As Introduced

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Representatives Click, Thomas, D.

Cosponsors: Representatives John, Williams

To amend sections 5703.42, 5703.52, 5703.60, 5703.70, 5717.01, 5717.011, and 5717.02 and to enact section 5717.021 of the Revised Code to modify the tax enforcement authority of the department of taxation and the board of tax appeals.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5703.42, 5703.52, 5703.60, 5703.70, 5717.01, 5717.011, and 5717.02 be amended and section 5717.021 of the Revised Code be enacted to read as follows:

Sec. 5703.42. The annual report of the department of taxation shall include a full report of the operation and execution of all laws which it is required to administer. The department shall deliver copies of the report to the speaker and minority leader of the house of representatives and the president and minority leader of the senate.

Sec. 5703.52. (A) The tax commissioner shall appoint one or more problem resolution officers from among the employees of the department of taxation, and at least one of these employees shall be assigned as a problem resolution officer as the employee's full-time duty. These officers shall receive and review inquiries and complaints concerning matters that have been pending before the department for an unreasonable length of time or matters to which a taxpayer has been unable to obtain a satisfactory response after several attempts to communicate with the employee of the department assigned to the taxpayer's case or the employee's immediate supervisor.

Matters arising in cases on appeal from a final determination of the commissioner or in cases certified to the attorney general for collection are not reviewable by a problem resolution officer. An action taken by a problem resolution officer is not a final order of the commissioner appealable to the board of tax appeals.

The commissioner shall prescribe and make available on the department of taxation's web site a form, that may be submitted online through the department's web site, to request assistance from or otherwise communicate with a problem resolution officer. The form shall be available from a link on the home page of the department's web site. Upon receipt of such a form, the officer shall transmit a copy of the form to any employee of the department involved in the matter listed on the form.

The home page of the department's web site shall include a link that leads to a directory of each employee appointed as a problem resolution officer, including the name, phone number, and electronic mail address of the employee. The directory shall also indicate if an employee is assigned as a problem resolution officer as the employee's full-time duty. This information shall be updated as needed. If a person registers to receive regular communication or updates from the department, this information shall be included in such a communication to the person. If any of the information changes, it shall be included in another communication.

(B) The tax commissioner shall maintain a continuing education program to train employees of the department and to provide them with a current knowledge of state and federal tax laws.

(C) In addition to any other information provided by law, the tax commissioner shall include in the annual report required by section 5703.42 of the Revised Code ~~information~~ all of the following, arranged by tax and whether the taxpayer involved is an individual or a business:

(1) Information about the number and kinds of audits or assessments conducted in the year covered by the report.

(2) The length of time of such audits, which may be compiled into statistics.

(3) The length of time to resolve appeals, which may be compiled into statistics.

(4) The number of audits that remained unresolved as of the last day of the year covered by the report. Of those audits, the report shall indicate whether each had been unresolved for less than one year, more than one year but less than two years, more than two years but less than three years, or four years or more.

(5) The number of appeals with respect to which a taxpayer has filed a petition for reassessment or request for hearing but that, as of the last day of the year covered by the report, have have not resulted in a final determination. Of those appeals, the report shall indicate whether each had been unresolved for less than one year, more than one year but less than two years,

more than two years but less than three years, or four years or more.

(D) The tax commissioner shall not use the amounts of taxes assessed by an employee of the department as the basis of a production quota system for employees or the basis for evaluating an employee's performance.

(E) The tax commissioner shall establish procedures for monitoring the performance of tax agents that include the use of evaluations obtained from taxpayers.

Sec. 5703.60. (A) If a petition for reassessment has been properly filed under a law that specifies that this section applies, the tax commissioner shall proceed as follows:

(1) Except as provided in division (D) of this section, the commissioner may correct the assessment by issuing a corrected assessment. The corrected assessment may reduce or increase the previous assessment, as the commissioner finds proper. The commissioner shall send the corrected assessment by ordinary mail to the address to which the original assessment was sent, unless the petitioner notifies the commissioner of a different address. The commissioner's mailing of the corrected assessment is an assessment timely made and issued to the extent that the original assessment was timely made and issued, notwithstanding any time limitation otherwise imposed by law.

