illegal or erroneous 22
payment ~~of the wireless 9-1-1 charge~~ by the subscriber or 23
consumer, unless the wireless service provider, reseller, or 24
seller waives the time limitation under division (A) (3) of 25
section 128.462 of the Revised Code. If the time limitation is 26
waived, the refund application period shall be extended for the 27
same period as the waiver. 28

(B) (1) If a wireless service provider, reseller, or seller 29
refunds to a subscriber or consumer the full amount of wireless 30
9-1-1 charges that the subscriber or consumer paid illegally or 31
erroneously, and if the provider, reseller, or seller remitted 32
that amount under section 128.46 of the Revised Code, the tax 33
commissioner shall refund that amount to the provider, reseller, 34
or seller. 35

(2) If a wireless service provider, reseller, or seller 36
has illegally or erroneously billed a subscriber or charged a 37
consumer for a wireless 9-1-1 charge, and if the provider, 38
reseller, or seller has not collected the charge but has 39
remitted that amount under section 128.46 of the Revised Code, 40
the tax commissioner shall refund that amount to the provider, 41
reseller, or seller. 42

(C) (1) The tax commissioner may refund to a subscriber or 43
consumer wireless 9-1-1 charges paid illegally or erroneously to 44
a provider, reseller, or seller only if both of the following 45
apply: 46

(a) The tax commissioner has not refunded the wireless 9-1-1 charges to the provider, reseller, or seller. 47
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(b) The provider, reseller, or seller has not refunded the wireless 9-1-1 charges to the subscriber or consumer. 49
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(2) The tax commissioner may require the subscriber or consumer to obtain from the provider, reseller, or seller a written statement confirming that the provider, reseller, or seller has not refunded the wireless 9-1-1 charges to the subscriber or consumer and that the provider, reseller, or seller has not filed an application for a refund under this section. The tax commissioner may also require the provider, reseller, or seller to provide this statement. 51
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(D) On the filing of an application for a refund under this section, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the determined amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code. 59
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(E) Refunds granted under this section shall include interest as provided by section 5739.132 of the Revised Code. 68
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Sec. 718.91. (A) An application to refund to a taxpayer ~~the amount of taxes paid on any illegal, erroneous, or excessive payment of tax under sections 718.80 to 718.95 of the Revised Code, including assessments, that has made the election allowed under sections 718.80 to 718.95 of the Revised Code amounts that were overpaid, paid illegally or erroneously, or paid on an~~ 70
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illegal or erroneous assessment pursuant to sections 718.80 to 76
718.95 of the Revised Code shall be filed with the tax 77
commissioner within three years after the date of the illegal, 78
erroneous, or excessive payment ~~of the tax~~, or within any 79
additional period allowed by division (A) of section 718.90 of 80
the Revised Code. The application shall be filed in the form 81
prescribed by the tax commissioner. 82

(B) (1) On the filing of a refund application, the tax 83
commissioner shall determine the amount of refund to which the 84
applicant is entitled. The amount determined shall be based on 85
the amount overpaid per return or assessment. If the amount is 86
greater than ten dollars and not less than that claimed, the 87
commissioner shall certify that amount to the director of budget 88
and management and the treasurer of state for payment from the 89
tax refund fund created in section 5703.052 of the Revised Code. 90
If the amount is greater than ten dollars but less than that 91
claimed, the commissioner shall proceed in accordance with 92
section 5703.70 of the Revised Code. 93

(2) Upon issuance of a refund under this section, the 94
commissioner shall notify each municipal corporation of the 95
amount refunded to the taxpayer attributable to that municipal 96
corporation, which shall be deducted from the municipal 97
corporation's next distribution under section 718.83 of the 98
Revised Code. 99

(C) Any portion of a refund determined under division (B) 100
of this section that is not issued within ninety days after such 101
determination shall bear interest at the rate per annum 102
prescribed by section 5703.47 of the Revised Code from the 103
ninety-first day after such determination until the day the 104
refund is paid or credited. On an illegal or erroneous 105

assessment, interest shall be paid at that rate from the date of 106
payment on the illegal or erroneous assessment until the day the 107
refund is paid or credited. 108

Sec. 3734.905. (A) The treasurer of state shall refund 109
the fee ~~to any person required to pay the fee~~ imposed by section 110
3734.901 of the Revised Code ~~amounts~~ paid illegally or 111
erroneously, or paid on an illegal or erroneous assessment, or 112
any penalty assessed with respect to such a fee. Applications 113
for refund shall be filed with the tax commissioner on a form 114
prescribed by the commissioner, within four years of the illegal 115
or erroneous payment ~~of the fee.~~ 116

On the filing of the application, the commissioner shall 117
determine the amount of refund to which the applicant is 118
entitled. If the amount is not less than that claimed, the 119
commissioner shall certify the amount to the director of budget 120
and management and treasurer of state for payment from the tax 121
refund fund created by section 5703.052 of the Revised Code. If 122
the amount is less than that claimed, the commissioner shall 123
proceed in accordance with section 5703.70 of the Revised Code. 124

The certified amount shall include interest calculated at 125
the rate per annum prescribed by section 5703.47 of the Revised 126
Code from the date of overpayment to the date of the 127
commissioner's certification. 128

