

CHAPTER 1715  
(AS AMENDED BY ORDINANCE 9052-2003, December 16, 2003))  
Interest and Penalties

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CROSS REFERENCES

- When return required to be made see TAX. 1711.01
- Extension of time for filing returns see TAX. 1711.03
- Unpaid taxes recoverable as other debts see TAX. 1717.01
- Duties and authority of Director of the Department of Taxation see TAX. Ch. 1723

1715.01 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this Title and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1.5%) per month or fraction thereof.

1715.02 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 1715.01, penalties based on the unpaid taxes are hereby imposed, effective July 1, 1998, as follows:

(a) For failure to pay taxes due other than taxes withheld:

- (1) One and one-half percent per month, or fraction thereof, or twenty-five dollars (\$25.00), whichever is greater, for a first offense;
- (2) For a second offense, one and one-half percent per month, or fraction thereof, or fifty dollars (\$50.00), whichever is greater; or
- (3) For a third and all subsequent offenses, one and one-half percent per month, or fraction thereof, or one hundred dollars (\$100.00), whichever is greater;

(b) For failure to remit taxes withheld from employees:

- (1) Ten percent per month, or fraction thereof, or fifty dollars (\$50.00), whichever is greater, for a first offense; or
- (2) For a second and all subsequent offenses, ten percent per month, or fraction thereof, or one hundred dollars (\$100.00), whichever is greater.

(c) For the underpayment of estimated tax as required by Chapter 1713, one and one-half percent for each month or fraction thereof; provided however, that no penalty shall be assessed if the aggregate installment payments of estimated taxes received shall be no

less than ninety percent of the actual taxes due or one hundred percent of the actual prior year's tax provided that the return for the prior year reflected a twelve month period and a return was filed for the preceding year.

No assessment will be made if the taxpayer is an individual who resides in Brook Park but was not domiciled there on the first day of January of the current calendar year.

(c) A penalty shall be imposed on employers who are required to remit withheld taxes by electronic transfer and who fail to make such remittance by means of electronic transfer, as required under Section 1713.02(j) and (k), or who fail to adhere to the approved addenda format for electronic transfers, in the amount of ten percent of the sum which the employer was required to remit by electronic transfer.

(d) Checks or electronic transactions returned to the City for nonsufficient funds, or other reasons, will be charged a twenty five dollar (\$25.0) handling fee. A second check or second and subsequent electronic transaction returned to the City for nonsufficient funds, or other reasons, will be charged a fifty dollar (\$50.00) handling fee and the City will require all non-electronic payments to be made by currency, bank check or money order only.

#### 1715.03 EXCEPTIONS.

A penalty shall not be assessed on any additional tax assessment made by the Director of the Department of Taxation when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Director; provided, that in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability.

#### 1715.04 PENALTY; FEE FOR FAILURE TO PRODUCE RECORDS

##### (a) PENALTY

Effective July 1, 1998, for failure to file any return required under Sections 1705.00 and 1711.01, whether or not taxes have been withheld or paid on a declaration of estimated tax, a penalty of twenty-five dollars (\$25.00) shall be assessed, and, after a second notice, or a period of six months from the due date of the original filing or for multiple year filing violations, a fifty dollar (\$50.00) penalty shall be assessed.

##### (b) FEE FOR FAILURE TO PRODUCE RECORDS

For the taxpayer's failure to provide records, the city shall impose a fee of \$25.00 for each subpoena issued to a third party pursuant to Chapter 1723 to obtain the information necessary to file a complete return as required by Chapter 1711. The fee of twenty-five dollars (\$25.00) shall be added for each issuance, not to exceed fifty dollars for any one tax year. For purposes of this fee, requests for multiple tax years made in a single request shall be treated as a single request. In addition to the above fee any charges billed by the

third party to the Department of Taxation necessary to obtain the information shall be passed on to the taxpayer.

(Ord .9052-2003, passed 12-16-2003)

#### 1715.05 ABATEMENT OF INTEREST AND PENALTY.

Upon recommendation of the Director of the Department of Taxation, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Director to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both.

#### 1715.06 VIOLATIONS.

(a) No person shall do any of the following:

- (3) Fail, neglect or refuse to make any return or declaration required by this Title;
- (4) Make any incomplete, false or fraudulent return;
- (5) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Title;
- (6) Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Director of the Department of Taxation;
- (7) Refuse to permit the Director or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer;
- (8) Fail to appear before the Director and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Director;
- (9) Refuse to disclose to the Director any information with respect to the income or net profits of a taxpayer;
- (10) Fail to comply with the provisions of this Title or any order or subpoena of the Director authorized hereby;
- (11) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;
- (12) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City income tax withheld, or to knowingly give the Director false information; or

(13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Title.

(b) Whoever violates this section is guilty of an income tax violation, a misdemeanor of the first degree for each offense, punishable under Chapter 501 of the Part Five General Offenses Code.

#### 1715.07 LIMITATION OF PROSECUTION.

Prosecution for an offense made punishable under this chapter or any other provision of this Title shall be commenced within the time specified in Ohio R.C. 718.12.

1715.08 FAILURE TO PROCURE FORMS NOT EXCUSE.

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.