Within sixty days after the mailing of the corrected assessment, the petitioner may file a new petition for reassessment. The petition shall be filed in the same manner as provided by law for filing the original petition. If a new petition is properly filed within the sixty-day period, the commissioner shall proceed under division (A)(2) or (3) of this section. If a new petition is not properly filed within the sixty-day period, the corrected assessment becomes final, and the amount of the corrected assessment is due and payable from the person assessed.

The issuance of a corrected assessment under this division nullifies the petition for reassessment filed before such issuance, and that petition shall not be subject to further administrative review or appeal. The commissioner may issue to the person assessed only one corrected assessment under this division.

(2) The commissioner may cancel the assessment by issuing either a corrected assessment or a final determination. The commissioner may mail the cancellation in the same manner as a corrected assessment under division (A)(1) of this section. Cancellation of an assessment pursuant to this division is not subject to further administrative review or appeal.

(3) If no corrected assessment or final determination is issued under division (A)(1) or (2) of this section, or if a new petition for reassessment is properly filed under division (A)(1) of this section, the commissioner shall review the assessment or corrected assessment petition that is still pending. If the petitioner requests a hearing, the commissioner shall assign a time and place for the hearing and notify the petitioner of such time and place~~, but the commissioner may continue the hearing from time to time as necessary~~. ~~Upon~~ The hearing shall be held not later than one hundred eighty days after the hearing is requested, unless the petitioner files a request to extend this deadline by ninety days, which the commissioner shall grant, or the deadline is extended pursuant to division (A)(5) of this section or, for not more than one

hundred eighty additional days, by agreement of the petitioner and commissioner. Subject to division (A)(4) of this section, upon completion of the review and hearing, if requested by the person assessed, the commissioner shall either cancel the assessment or corrected assessment by issuing a corrected assessment or final determination under division (A)(2) of this section, or issue a final determination that reduces, affirms, or increases the assessment or corrected assessment, as the commissioner finds proper. If a final determination is issued under this division, a copy of it shall be served on the petitioner in the manner provided by section 5703.37 of the Revised Code, and it is subject to appeal under section 5717.02 of the Revised Code. Only objections decided on the merits by the board of tax appeals or a court shall be given the effect of collateral estoppel or res judicata in considering an application for refund of amounts paid pursuant to the assessment or corrected assessment.

(4) During a hearing described in division (A)(3) of this section, the petitioner may request that the tax commissioner disclose to the petitioner or the petitioner's representative any proposed final determination. The commissioner shall comply with any such request and shall not issue a final determination until at least thirty days following delivery of the proposed final determination to the petitioner or representative. During that thirty-day period, the petitioner may respond to the proposed final determination or provide additional supporting documentation to the commissioner.

If the petitioner does not respond to the proposed final determination during that thirty-day period, the proposed final determination shall be deemed, on the last day of such period, to be the final determination, which may be appealed under section 5717.02 of the Revised Code. The commissioner shall subsequently issue a final determination with the same content as the proposed final determination but, for the purposes of appeals under section 5717.02 of the Revised Code, the final determination shall be considered to have been issued on the last day of the thirty-day period.

If the petitioner does respond to the proposed final determination during that thirty-day period, the commissioner may issue the final determination within thirty days after receiving the response or documentation. If that deadline expires without issuance of a final determination, then on that expiration date the proposed final determination is deemed to be the final determination, which may be appealed under section 5717.02 of the Revised Code. Upon the written consent of the petitioner, the commissioner may extend the thirty-day period for issuing a final determination under this paragraph by up to an additional thirty days.

(5) The commissioner may, within sixty days after the filing of a petition for reassessment, submit a request to the petitioner for a settlement conference to explore opportunities to resolve the petition. If the petitioner accepts the request, the conference shall be held within one hundred eighty days after the petition's filing date and the deadline by which a hearing must be held under division (A)(3) of this section shall be extended by the number of days between the date the commissioner makes the request for a conference and the date of the conference.