(B) When the fee imposed pursuant to section 3734.901 of 129
the Revised Code has been paid on tires that are sold by a 130
retail dealer or wholesale distributor to a motor vehicle 131
manufacturer, or to a wholesale distributor or retail dealer for 132
the purpose of resale outside this state, the seller in this 133
state is entitled to a refund of the amount of the fee actually 134
paid on the tires. To obtain a refund under this division, the 135

seller shall apply to the tax commissioner, shall furnish 136
documentary evidence satisfactory to the commissioner that the 137
price paid by the purchaser did not include the fee, and shall 138
provide the name and address of the purchaser to the 139
commissioner. The seller shall apply on the form prescribed by 140
the commissioner, within four years after the date of the sale. 141
Upon receipt of an application, the commissioner shall determine 142
the amount of any refund due and shall certify that amount to 143
the director of budget and management and the treasurer of state 144
for payment from the tax refund fund created in section 5703.052 145
of the Revised Code. The certified amount shall include interest 146
calculated at the rate per annum prescribed by section 5703.47 147
of the Revised Code from the date of overpayment to the date of 148
the commissioner's certification. 149

(C) If any person entitled to a refund ~~of fees~~ under this 150
section, or section 5703.70 of the Revised Code, is indebted to 151
the state for any tax administered by the tax commissioner, or 152
any charge, penalties, or interest arising from such tax, the 153
amount ~~of fees~~ allowable on the application for refund first 154
shall be applied in satisfaction of the debt. 155

Sec. 4307.05. (A) The tax commissioner shall refund to 156
persons required to pay the tax levied under section 4301.42, 157
4301.421, 4301.424, 4301.43, 4301.432, 4303.33, or 4305.01 of 158
the Revised Code ~~the amount of tax amounts~~ paid illegally or 159
erroneously or paid on an illegal or erroneous assessment. 160
Applications for refund shall be filed with the commissioner, on 161
the form prescribed by the commissioner, within three years from 162
the date of the illegal or erroneous payment ~~of the tax or~~ 163
~~assessment~~. 164

On the filing of the application, the commissioner shall 165

determine the amount of the refund to which the applicant is 166
entitled. If the amount is not less than that claimed, the 167
commissioner shall certify the amount to the director of budget 168
and management and treasurer of state for payment from the tax 169
refund fund created by section 5703.052 of the Revised Code. If 170
the amount is less than that claimed, the commissioner shall 171
proceed in accordance with section 5703.70 of the Revised Code. 172

(B) The holder of a B-3 permit is entitled to a refund of 173
the actual amount of tax paid on wine sold for sacramental 174
purposes, upon the conditions that the permit holder make 175
affidavit that the wine was so sold, that the tax had been paid 176
on the wine, and that the permit holder furnish both of the 177
following: 178

(1) A written acknowledgment from the purchaser that the 179
purchaser has received the wine and that the price paid did not 180
include the tax; 181

(2) The name and address of the purchaser. 182

Application for a refund shall be made as an application 183
for refund of ~~tax amounts~~ erroneously paid and shall be subject 184
to the requirements and procedures of division (A) of this 185
section. On the filing of the application, the commissioner 186
shall determine the amount of refund due and certify that amount 187
to the director of budget and management and treasurer of state 188
for payment from the tax refund fund. When a refund is granted 189
for payment of an illegal or erroneous assessment issued by the 190
commissioner, the refund shall include interest on the amount of 191
the refund from the date of the overpayment. The interest shall 192
be computed at the rate per annum prescribed by section 5703.47 193
of the Revised Code. 194

Sec. 5725.222. (A) An application to refund to a domestic insurance company any taxes ~~subject to the taxes~~ imposed by section 3737.71 of the Revised Code or amounts imposed under this chapter ~~of amounts~~ that are ~~were~~ overpaid, paid illegally or erroneously, or paid on any illegal, erroneous, or excessive assessment, with interest thereon as provided by section 5725.221 of the Revised Code, shall be filed with the superintendent of insurance, on the form prescribed by the superintendent, within three years after the date of the illegal, erroneous, or excessive payment ~~of the tax~~. No refund shall be allowed unless an application has been filed in accordance with this section. The time limit imposed under this division may be extended if both the domestic insurance company and the superintendent of insurance agree in writing to the extension.

(B) Except as otherwise provided in this division, the superintendent may make an assessment against a domestic insurance company for any deficiency for the period for which a report, tax return, or tax payment is due for any taxes imposed by section 3737.71 of the Revised Code or this chapter, based on any information in the superintendent's possession. No assessment shall be made against a domestic insurance company more than three years after the later of the final date the report, tax return, or tax payment subject to the assessment was required to be filed or paid, or the date the report or tax return was filed, provided that there shall be no bar if the domestic insurance company failed to file the required report or tax return or if the deficiency results from fraud or any felonious act. The time limit may be extended if both the domestic insurance company and the superintendent agree in writing to the extension. For the purposes of this division, an

assessment is made on the date the notification of the 226
assessment is sent by the department of insurance or the date of 227
an invoice for the assessment from the treasurer of state, 228
whichever is earlier. 229

Sec. 5726.30. (A) The tax commissioner shall refund ~~the~~ 230
~~amount of taxes~~ amounts imposed under this chapter that a person 231
overpaid, paid illegally or erroneously, or paid on an illegal 232
or erroneous assessment. The person shall file an application 233
for refund with the tax commissioner, on the form prescribed by 234
the commissioner, within four years after the date of the 235
illegal or erroneous payment ~~of the tax~~, or within any 236
additional period allowed under division (B) of section 5726.20 237
of the Revised Code. The applicant shall provide the amount of 238
the requested refund along with the claimed reasons for, and 239
documentation to support, the issuance of a refund. 240

For purposes of this division, a payment that an applicant 241
made before the due date for filing the report to which the 242
payment relates shall be deemed to have been made on the due 243
date of the report. 244

(B) Upon the filing of a refund application, the tax 245
commissioner shall determine the amount of refund to which the 246
applicant is entitled. If the amount is not less than that 247
claimed, the commissioner shall certify the amount to the 248
director of budget and management and treasurer of state for 249
payment from the tax refund fund created under section 5703.052 250
of the Revised Code. If the amount is less than that claimed, 251
the commissioner shall proceed in accordance with section 252
5703.70 of the Revised Code. 253

(C) (1) Except as provided in division (C) (2) of this 254
section, interest on a refund applied for under this section, 255

computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the ~~tax amount~~ was paid or the date the ~~tax~~ payment was due until the refund is paid.

