

1301:10-1-01

**Definitions.**

- (A) "Intangible property" means unclaimed funds as defined in division (B) of section 169.01 and section 169.02 of the Revised Code, or a fixed and certain interest in intangible personal property, of every kind or description, that is held, issued or owed in the course of a holder's business, and all income or increments therefrom. The term "intangible property" includes, but not by way of limitation, property that is referred to as, or evidenced by:
- (1) Monies, checks, drafts, deposits, interest, dividends, and income;
  - (2) Credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, and unused airline tickets;
  - (3) Stocks and other intangible ownership interests in business associations;
  - (4) Monies deposited to redeem stocks, bonds, mutual funds, coupons and other securities or to make distributions;
  - (5) Amounts due and payable under the terms of insurance policies;
  - (6) Currency, coins, coin collections, precious metals, stamps and stamp collections, both foreign and domestic;
  - (7) Amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, ~~severance~~severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefit.
- (B) "Finder's agreement" means all agreements to pay a fee, compensation, commission, or other remuneration to locate, deliver, recover, or assist in the recovery of unclaimed funds reported under section 169.03 of the Revised Code.
- (C) "Director" means director of commerce or any division established as provided in section 121.07 of the Revised Code, in the department of commerce to administer the provisions of Chapter 169. of the Revised Code, or the superintendent of any such division.
- (D) "Contract auditor" means any person or entity engaged by the director (state) to provide unclaimed funds audit examination services. Contract auditor includes its agents, employees, and any subcontractor engaged by the contract auditor or engaged by its subcontractors. The contract auditor shall not enter into subcontracts involving the type of work or services set forth in rule 1301:10-3-04 of the Administrative Code without prior written approval by the state.

- (E) "Holder" means any person that has possession, custody, or control of moneys, rights to moneys, or other intangible property, or that is indebted to another, as is defined in division (D) of section 169.01 of the Revised Code.
- (F) "State of incorporation or formation" means the state under whose laws a corporation, limited liability company, limited liability partnership, or statutory trust is organized or created, or in the case of a sole proprietor, common law partnership, or common law trust, the state of principal place of business of the holder.
- (G) "State administrator" means the administrator of the Ohio department of commerce, division of unclaimed funds or his or her designee.
- (H) "Participating state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States, that at the time of notification by the state of Ohio of an involuntary examination has an agreement with the contract auditor or the director to participate in the involuntary examination of the holder.
- (I) "Involuntary examination" means an unclaimed funds examination of a holder, selected and authorized by the director and conducted by an auditor from the division of unclaimed funds, hereinafter referred to as division auditor, or contract auditor, to determine compliance with Chapter 169. of the Revised Code. An involuntary examination can be an involuntary examination initiated by the state or an involuntary examination initiated by another state in which the state of Ohio has elected to participate.
- (J) "Records review period" means the five years immediately prior to the date of notification of the involuntary examination, plus the relevant dormancy period as provided for in section 169.02 of the Revised Code, except as provided in division (F)(2) of section 169.03 of the Revised Code. If the records are not available for the applicable review period due to internal records retention constraints, then the records review period will be the period for which records exist.
- (K) "Examination period" means the last ten reporting cycles including the reporting cycle in which the involuntary examination is commenced except for instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum, held or owed by a holder, including funds deposited with a fiscal agent or fiduciary for payment of them, or pertaining to debt of a publicly traded corporation.
- (L) "Reporting cycle" means the period from July first of each year to June thirtieth of the following year.

- (M) "Services rendered, in the course of business," or "services performed, in the course of business," as used in division (B)(2) of section 169.01 of the Revised Code, means services for which the business association purchasing the service or goods (buyer) has issued a purchase order to the business association selling the service or goods (seller) to perform the requested service or provide the goods. The seller then performs the service or provides the goods, and issues an invoice to the buyer who then makes payment to the seller and enters the payment as an expense in buyer's accounting records. The seller may enter the sale as income in ~~their~~its accounting records upon issuance of the invoice or upon receipt of the payment from the buyer. ~~Services~~Any transactions for goods or services between business associations which do not meet this definition, and any wages, salaries or commissions payable to any person or business association, shall not be considered services as that term is used eligible for the exemption contained in division (B)(2) of section 169.01 of the Revised Code.
- (N) "State-initiated involuntary examination" means an involuntary examination initiated by the state of Ohio pursuant to division (F) of section 169.03 of the Revised Code, but does not include any examination initiated by another state in which the state of Ohio joins.
- (O) "Finder" means any person who, on behalf of any other person, engages in any activity for the purpose of locating, delivering, recovering, or assisting in the recovery of unclaimed funds or the contents of a safe deposit box, and receives a fee, compensation, commission, or other remuneration for such activity. "Finder" does not mean any attorney whose performance of services to locate, deliver, recover or assist in the recovery of unclaimed funds or the contents of a safe deposit box is solely incidental to the attorney's representation of the attorney's client.
- (P) "Owner-Generated Activity," or actions by the owner within the meaning of division (B)(1) of section 169.01, means any of the following: Owner-initiated transactions or authenticated, account owner-initiated administrative activity, including but not limited to loan payments, ATM/debit card transactions, writing checks, buying or selling securities, transfer of securities, trading activity in the account, proxy voting, and depositing or withdrawing funds from the account, whether by ACH, wire, check, or other method; payment of safe deposit lease fees; any written or email correspondence from the owner to the holder; W-9 or equivalent tax form certifications; accessing the account through logging in on the holder's website or other electronic means, whether or not a transaction was performed or completed; incoming telephone calls or other communications to customer service or client interaction centers; communications to financial advisors or trust agents; contacting the holder by any method to discuss account-related matters; and any other interaction between the owner or his or her authorized representative and the holder that can be verified as having been initiated by the owner. Owner-generated activity on one

account shall be considered activity on the owner's other accounts, whether linked by social security number or otherwise. If an account owner is deceased, owner-generated activity shall include activity by beneficiaries and estate fiduciaries or other persons who have a legal or equitable right to ownership or custody of the account. Owner-generated activity does not include, without limitation, such activity as the holder crediting dividends, posting account fees, mailing account statements, the non-return of mail sent by the holder to the account owner, or automatic financial or administrative transactions or activity, such as automatic payments.

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Five Year Review (FYR) Dates: 11/9/2017 and 02/01/2023

CERTIFIED ELECTRONICALLY

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Certification

01/16/2018

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Date

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Rule Amplifies: R.C. 169.01, 169.02, 169.03, 169.13, 169.16

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