(B) Except as provided in division (D) of this section, in addition to the authority provided in division (A) of this section and division (H) of section 5703.05 of the Revised Code, the tax commissioner, on the commissioner's own motion, may issue a corrected assessment with regard to the assessment of any tax for which a properly filed petition for reassessment would be subject to division (A) of this section. A corrected assessment may be issued under this division only if the original assessment has not been certified to the attorney general for collection under section 131.02 of the Revised Code, or is not an appeal pursuant to section 5717.02 of the Revised Code. The corrected assessment shall not increase the amount of tax, penalty, or additional charge if the statute of limitations to issue a new assessment for such increase has expired. The corrected assessment shall be issued and reviewed in the same manner as a corrected assessment under division (A)(1) of this section.

(C) If the tax commissioner issues a corrected assessment or final determination under this section that reduces an assessment below the amount paid thereon, and the reduction is made at the written request of the party assessed, either through the filing of a proper petition for reassessment or otherwise, the commissioner shall certify any overpayment as a refund due only to the extent a refund could have been timely claimed when the request was made. If the reduction is made on the commissioner's own motion, the commissioner shall certify any overpayment as a refund due only to the extent a refund could have been timely claimed at the time the reduction was made.

(D) The tax commissioner shall not issue a corrected assessment under division (A)(1) or (B) of this section after the party assessed has requested in writing that the commissioner not use that procedure.

(E) This section does not require the tax commissioner to issue a corrected assessment.

(F) Notwithstanding any other section of the Revised Code, interest on an assessment for which a petition for reassessment has been filed shall no longer accrue more than one year after the filing date of that petition through the date that the commissioner issues a final determination on that petition.

(G) Nothing in this section prohibits the tax commissioner from doing either of the following between the time a petition for reassessment is filed and a final determination is issued:

(1) Requesting additional supporting documentation from the petitioner;

(2) Communicating about, negotiating, or entering into a settlement agreement with a petitioner, regardless of whether a settlement conference is held under division (A)(5) of this section.

Sec. 5703.70. (A) On the filing of an application for refund under section 718.91, 3734.905, 4307.05, 4307.07, 5726.30, 5727.28, 5727.91, 5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 5735.18, 5736.08, 5739.07, 5739.104, 5741.10, 5743.05, 5743.53, 5747.11, 5749.08, 5751.08, or 5753.06 of the Revised Code, or an application for compensation under section 5739.061 of the Revised Code, if the tax commissioner determines that the amount of the refund or compensation to which the applicant is entitled is less than the amount claimed in the application, the commissioner shall give the applicant written notice electronically or by ordinary mail of the amount. If sent by ordinary mail, the notice shall be sent to the address shown on the application unless the applicant notifies the commissioner of a different address. If sent electronically, the notice shall be sent to the person or the person's authorized representative through secure electronic means associated with the person's or representative's last known electronic mail address, but only with the person's consent. The applicant shall have sixty days from the date the commissioner electronically sends or mails the notice to provide additional information to the commissioner or request a hearing, or both.

(B) If the applicant neither requests a hearing nor provides additional information to the tax commissioner within the time prescribed by division (A) of this section, the commissioner shall take no further action, and the refund or compensation amount denied becomes final.

(C)(1) If the applicant requests a hearing within the time prescribed by division (A) of this section, the tax commissioner shall assign a time and place for the hearing and notify the applicant of such time and place~~, but the commissioner may continue the hearing from time to time, as necessary~~. The hearing shall be held not later than one hundred eighty days after the hearing is requested, unless the applicant files a request to extend this deadline by ninety days, which the commissioner shall grant, or the deadline is extended as required by division (C)(5) of this section or, for not more than one hundred eighty additional days, by agreement of the applicant and commissioner. ~~After~~ Subject to division (C)(4) of this section, after the hearing, the commissioner may make such adjustments to the refund or compensation as the commissioner finds proper, and shall issue a final determination thereon.