(2) No interest shall be allowed under this section on an amount refunded to a person to the extent that the refund results from the allowance of a refundable credit against the tax imposed by section 5726.02 of the Revised Code.

Sec. 5727.28. (A) The tax commissioner shall refund to a natural gas company or combined company subject to the tax imposed by section 5727.24 of the Revised Code, ~~the amount of tax amounts~~ paid illegally or erroneously, or paid on an illegal or erroneous assessment. Applications for a refund shall be filed with the tax commissioner, on a form prescribed by the commissioner, within four years of the illegal or erroneous payment ~~of the tax~~.

On the filing of the application, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall notify the director of budget and management and issue the refund from the tax refund fund under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

If the application for refund is for ~~taxes paid on payment~~ of an illegal or erroneous assessment, the commissioner shall include in the certified amount interest calculated at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of overpayment to the date of the commissioner's certification.

(B) If a natural gas company or combined company entitled 286
to a refund ~~of taxes~~ under this section, or section 5703.70 of 287
the Revised Code, is indebted to the state for any tax or fee 288
administered by the tax commissioner that is paid to the state, 289
or any charge, penalty, or interest arising from such a tax or 290
fee, the amount ~~of taxes~~ refundable may be applied in 291
satisfaction of that debt. If the amount ~~of taxes~~ refundable is 292
less than the amount of the debt, it may be applied in partial 293
satisfaction of the debt. If the amount ~~of taxes~~ refundable is 294
greater than the amount of the debt, the amount remaining after 295
satisfaction of the debt shall be refunded. 296

(C) In lieu of granting a refund under division (A) or (B) 297
of this section, the tax commissioner may allow a natural gas 298
company or combined company to claim a credit of the amount of 299
the tax refund on the return for the period during which the tax 300
became refundable. The commissioner may require the company to 301
submit information to support a claim for a credit under this 302
division, and the commissioner may disallow the credit if the 303
information is not provided. 304

Sec. 5727.91. (A) The treasurer of state shall refund the 305
amount of tax paid ~~to a taxpayer subject to the tax imposed~~ 306
under section 5727.81 or 5727.811 of the Revised Code ~~amounts~~ 307
that was ~~were~~ paid illegally or erroneously, or paid on an 308
illegal or erroneous assessment, or any penalty assessed with 309
respect to such taxes. A natural gas distribution company, an 310
electric distribution company, or a self-assessing purchaser 311
shall file an application for a refund with the tax commissioner 312
on a form prescribed by the commissioner, within four years of 313
the illegal or erroneous payment ~~of the tax~~. 314

On the filing of the application, the commissioner shall 315

determine the amount of refund to which the applicant is 316
entitled. If the amount is not less than that claimed, the 317
commissioner shall certify that amount to the director of budget 318
and management and the treasurer of state for payment from the 319
tax refund fund under section 5703.052 of the Revised Code. If 320
the amount is less than that claimed, the commissioner shall 321
proceed in accordance with section 5703.70 of the Revised Code. 322

The commissioner shall include in the certified amount 323
interest calculated at the rate per annum prescribed by section 324
5703.47 of the Revised Code from the date of overpayment to the 325
date of the commissioner's certification. 326

(B) If a natural gas distribution company or an electric 327
distribution company entitled to a refund ~~of taxes~~ under this 328
section, or section 5703.70 of the Revised Code, is indebted to 329
the state for any tax or fee administered by the tax 330
commissioner that is paid to the state, or any charge, penalty, 331
or interest arising from such a tax or fee, the amount ~~of taxes~~ 332
refundable may be applied in satisfaction of the debt. If the 333
amount ~~of taxes~~ refundable is less than the amount of the debt, 334
it may be applied in partial satisfaction of the debt. If the 335
amount ~~of taxes~~ refundable is greater than the amount of the 336
debt, the amount remaining after satisfaction of the debt shall 337
be refunded. If the natural gas distribution company or electric 338
distribution company has more than one such debt, any debt 339
subject to section 5739.33 or division (G) of section 5747.07 of 340
the Revised Code shall be satisfied first. This section applies 341
only to debts that have become final. 342

(C) (1) Any electric distribution company that can 343
substantiate to the tax commissioner that the tax imposed by 344
section 5727.81 of the Revised Code was paid on electricity 345

distributed via wires and consumed at a location outside of this 346
state may claim a refund in the manner and within the time 347
period prescribed in division (A) of this section. 348

(2) Any natural gas distribution company that can 349
substantiate to the tax commissioner that the tax imposed by 350
section 5727.811 of the Revised Code was paid on natural gas 351
distributed via its facilities and consumed at a location 352
outside of this state may claim a refund in the manner and 353
within the time period prescribed in division (A) of this 354
section. 355

(3) If the commissioner certifies a refund based on an 356
application filed under division (C)(1) or (2) of this section, 357
the commissioner shall include in the certified amount interest 358
calculated at the rate per annum prescribed by section 5703.47 359
of the Revised Code from the date of overpayment to the date of 360
the commissioner's certification. 361

