

Procedure for Verification of Tax Returns

C. EMORY GLANDER*

In providing that tax returns or reports with respect to taxes, including accompanying schedules and statements, need not be sworn to, the 99th General Assembly eliminated a requirement that had long been regarded as burdensome by taxpayers of Ohio.¹ For a number of years, the Ohio statutes have required that such tax returns or reports be verified under oath by taxpayers generally,² and by the following classes of taxpayers in particular: taxpayers filing personal property tax returns,³ rural electric companies,⁴ banks and financial institutions,⁵ dealers in intangibles,⁶ public utilities,⁷ domestic and foreign corporations,⁸ dealers in motor vehicle fuel,⁹ sales tax vendors¹⁰ and permit holders selling wine, beer, malt beverages and mixed beverages.¹¹

In lieu of verification under oath, the new law provides that each such tax return or report shall have printed on it the following statement which shall be subscribed to by the person signing such return or report:¹²

I declare under penalties of perjury that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete return and report.

It will be observed that this statement, except for the addition of the last two words, is identical with that required in respect of federal income tax returns.¹³

The existing statute providing penalties for filing false or fraudulent tax returns and reports with the department of taxation¹⁴

* Of the firm of Wright, Harlor, Purpus, Morris and Arnold; Past Tax Commissioner of Ohio; Past President of the National Association of Tax Administrators; Member of the Ohio Bar.

¹ Am. Sub. Sen. Bill No. 295, amending Sections 1465-20, 5372, 5372-2, 5372-5, 5372-6, 5411, 5414-4, 5421, 5449, 5462, 5470, 5496, 5529, 5546-12b and 6212-50 and repealing Section 5501 of the Ohio General Code. The bill was approved by the Governor on June 11, 1951, and is effective on and after September 10, 1951.

² OHIO GEN. CODE §§ 1465-18, 1465-19 and 1465-20.

³ OHIO GEN. CODE §§ 5372, 5372-2, and 5372-5.

⁴ OHIO GEN. CODE § 5372-6.

⁵ OHIO GEN. CODE § 5411.

⁶ OHIO GEN. CODE § 5414-4.

⁷ OHIO GEN. CODE §§ 5421, 5449, 5462, and 5470.

⁸ OHIO GEN. CODE § 5496.

⁹ OHIO GEN. CODE § 5529.

¹⁰ OHIO GEN. CODE § 5546-12b.

¹¹ OHIO GEN. CODE § 6212-50.

¹² OHIO GEN. CODE § 1465-20a, Am. Sub. Sen. Bill No. 295, § 1.

¹³ U. S. Individual Income Tax Return, Form 1040.

¹⁴ OHIO GEN. CODE § 5501.

was repealed, and in its place a new section was enacted, as follows:¹⁵

Whoever knowingly makes or presents or aids, or assists in the preparation or presentation of a false or fraudulent report, return, schedule, statement or document authorized or required by law to be filed with the department of taxation, the auditor of state, the treasurer of state, a county auditor or a county treasurer or knowingly procures, counsels, or advises the preparation or presentation of such report, return, schedule, statement or document, or who knowingly changes, alters, or amends or knowingly procures, counsels or advises such change, alteration or amendment of the books upon which such report, return, schedule, statement or document are based with intent to defraud the state of Ohio or any of its subdivisions, shall be fined not more than ten thousand dollars, or imprisoned in the penitentiary for not more than five years, or both.

No conviction shall be had under any other section of the General Code with respect to acts or conduct made subject to the penalty provided in this section.

This new section is broader than the former section in that it applies not only to false and fraudulent returns, reports and other statements filed with the department of taxation, but also to those filed with the auditor of state, the treasurer of state, a county auditor or a county treasurer.

The provisions of the new law will not apply to certain documents filed with the department of taxation, such as petitions for reassessment or claims for reimbursement on account of returned merchandise under the sales tax law,¹⁶ or to any other document or form of the department of taxation which does not constitute a tax return or report or an accompanying schedule or statement.

¹⁵ OHIO GEN. CODE § 1465-20b, Am. Sub. Sen. Bill No. 295, Sec. 2.

¹⁶ OHIO GEN. CODE §§ 5546-9a and 5546-6.