(2) If the applicant does not request a hearing, but

provides additional information, within the time prescribed by division (A) of this section, the commissioner shall review the information, make such adjustments to the refund or compensation as the commissioner finds proper, and issue a final determination thereon. The commissioner may review such information and make such adjustments as many times as the commissioner finds proper before the issuance of a final determination.

(3) If the applicant requests a hearing and provides additional information within the time prescribed by division (A) of this section, the commissioner may review the information and make such adjustments to the refund or compensation as the commissioner finds proper. The commissioner may review such information and make such adjustments as many times as the commissioner finds proper before the issuance of a final determination.

The commissioner shall assign a time and place for the hearing and notify the applicant of such time and place, ~~but the commissioner may continue the hearing from time to time, as necessary~~and the deadline for holding the hearing and the circumstances for extending that deadline shall be the same as described in division (C)(1) of this section. ~~After~~ Subject to division (C)(4) of this section, after the hearing, the commissioner may make any additional adjustments to the refund or compensation as the commissioner finds proper and shall issue a final determination thereon.

(4) During a hearing described in division (C)(1) or (3) of this section, the applicant may request that the tax commissioner disclose to the applicant or the applicant's representative any proposed final determination. The

commissioner shall comply with any such request and shall not issue a final determination until at least thirty days following delivery of the proposed final determination to the applicant or representative. During that thirty-day period, the applicant may respond to the proposed final determination or provide additional supporting documentation to the commissioner.

If the applicant does not respond to the proposed final determination during that thirty-day period, the proposed final determination shall be deemed, on the last day of such period, to be the final determination, which may be appealed under section 5717.02 of the Revised Code. The commissioner shall subsequently issue a final determination with the same content as the proposed final determination but, for the purposes of appeals under section 5717.02 of the Revised Code, the final determination shall be considered to have been issued on the last day of the thirty-day period.

If the applicant does not respond to the proposed final determination during that thirty-day period, the commissioner may issue a final determination within thirty days after receiving the response or documentation. If that deadline expires without issuance of a final determination, then on that expiration date the proposed final determination is deemed to be the final determination, which may be appealed under section 5717.02 of the Revised Code. Upon the written consent of the applicant, the commissioner may extend the thirty-day period for issuing a final determination under this paragraph by up to an additional thirty days.

(5) The commissioner may, within sixty days after the applicant requests a hearing, submit a request to the applicant for a settlement conference to explore opportunities to agree

upon the amount of the refund. If the applicant accepts the request, the conference shall be held not later than one hundred eighty days after the hearing request has been filed and the date on which the hearing would otherwise be held shall be extended by the number of days between the date the commissioner makes the request for a conference and the date of the conference. After the conference, if the applicant and the commissioner arrive at an agreement, the commissioner shall make any agreed-upon adjustments to the refund or compensation and shall issue a final determination thereon.

(6) The commissioner shall serve a copy of the final determination made under division (C)(1), (2), ~~or~~ (3), or (5) of this section on the applicant in the manner provided in section 5703.37 of the Revised Code, and the decision is final, subject to appeal under section 5717.02 of the Revised Code.

(D) The tax commissioner shall certify to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code, the amount of the refund to be refunded under division (B) or (C) of this section. The commissioner also shall certify to the director and treasurer of state for payment from the general revenue fund the amount of compensation to be paid under division (B) or (C) of this section.

(E) Nothing in this section prohibits the tax commissioner doing either of the following between the time a hearing is requested or the applicant provides additional information to the commissioner and a final determination is issued:

(1) Requesting additional supporting documentation from the applicant;

(2) Communicating about, negotiating, or entering into a settlement agreement with an applicant, regardless of whether a settlement conference is held under division (C)(5) of this section.