(D) Before a refund is issued under this section or 362
section 5703.70 of the Revised Code, a natural gas company or an 363
electric distribution company shall certify, as prescribed by 364
the tax commissioner, that it either did not include the tax 365
imposed by section 5727.81 of the Revised Code in the case of an 366
electric distribution company, or the tax imposed by section 367
5727.811 of the Revised Code in the case of a natural gas 368
distribution company, in its distribution charge to its customer 369
upon which a refund of the tax is claimed, or it has refunded or 370
credited to the customer the excess distribution charge related 371
to the tax that was erroneously included in the customer's 372
distribution charge. 373

Sec. 5728.061. The treasurer of state shall refund the 374
amount of ~~to any person assessed~~ fuel use taxes ~~tax amounts that~~ 375

~~were~~ overpaid, paid illegally or erroneously, or paid on any 376
illegal or erroneous assessment, or any penalty assessed with 377
respect to such taxes. Applications for refund shall be filed 378
with the tax commissioner, on the form prescribed by the 379
commissioner, within four years from the date of the 380
overpayment, the illegal or erroneous payment ~~of the tax~~, or the 381
payment of the illegal or erroneous assessment. An application 382
shall be filed by the person who made the payment of the tax for 383
which the refund is claimed. When a refund is granted for 384
payment of an illegal or erroneous assessment issued by the 385
commissioner, the refund shall include interest on the amount of 386
the refund from the date of the payment. The interest shall be 387
computed at the rate per annum prescribed by section 5703.47 of 388
the Revised Code. 389

On the filing of the application, the commissioner shall 390
determine the amount of refund to which the applicant is 391
entitled. If the amount is not less than that claimed, the 392
commissioner shall certify the amount to the director of budget 393
and management and treasurer of state for payment from the tax 394
refund fund created by section 5703.052 of the Revised Code. If 395
the amount is less than that claimed, the commissioner shall 396
proceed in accordance with section 5703.70 of the Revised Code. 397

Sec. 5729.102. (A) An application to refund to a foreign 398
insurance company any ~~subject to the~~ taxes imposed by section 399
3737.71 of the Revised Code or amounts imposed under this 400
chapter ~~of amounts~~ that are ~~were~~ overpaid, paid illegally or 401
erroneously, or paid on any illegal, erroneous, or excessive 402
assessment, with interest thereon as provided by section 403
5729.101 of the Revised Code, shall be filed with the 404
superintendent of insurance, on the form prescribed by the 405
superintendent, within three years after the date of the 406

illegal, erroneous, or excessive payment ~~of the tax~~. No refund 407
shall be allowed unless an application has been filed in 408
accordance with this section. The time limit imposed under this 409
division may be extended if both the foreign insurance company 410
and the superintendent of insurance agree in writing to the 411
extension. 412

(B) Except as otherwise provided in this division, the 413
superintendent may make an assessment against a foreign 414
insurance company for any deficiency for the period for which a 415
report, tax return, or tax payment is due for any taxes imposed 416
by section 3737.71 of the Revised Code or this chapter, based on 417
any information in the superintendent's possession. No 418
assessment shall be made against a foreign insurance company 419
more than three years after the later of the final date the 420
report, tax return, or tax payment subject to the assessment was 421
required to be filed or paid, or the date the report or tax 422
return was filed, provided that there shall be no bar if the 423
foreign insurance company failed to file the required report or 424
tax return or if the deficiency results from fraud or any 425
felonious act. The time limit may be extended if both the 426
foreign insurance company and the superintendent agree in 427
writing to the extension. For the purposes of this division, an 428
assessment is made on the date the notification of the 429
assessment is sent by the department of insurance or the date of 430
an invoice for the assessment from the treasurer of state, 431
whichever is earlier. 432

Sec. 5735.11. (A) If the tax or any portion of the tax 433
imposed by this chapter, whether determined by the tax 434
commissioner or the motor fuel dealer, is not paid on or before 435
the date prescribed in section 5735.06 of the Revised Code, 436
interest shall be collected and paid in the same manner as the 437

tax upon the unpaid amount, computed at the rate per annum 438
prescribed by section 5703.47 of the Revised Code, from the date 439
prescribed for payment of the tax to the date of payment or to 440
the date an assessment is issued under section 5735.12 or 441
5735.121 of the Revised Code, whichever occurs first. Interest 442
may be collected by assessment in the manner provided in section 443
5735.12 or 5735.121 of the Revised Code. All interest shall be 444
paid in the same manner as the tax and shall be considered as 445
revenue arising from the portion of the tax described in 446
division (A) of section 5735.05 of the Revised Code. 447

(B) Interest shall be allowed and paid upon any refund 448
granted in respect to the payment of an illegal or erroneous 449
assessment ~~for any tax~~ imposed under this chapter from the date 450
of the overpayment. The interest shall be computed at the rate 451
per annum prescribed by section 5703.47 of the Revised Code. 452

Sec. 5735.122. The tax commissioner shall refund to 453
dealers or to any person assessed motor fuel tax ~~the amount of~~ 454
~~taxes~~ amounts paid illegally or erroneously or paid on an 455
illegal or erroneous assessment. Applications for refund shall 456
be filed with the tax commissioner, on the form prescribed by 457
the commissioner, within four years from the date of the illegal 458
or erroneous payment. No person shall file a claim for the tax 459
on fewer than one hundred gallons of motor fuel. 460

