

INTEREST ON JUDGMENTS IN OHIO WHEN NO RATE IS AGREED BY THE PARTIES

I. SCOPE

This article covers the proper assessment and calculation of interest on judgments where the parties have not provided for another rate. The article does not cover prejudgment interest, usury, nor stipulated rates of interest.

II. BASE RATE

The answer to the simple question, "What is the statutory rate of interest in Ohio?" can no longer be found by a quick reference to the Revised Code, but the Code is still the starting place. R.C. 1343.03 provides that when the interest rate is not stipulated between parties, interest shall run from the date of the judgment at the rate established in R.C. 5703.47.

R.C. 5703.47 delegates the establishment of the interest rate to the Commissioner of the Ohio Department of Taxation. On October 15 of each year the Commissioner is required to determine the then existing "federal short term rate" to the nearest whole percent. To that figure 3% is added to establish the Ohio judgment interest rate for the next calendar year. This computation can fortunately be obtained from the Ohio Department of Taxation web site, which is http://tax.ohio.gov/divisions/ohio_individual/individual/interest_rates.stm. The interest rate for 2008 will be 8%. The rate is also 8% for 2007, 6% for 2006, 5% for 2005 and 4% and for 2004.

III. MISCELLANEOUS ISSUES

A. Constancy

The rate of interest is computed on the date the judgment is rendered and remains fixed until the judgment is satisfied.

B. Continuances

A continuance of a trial date to the following calendar year will likely affect the judgment rate of interest. This may be particularly mischievous where trial is set between October 15 and December 31 and the new rate is known by the parties. A lawyer opposing a continuance may have an extra valid reason if his client will be adversely affected by a change in the interest rate.

C. Court Costs

There is no interest on court costs.

D. Simple Interest

Interest is simple, not compound. Viocck v. Stowe-Woodward Co. (1989), 59 Ohio App. 3d 3, 569 NE2d 1070. This makes a huge difference in calculating the balance due on an old unpaid judgment.

In effect, the interest accumulates only on the principal. This becomes complex where sporadic payments are made. Once the principal is reduced, the interest is computed on the unpaid principal.

IV. CONCLUSION

Counsel representing judgment debtors must be diligent in assuring their clients do not overpay on judgments. Counsel for creditors must be likewise diligent as an inflated claim for the amount owed is unethical. See DR 7-102(A)(2), which prohibits advancing a claim that is unwarranted under existing law. The proper rate of interest can be determined and computed with reasonable effort, and it is the duty of counsel to make the proper determination.