Sec. 5717.01. An appeal from a decision of a county board of revision may be taken to the board of tax appeals within thirty days after notice of the decision of the county board of revision is mailed as provided in division (A) of section 5715.20 of the Revised Code. Such an appeal may be taken by the county auditor, the tax commissioner, or any board, legislative authority, public official, or taxpayer authorized by section 5715.19 of the Revised Code to file complaints against valuations or assessments with the auditor, except that a subdivision or the legislative authority or mayor of a subdivision may file such an appeal only if the subdivision owns or leases the property that is the subject of the board of revision's decision, and except that no such appeal may be taken by a third party complainant, as defined in that section. Such appeal shall be taken by the filing of a notice of appeal, in person or by certified mail, express mail, facsimile transmission, electronic transmission, or by authorized delivery service, with the board of tax appeals and with the county board of revision. If notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. If notice of appeal is filed by facsimile transmission or electronic transmission, the date and time the notice is received by the board shall be the date and time reflected on a timestamp provided by the board's electronic system, and the appeal shall be considered filed with the board on the date reflected on that timestamp. Any timestamp provided by another computer system or electronic submission device shall not affect the time and date the notice is received by the board. Upon receipt of such notice of appeal such county board of revision shall notify all persons thereof who were parties to the proceeding before such county board of revision by either certified mail or, if the board has record of an internet identifier of record associated with such a person, by ordinary mail and by that internet identifier of record, and shall file proof of such notice or, in the case of ordinary mail, an affidavit attesting that the board sent the notice with the board of tax appeals. The county board of revision shall thereupon certify to the board of tax appeals a transcript of the record of the proceedings of the county board of revision pertaining to the original complaint, and all evidence offered in connection therewith. Such appeal may be heard by the board of tax appeals at its offices in Columbus or in the county where the property is listed for taxation, or the board of tax appeals may cause its examiners to conduct such hearing and to report to it their findings for affirmation or rejection. An appeal may proceed pursuant to section 5703.021 of the Revised Code on the small claims docket if the appeal qualifies under that section.

The board of tax appeals may order the appeal to be heard on the record and the evidence certified to it by the county board of revision, or it may order the hearing of additional evidence, and it may make such investigation concerning the appeal as it deems proper. If the board orders a hearing, the board shall render its decision within twelve months after the date of that hearing. If the board does not order a hearing, the board shall render its decision within twelve months after the last date on which a brief was filed in the case. In either case, the time for rendering the decision may be extended with the consent of all parties to the appeal.

As used in this section, "internet identifier of record" has the same meaning as in section 9.312 of the Revised Code.

Sec. 5717.011. (A) As used in this chapter, "tax administrator" has the same meaning as in section 718.01 of the Revised Code.

(B) Appeals from a final determination of a local board of tax review created under section 718.11 of the Revised Code may be taken by the taxpayer or the tax administrator to the board of tax appeals or may be taken by the taxpayer or the tax administrator to a court of common pleas as otherwise provided by law. If the taxpayer or the tax administrator elects to make an appeal to the board of tax appeals or court of common pleas, and subject to section 5703.021 of the Revised Code with respect to appeals assigned to the small claims docket, the appeal shall be taken by the filing of a notice of appeal with the board of tax appeals or court of common pleas, the local board of tax review, and the opposing party. The notice of appeal shall be filed within sixty days after the day the appellant receives notice of the final determination issued under section 718.11 of the Revised Code. An appeal filed with a court of common pleas is governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions. For an appeal filed with the board of tax appeals, the notice of appeal may be filed in person or by certified mail, express mail, facsimile transmission, electronic transmission, or by authorized delivery service as provided in section 5703.056 of the Revised Code. If the notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing with the board. If notice of appeal is filed by facsimile transmission or electronic transmission, the date and time the notice is received by the board shall be the date and time reflected on a timestamp provided by the board's electronic system, and the appeal shall be considered filed with the board on the date reflected on that timestamp. Any timestamp provided by another computer system or electronic submission device shall not affect the time and date the notice is received by the board. The notice of appeal shall have attached thereto and incorporated therein by reference a true copy of the final determination issued under section 718.11 of the Revised Code, but failure to attach a copy of such notice and incorporate it by reference in the notice of appeal does not invalidate the appeal.