On the filing of the application, the commissioner shall 461
determine the amount of refund to which the applicant is 462
entitled. If the amount is not less than that claimed, the 463
commissioner shall certify the amount to the director of budget 464
and management and treasurer of state for payment from the tax 465
refund fund created by section 5703.052 of the Revised Code, 466
except that no refund shall be authorized or paid on a claim for 467

the tax on fewer than one hundred gallons of motor fuel. If the 468
amount is less than that claimed, the commissioner shall proceed 469
in accordance with section 5703.70 of the Revised Code. 470

The refund authorized by this section or section 5703.70 471
of the Revised Code shall be reduced by the cents per gallon 472
amount of any qualified fuel credit received under section 473
5735.145 of the Revised Code, as determined by the commissioner, 474
for each gallon of qualified fuel included in the total 475
gallonage of motor fuel upon which the refund is computed. 476

Sec. 5736.08. (A) An application for refund to the 477
taxpayer of ~~the amount of taxes~~ amounts imposed under this 478
chapter that are overpaid, paid illegally or erroneously, or 479
paid on any illegal or erroneous assessment shall be filed by 480
the taxpayer with the tax commissioner, on the form prescribed 481
by the commissioner, within four years after the date of the 482
illegal or erroneous payment ~~of the tax~~, or within any 483
additional period allowed under division (F) of section 5736.09 484
of the Revised Code. The applicant shall provide the amount of 485
the requested refund along with the claimed reasons for, and 486
documentation to support, the issuance of a refund. 487

(B) On the filing of the refund application, the 488
commissioner shall determine the amount of refund to which the 489
applicant is entitled. If the amount is not less than that 490
claimed, the commissioner shall certify the amount to the 491
director of budget and management and treasurer of state for 492
payment from the tax refund fund created under section 5703.052 493
of the Revised Code. If the amount is less than that claimed, 494
the commissioner shall proceed in accordance with section 495
5703.70 of the Revised Code. 496

(C) Interest on a refund applied for under this section, 497

computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the ~~tax amount~~ was paid or when the ~~tax~~ payment was due.

(D) Except as provided in section 5736.081 of the Revised Code, the commissioner may provide for the crediting against tax due for a tax period the amount of any refund due the taxpayer under this chapter for a preceding tax period."

After line 2081, insert:

"Sec. 5739.07. (A) When, pursuant to this chapter, a vendor has paid taxes to the treasurer of state or the treasurer of state's agent, or to the tax commissioner or the commissioner's agent, the commissioner shall refund to the vendor the amount of taxes paid, and any penalties assessed with respect to such taxes, if the vendor has refunded to the consumer the full amount of taxes the consumer paid illegally or erroneously or if the vendor has illegally or erroneously billed the consumer but has not collected the taxes from the consumer.

(B) When, pursuant to this chapter, a consumer has paid taxes directly to the treasurer of state or the treasurer of state's agent, or to the tax commissioner or the commissioner's agent, and the payment or assessment was illegal or erroneous, the commissioner shall refund to the consumer the full amount of illegal or erroneous taxes paid and any penalties assessed with respect to such taxes.

(C) The commissioner shall refund to the consumer ~~taxes~~ amounts paid illegally or erroneously to a vendor only if:

(1) The commissioner has not refunded the tax to the vendor and the vendor has not refunded the tax to the consumer; or

(2) The consumer has received a refund from a manufacturer 527
or other person, other than the vendor, of the full purchase 528
price, but not the tax, paid to the vendor in settlement of a 529
complaint by the consumer about the property or service 530
purchased. 531

The commissioner may require the consumer to obtain or the 532
vendor to provide a written statement confirming that the vendor 533
has not refunded the tax to the consumer and has not filed an 534
application for refund of the tax with the commissioner. 535

(D) Subject to division (E) of this section, an 536
application for refund shall be filed with the tax commissioner 537
on the form prescribed by the commissioner within four years 538
from the date of the illegal or erroneous payment ~~of the tax,~~ 539
unless the vendor or consumer waives the time limitation under 540
division (A) (3) of section 5739.16 of the Revised Code. If the 541
time limitation is waived, the refund application period shall 542
be extended for the same period as the waiver. 543

(E) An application for refund shall be filed in accordance 544
with division (D) of this section unless a person is subject to 545
an assessment that is subject to the time limit of division (B) 546
of section 5703.58 of the Revised Code for ~~a tax amounts~~ not 547
reported and paid between the four-year time limit described in 548
division (D) of this section and the seven-year limit described 549
in division (B) of section 5703.58 of the Revised Code, in which 550
case the person may file an application within six months after 551
the date the assessment is issued. Any refund allowed under this 552
division shall not exceed the amount of the assessment due for 553
the same period. 554

(F) On the filing of an application for a refund, the 555
commissioner shall determine the amount of refund to which the 556

applicant is entitled. If the amount is not less than that 557
claimed, the commissioner shall certify that amount to the 558
director of budget and management and the treasurer of state for 559
payment from the tax refund fund created by section 5703.052 of 560
the Revised Code. If the amount is less than that claimed, the 561
commissioner shall proceed in accordance with section 5703.70 of 562
the Revised Code. 563

(G) When a refund is granted under this section, it shall 564
include interest thereon as provided by section 5739.132 of the 565
Revised Code. 566

Sec. 5739.104. The tax commissioner shall refund to a 567
person subject to a tax under section 5739.101 of the Revised 568
Code ~~the amount of taxes~~ amounts paid illegally or erroneously 569
or paid on an illegal or erroneous assessment. Applications for 570
a refund shall be filed with the commissioner, on a form 571
prescribed by the commissioner, within four years from the date 572
of the illegal or erroneous payment ~~of the tax~~, except where the 573
person subject to the tax waives the time limitation under 574
division (C) of section 5739.16 of the Revised Code, in which 575
case the four-year refund limitation shall be extended for the 576
same period of time as the waiver. 577

