

Rule Summary and Fiscal Analysis (Part A)**Department of Commerce**

Agency Name

Division of Unclaimed Funds

Division

Denise Lee

Contact

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1301:10-3-04

Rule Number

AMENDMENT

TYPE of rule filing

Rule Title/Tag Line

Examination of accounts.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **Yes**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **R.C. 119.03**

5. Statute(s) the rule, as filed, amplifies or implements: **R.C. 169.03**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

The rule is due for five-year review. It is being amended as part of the review process.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The amendment adds language to clarify various aspects of the holder examination process. Section (A) is amended to clarify that Ohio shall not compensate a contract auditor on a contingency fee basis for conducting a state-initiated involuntary

examination within the borders of Ohio, except that Ohio is permitted to compensate a contract auditor on a contingency fee basis, regardless of whether the holder is incorporated in Ohio, or has its principal place of business or records in Ohio, when Ohio has joined in an examination initiated by another state. This is not a change in the law; it is clarification of law and practice in effect since 2002.

Section (E)(8) is amended to clarify that random selection of holders to be examined does not apply to examinations initiated by other states in which Ohio joins. This is not a change in the law; it is clarification of law and practice in effect since 2002.

Section (G)(4) is added to clarify that, in order to protect attorney-client confidentiality, attorneys and law firms are permitted to, and should, redact the client name, address, tax identification and other client identifiers.

Section (I)(7) is added to state that attorney and law firm holders may rebut or eliminate an auditor's preliminary findings of unclaimed funds liability by submitting either redacted records or an original affidavit certifying that the attorney or law firm is in possession of records rebutting or eliminating the unclaimed funds finding.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

Not Applicable.

12. 119.032 Rule Review Date: **9/16/2011**

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

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Not applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

The revisions do not impose new requirements. They provide clarification and changes responsive to holder concerns communicated to the Department.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**