(C) A notice of appeal for an appeal filed with the board of tax appeals shall contain a short and plain statement of the claimed errors in the final determination of the local board of tax review showing that the appellant is entitled to relief and a demand for the relief to which the appellant claims to be entitled. An appellant may amend the notice of appeal once as a matter of course within sixty days after the certification of the transcript. Otherwise, an appellant may amend the notice of appeal only after receiving leave of the board or the written consent of each adverse party. Leave of the board shall be freely given when justice so requires.

(D) Upon the filing of a notice of appeal with the board of tax appeals, the local board of tax review shall certify to the board of tax appeals a transcript of the record of the proceedings before it, together with all evidence considered by it in connection therewith. Such appeals may be heard by the board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct such hearings and to report to it their findings for affirmation or rejection. The board may order the appeal to be heard upon the record and the evidence certified to it by the tax administrator, but upon the application of any interested party the board shall order the hearing of additional evidence, and the board may make such investigation concerning the appeal as it considers proper. An appeal may proceed pursuant to section 5703.021 of the Revised Code on the small claims docket if the appeals qualifies under that section. If the board orders a hearing, the board shall render its decision within twelve months after the date of that hearing. If the board does not order a hearing, the board shall render its decision within twelve months after the last date on which a brief was filed in the case. In either case, the time for rendering the decision may be extended with the consent of all parties to the appeal.

(E) If an issue being appealed under this section is addressed in a municipal corporation's ordinance or regulation, the tax administrator, upon the request of the board of tax appeals, shall provide a copy of the ordinance or regulation to the board of tax appeals.

Sec. 5717.02. (A) Except as otherwise provided by law, appeals from final determinations by the tax commissioner of any preliminary, amended, or final tax assessments, reassessments, valuations, determinations, findings, computations, or orders made by the commissioner may be taken to the board of tax appeals by the taxpayer, by the person to whom notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner is required by law to be given, by the director of budget and management if the revenues affected by that decision would accrue primarily to the state treasury, or by the county auditors of the counties to the undivided general tax funds of which the revenues affected by that decision would primarily accrue. Appeals from the redetermination by the director of development services under division (B) of section 5709.64 or division (A) of section 5709.66 of the Revised Code may be taken to the board of tax appeals by the enterprise to which notice of the redetermination is required by law to be given. Appeals from a decision of the tax commissioner or county auditor concerning an application for a property tax exemption may be taken to the board of tax appeals by the applicant or by a school district that filed a statement concerning that application under division (C) of section 5715.27 of the Revised Code. Appeals from a redetermination by the director of job and family services under section 5733.42 of the Revised Code may be taken by the person to which the notice of the redetermination is required by law to be given under that section.

(B) The appeals shall be taken by the filing of a notice of appeal with the board, and with the tax commissioner if the tax commissioner's action is the subject of the appeal, with the county auditor if the county auditor's action is the subject of the appeal, with the director of development services if that director's action is the subject of the appeal, or with the director of job and family services if that director's action is the subject of the appeal. The notice of appeal shall be filed within sixty days after service of the notice of the tax assessment, reassessment, valuation, determination, finding, computation, or order by the commissioner, property tax exemption determination by the commissioner or the county auditor, or redetermination by the director has been given as provided in section 5703.37, 5709.64, 5709.66, or 5733.42 of the Revised Code. The notice of appeal may be filed in person or by certified mail, express mail, facsimile transmission, electronic transmission or by authorized delivery service. If the notice of appeal is filed by certified mail, express mail, or authorized delivery service as provided in section 5703.056 of the Revised Code, the date of the United States postmark placed on the sender's receipt by the postal service or the date of receipt recorded by the authorized delivery service shall be treated as the date of filing. If notice of appeal is filed by facsimile transmission or electronic transmission, the date and time the notice is received by the board shall be the date and time reflected on a timestamp provided by the board's electronic system, and the appeal shall be considered filed with the board on the date reflected on that timestamp. Any timestamp provided by another computer system or electronic submission device shall not affect the time and date the notice is received by the board. The notice of appeal shall have attached to it and incorporated in it by reference a true copy of the notice sent by the commissioner, county auditor, or director to the taxpayer, enterprise, or other person of the final determination or redetermination complained of, but failure to attach a copy of that notice and to incorporate it by reference in the notice of appeal does not invalidate the appeal.