On the filing of an application for a refund, the 578
commissioner shall determine the amount of refund to which the 579
applicant is entitled. If the amount is not less than that 580
claimed, the commissioner shall certify the amount to the 581
treasurer of state for payment from the current resort area 582
excise tax receipts of the municipal corporation or township 583
from which the refund is due. If the amount is less than that 584
claimed, the commissioner shall proceed in accordance with 585
section 5703.70 of the Revised Code. 586

If a refund is granted for payment of an illegal or erroneous assessment issued by the commissioner, the refund shall include interest computed at the rate per annum prescribed under section 5703.47 of the Revised Code.

Sec. 5741.10. Refunds of ~~taxes~~ amounts paid pursuant to this chapter by a seller or consumer illegally or erroneously shall be made in the same manner as refunds are made to a vendor or consumer under section 5739.07 of the Revised Code.

Sec. 5743.53. (A) The treasurer of state shall refund to a taxpayer any ~~subject to the tax imposed by section 5743.51, 5743.62, or 5743.63 of the Revised Code either~~ of the following:

(1) ~~Any tobacco products or vapor products tax~~ Amounts imposed under this chapter that were paid illegally or erroneously;

~~(2) Any tobacco products or vapor products tax or~~ paid on an illegal or erroneous assessment;

~~(3)~~ (2) Any tax paid on tobacco products or vapor products that have been sold or shipped to retail dealers, wholesale dealers, or vapor distributors outside this state, returned to the manufacturer, or destroyed by the taxpayer with the prior approval of the tax commissioner.

Any application for refund shall be filed with the commissioner on a form prescribed by the commissioner for that purpose. The commissioner may not pay any refund on an application for refund filed with the commissioner more than three years from the date of the payment ~~of the tax~~.

(B) On the filing of the application for refund, the commissioner shall determine the amount of the refund to which

the applicant is entitled. If the amount is not less than that 615
claimed, the commissioner shall certify the amount to the 616
director of budget and management and to the treasurer of state 617
for payment from the tax refund fund created by section 5703.052 618
of the Revised Code. If the amount is less than that claimed, 619
the commissioner shall proceed in accordance with section 620
5703.70 of the Revised Code. 621

If a refund is granted for payment of an illegal or 622
erroneous assessment issued by the department of taxation, the 623
refund shall include interest on the amount of the refund from 624
the date of the overpayment. The interest shall be computed at 625
the rate per annum in the manner prescribed by section 5703.47 626
of the Revised Code. 627

(C) If any person entitled to a refund ~~of tax~~ under this 628
section or section 5703.70 of the Revised Code is indebted to 629
the state for any tax administered by the tax commissioner, or 630
any charge, penalties, or interest arising from such tax, the 631
amount ~~of tax~~ allowable on the application for refund first 632
shall be applied in satisfaction of the debt. 633

(D) In lieu of granting a refund payable under division 634
~~(A)(3)~~ (A)(2) of this section, the tax commissioner may allow a 635
taxpayer to claim a credit of the amount of refundable tax on 636
the return for the period during which the tax became 637
refundable. The commissioner may require taxpayers to submit any 638
information necessary to support a claim for a credit under this 639
section, and the commissioner shall allow no credit if that 640
information is not provided. 641

Sec. 5745.11. An application to refund to a taxpayer ~~the~~ 642
~~amount of taxes paid on any illegal, erroneous, or excessive~~ 643
~~payment of tax under this chapter, including assessments, amounts~~ 644

paid under this chapter that are overpaid, paid illegally or 645
erroneously, or paid on any illegal or erroneous assessment 646
shall be filed with the tax commissioner within three years 647
after the date of the illegal, erroneous, or excessive payment 648
~~of the tax,~~ or within any additional period allowed by division 649
(A) of section 5745.12 of the Revised Code. The application 650
shall be filed in the form prescribed by the tax commissioner. 651

On the filing of a refund application, the commissioner 652
shall determine the amount of refund to which the applicant is 653
entitled. If the amount is not less than that claimed, the 654
commissioner shall certify the amount of the refund to each 655
municipal corporation to which the overpayment was made. If the 656
amount is less than that claimed, the commissioner shall proceed 657
in accordance with divisions (A) to (C) of section 5703.70 of 658
the Revised Code and shall certify to each municipal corporation 659
to which the overpayment was made the amount to be refunded 660
under division (B) or (C) of that section. 661

On receipt of a certification of a refund, the municipal 662
corporation shall issue a refund to the taxpayer, or, upon the 663
taxpayer's written request, shall credit the amount of the 664
refund against the taxpayer's estimated tax payments to the 665
municipal corporation for an ensuing taxable year. 666

Any portion of the refund not issued within ninety days 667
after the tax commissioner's notice is received by the municipal 668
corporation shall bear interest at the rate per annum prescribed 669
by section 5703.47 of the Revised Code from the ninetieth day 670
after such notice is received by the municipal corporation until 671
the day the refund is paid or credited. On an illegal or 672
erroneous assessment, interest shall be paid at that rate from 673
the date of payment on the illegal or erroneous assessment until 674

the day the refund is paid or credited. 675

Sec. 5747.11. (A) The tax commissioner shall refund to 676
employers, qualifying entities, electing pass-through entities, 677
or taxpayers subject to a tax imposed under section 5733.41, 678
5747.02, 5747.38, or 5747.41, or Chapter 5748. of the Revised 679
Code ~~the amount of any overpayment of such tax amounts that were~~ 680
overpaid, paid illegally or erroneously, or paid on an illegal 681
or erroneous assessment. 682