(C) A notice of appeal shall contain a short and plain statement of the claimed errors in the determination or redetermination of the tax commissioner, county auditor, or director showing that the appellant is entitled to relief and a demand for the relief to which the appellant claims to be entitled. An appellant may amend the notice of appeal once as a matter of course within sixty days after the certification of the transcript. Otherwise, an appellant may amend the notice of appeal only after receiving leave of the board or the written consent of each adverse party. Leave of the board shall be freely given when justice so requires.

(D) Upon the filing of a notice of appeal, the tax commissioner, county auditor, or the director, as appropriate, shall certify to the board a transcript of the record of the proceedings before the commissioner, auditor, or director, together with all evidence considered by the commissioner, auditor, or director in connection with the proceedings. Those appeals or applications may be heard by the board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct the hearings and to report to it their findings for affirmation or rejection.

(E) The board may order the appeal to be heard upon the record and the evidence certified to it by the commissioner, county auditor, or director, but upon the application of any interested party the board shall order the hearing of additional evidence, and it may make an investigation concerning the appeal that it considers proper. An appeal may proceed pursuant to section 5703.021 of the Revised Code on the small claims docket if the appeal qualifies under that section. If the board orders a hearing, the board shall render its decision within twelve months after the date of that hearing. If the board does not order a hearing, the board shall render its decision within twelve months after the last date on which a brief was filed in the case. In either case, the time for rendering the decision may be extended with the consent of all parties to the appeal.

Sec. 5717.021. If the tax commissioner has not issued a final determination or proposed a final determination within one year after a hearing held under section 5703.60 or 5703.70 of the Revised Code occurs or, if a petitioner does not request a hearing under section 5703.60 of the Revised Code, within one year after the petition for reassessment is filed, then the petitioner or applicant, respectively, may appeal the assessment or denial of a refund, respectively, to the board of tax appeals. The appeal shall be taken in the same manner as an appeal taken under section 5717.02 of the Revised Code, except as follows:

(A) The assessment or denial of the refund shall be the tax commissioner's determination that is appealed against.

(B) The transcript of the record of proceedings that the commissioner is required to file shall include any information, records, or documents that relate to the petition or denial.

(C) Any objection raised by the appellant in its petition for reassessment, any objection raised by the appellant in writing to the commissioner after the filing of a petition for reassessment but before the filing of an appeal under this section, or any documentation submitted to the commissioner in response to the commissioner's denial of a refund shall be considered denied by the commissioner and an error that may be appealed.

(D) In the case of an appeal of a refund denial, an appellant may raise any basis as to why the denial was improper, even if the basis was not raised before the filing of the appeal under this section.

(E) Within sixty days after the notice of appeal is filed, the commissioner shall file a short and plain statement of the bases for sustaining an assessment or the denial of a refund, all of which must have been communicated in writing to the appellant before the filing of the appeal under this section. The board may deny an appeal filed under this section only on the basis of an issue raised in the commissioner's statement.

(F) Within thirty days after the commissioner's statement is filed under division (E) of this section, the appellant may amend the notice of appeal in order to raise additional objections to the commissioner's position.

(G) If, for an appeal filed under this section, an appellant makes a prima facie showing of the facts necessary to support the appellant's position, the tax commissioner has the burden of proving, by clear and convincing evidence, that the assessment should be sustained or the refund should be denied.

Section 2. That existing sections 5703.42, 5703.52, 5703.60, 5703.70, 5717.01, 5717.011, and 5717.02 of the Revised Code are hereby repealed.

Section 3. The amendment by this act of sections 5717.01, 5717.011, and 5717.02 of the Revised Code applies to appeals filed on or after December 31, 2026. The enactment by this act of section 5717.021 of the Revised Code applies to petitioners or applicants who meet the criteria for filing an appeal under that section on and after that date.