(B) (1) Except as otherwise provided under divisions (D) 683
and (E) of this section, applications for refund shall be filed 684
with the tax commissioner, on the form prescribed by the 685
commissioner, within four years from the date of the illegal, 686
erroneous, or excessive payment ~~of the tax~~, or within any 687
additional period allowed by division (B) (3) (b) of section 688
5747.05, division (E) of section 5747.10, division (A) of 689
section 5747.13, or division (C) of section 5747.45 of the 690
Revised Code. 691

On filing of the refund application, the commissioner 692
shall determine the amount of refund due and, if that amount 693
exceeds one dollar, certify such amount to the director of 694
budget and management and treasurer of state for payment from 695
the tax refund fund created by section 5703.052 of the Revised 696
Code. Payment shall be made as provided in division (C) of 697
section 126.35 of the Revised Code. 698

(2) If an individual taxpayer is deceased, a refund may be 699
issued in the name of the decedent and of the executor, 700
administrator, or other person charged with the decedent's 701
property, upon the request of that person. Such a request shall 702
include any documentation, including a copy of the taxpayer's 703
death certificate and any fiduciary or court documents, that the 704

tax commissioner considers necessary to prove that the person 705
making the request is qualified to receive the refund. If the 706
request is for a refund that was previously issued in only the 707
decedent's name, the person making the request must also provide 708
the previously issued payment to the commissioner. 709

(C) (1) Interest shall be allowed and paid at the rate per 710
annum prescribed by section 5703.47 of the Revised Code on 711
amounts refunded with respect to the tax imposed under section 712
5747.02 or Chapter 5748. of the Revised Code from the date of 713
the overpayment until the date of the refund of the overpayment, 714
except that if any overpayment is refunded within ninety days 715
after the final filing date of the annual return or ninety days 716
after the return is filed, whichever is later, no interest shall 717
be allowed on such overpayment. If the overpayment results from 718
the carryback of a net operating loss or net capital loss to a 719
previous taxable year, the overpayment is deemed not to have 720
been made prior to the filing date, including any extension 721
thereof, for the taxable year in which the net operating loss or 722
net capital loss arises. For purposes of the payment of interest 723
on overpayments, no amount of tax, for any taxable year, shall 724
be treated as having been paid before the date on which the tax 725
return for that year was due without regard to any extension of 726
time for filing such return. 727

(2) Interest shall be allowed at the rate per annum 728
prescribed by section 5703.47 of the Revised Code on amounts 729
refunded with respect to the taxes imposed under sections 730
5733.41 and 5747.41 or under section 5747.38 of the Revised 731
Code. The interest shall run from whichever of the following 732
days is the latest until the day the refund is paid: the day the 733
illegal, erroneous, or excessive payment was made; the ninetieth 734
day after the final day the annual report was required to be 735

filed under section 5747.42 of the Revised Code; or the 736
ninetieth day after the day that report was filed. 737

(D) "Ninety days" shall be substituted for "four years" in 738
division (B) of this section if the taxpayer satisfies both of 739
the following conditions: 740

(1) The taxpayer has applied for a refund based in whole 741
or in part upon section 5747.059 of the Revised Code; 742

(2) The taxpayer asserts that either the imposition or 743
collection of the tax imposed or charged by this chapter or any 744
portion of such tax violates the Constitution of the United 745
States or the Constitution of Ohio. 746

(E) (1) Division (E) (2) of this section applies only if all 747
of the following conditions are satisfied: 748

(a) A qualifying entity pays an amount of the tax imposed 749
by section 5733.41 or 5747.41 of the Revised Code; 750

(b) The taxpayer is a qualifying investor as to that 751
qualifying entity; 752

(c) The taxpayer did not claim the credit provided for in 753
section 5747.059 of the Revised Code as to the tax described in 754
division (E) (1) (a) of this section; 755

(d) The four-year period described in division (B) of this 756
section has ended as to the taxable year for which the taxpayer 757
otherwise would have claimed that credit. 758

(2) A taxpayer shall file an application for refund 759
pursuant to division (E) of this section within one year after 760
the date the payment described in division (E) (1) (a) of this 761
section is made. An application filed under division (E) (2) of 762
this section shall claim refund only of overpayments resulting 763

from the taxpayer's failure to claim the credit described in 764
division (E) (1) (c) of this section. Nothing in division (E) of 765
this section shall be construed to relieve a taxpayer from 766
complying with division (A) (15) of section 5747.01 of the 767
Revised Code. 768

Sec. 5749.08. The tax commissioner shall refund to 769
taxpayers ~~the amount of taxes levied by section 5749.02 of the~~ 770
~~Revised Code and amounts due~~ amounts paid under this chapter or 771
section 1509.50 of the Revised Code that were paid illegally or 772
erroneously or paid on an illegal or erroneous assessment. 773
Applications for refund shall be filed with the commissioner, on 774
the form prescribed by the commissioner, within four years from 775
the date of the illegal or erroneous payment. On the filing of 776
the application, the commissioner shall determine the amount of 777
refund to which the applicant is entitled, plus interest 778
computed in accordance with section 5703.47 of the Revised Code 779
from the date of the payment of an erroneous or illegal 780
assessment until the date the refund is paid. If the amount is 781
not less than that claimed, the commissioner shall certify the 782
amount to the director of budget and management and treasurer of 783
state for payment from the tax refund fund created by section 784
5703.052 of the Revised Code. If the amount is less than that 785
claimed, the commissioner shall proceed in accordance with 786
section 5703.70 of the Revised Code. 787

Sec. 5751.08. (A) An application for refund to the 788
taxpayer of ~~the amount of taxes~~ amounts imposed under this 789
chapter that are overpaid, paid illegally or erroneously, or 790
paid on any illegal or erroneous assessment shall be filed by 791
the reporting person with the tax commissioner, on the form 792
prescribed by the commissioner, within four years after the date 793
of the illegal or erroneous payment ~~of the tax~~, or within any 794

additional period allowed under division (F) of section 5751.09 795
of the Revised Code. The applicant shall provide the amount of 796
the requested refund along with the claimed reasons for, and 797
documentation to support, the issuance of a refund. 798

(B) On the filing of the refund application, the tax 799
commissioner shall determine the amount of refund to which the 800
applicant is entitled. If the amount is not less than that 801
claimed, the commissioner shall certify the amount to the 802
director of budget and management and treasurer of state for 803
payment from the tax refund fund created under section 5703.052 804
of the Revised Code. If the amount is less than that claimed, 805
the commissioner shall proceed in accordance with section 806
5703.70 of the Revised Code. 807

(C) Interest on a refund applied for under this section, 808
computed at the rate provided for in section 5703.47 of the 809
Revised Code, shall be allowed from the later of the date the 810
~~tax amount~~ was paid or when the ~~tax payment amount~~ was due. 811

(D) A calendar quarter taxpayer with more than one million 812
dollars in taxable gross receipts in a calendar year other than 813
calendar year 2005 and that is not able to exclude one million 814
dollars in taxable gross receipts because of the operation of 815
the taxpayer's business in that calendar year may file for a 816
refund under this section to obtain the full exclusion of one 817
million dollars in taxable gross receipts for that calendar 818
year. 819

(E) Except as provided in section 5751.081 of the Revised 820
Code, the tax commissioner may, with the consent of the 821
taxpayer, provide for the crediting against tax due for a tax 822
period the amount of any refund due the taxpayer under this 823
chapter for a preceding tax period. 824

Sec. 5753.06. (A) A taxpayer may apply to the tax commissioner for a refund of the amount of taxes under section 5753.02 or 5753.021 of the Revised Code amounts imposed under this chapter that were overpaid, paid illegally or erroneously, or paid on an illegal or erroneous assessment. The application shall be on a form prescribed by the tax commissioner. The taxpayer shall provide the amount of the requested refund along with the claimed reasons for, and documentation to support, the issuance of a refund. The taxpayer shall file the application with the tax commissioner within four years after the date the payment was made, unless the applicant has waived the time limitation under division (D) of section 5753.07 of the Revised Code. In the latter event, the four-year limitation is extended for the same period of time as the waiver.

(B) Upon the filing of a refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the tax commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund. If the amount is less than that claimed, the tax commissioner shall proceed under section 5703.70 of the Revised Code.

(C) Interest on a refund applied for under this section, computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the tax amount was due or the date payment ~~of the tax~~ was made. Except as provided in section 5753.07 of the Revised Code, the tax commissioner may, with the consent of the taxpayer, provide for crediting against the tax due for a tax period, the amount of any refund due the taxpayer for a preceding tax period.

(D) Refunds under this section are subject to offset under section 5753.061 of the Revised Code." 855
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In line 2082, after "sections" insert "128.47, 718.91, 3734.905, 4307.05, 5725.222, 5726.30, 5727.28, 5727.91, 5728.061, 5729.102, 5735.11, 5735.122, 5736.08,"; delete "and" 857
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In line 2083, after "5739.03" insert ", 5739.07, 5739.104, 5741.10, 5743.53, 5745.11, 5747.11, 5749.08, 5751.08, and 5753.06" 860
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In line 2084, after "3." insert "(A)" 862

After line 2087, insert: 863

"(B) The amendment by this act of sections 128.47, 718.91, 3734.905, 4307.05, 5725.222, 5726.30, 5727.28, 5727.91, 5728.061, 5729.102, 5735.11, 5735.122, 5736.08, 5739.07, 5739.104, 5741.10, 5743.53, 5745.11, 5747.11, 5749.08, 5751.08, and 5753.06 applies to refunds allowed on and after January 1, 2023. 864
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Section 4. Section 5747.11 of the Revised Code is presented in this act as a composite of the section as amended by both S.B. 231 and S.B. 246 of the 134th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act." 870
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The motion was _____ agreed to.

SYNOPSIS

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Refunds of tax penalties

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**R.C. 128.47, 718.91, 3734.905, 4307.05, 5725.222, 5726.30,
5727.28, 5727.91, 5728.061, 5729.102, 5735.11, 5735.122,
5736.08, 5739.07, 5739.104, 5741.10, 5743.53, 5745.11, 5747.11,
5749.08, 5751.08, and 5753.06; Sections 3 and 4**

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Allows taxpayers to apply to the Tax Commissioner or
Superintendent of Insurance for a refund of any amount the
taxpayer overpaid, including tax-related penalties and fees. In
general, current law specifies that the Commissioner or
Superintendent may only refund overpaid taxes, with interest.

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As with refunded taxes under current law, awards interest
on any overpaid tax-related penalty or fee.

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Provides that any refunded amount, not just taxes, may be
intercepted by the Tax Commissioner and applied to a debt the
taxpayer owes to the state, as authorized under continuing law.

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Applies to refunds allowed on or after January 1, 2023.

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