



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Joseph Baker, Director

MEMORANDUM

TO: Kelli Lister, Ohio Department of Commerce Division of Unclaimed Funds

FROM: Michael Bender, Business Advocate

DATE: April 4, 2023

RE: **CSI Review – Examination of Accounts (OAC 1301:10-3-04)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Department as provided for in ORC 107.54.

Analysis

This rule package consists of one amended rule proposed by the Ohio Department of Commerce (Department) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on March 8, 2023, and the public comment period was held open through March 16, 2023. Unless otherwise noted below, this recommendation reflects the version of the proposed rule filed with the CSI Office on March 8, 2023.

Ohio Administrative Code (OAC) 1301:10-3-04 sets forth the process by which the Director of the Department (Director) may conduct involuntary examinations of holders that are required to report and remit unclaimed funds to the Department Division of Unclaimed Funds (Division). The rule provides for the confidentiality of records, working papers and documentation, factors considered by the Director in initiating an involuntary examination, notification of the holder, the examination entrance conference, the presentation of findings, the closing review, the appeals process, and voluntary compliance. The rule is amended to provide greater flexibility in scheduling a closing review, clarify that a holder who is eligible to participate in the voluntary compliance program must comply with statutory reporting requirements, add clarifying language, and update language, citations, and grammar.

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During early stakeholder outreach, the Division consulted with the Ohio Credit Union League, the Ohio Manufacturers' Association, the Community Bankers' Association of Ohio, the Ohio Chamber of Commerce, the Ohio Council of Retail Merchants, the Ohio Access to Justice Foundation, the Ohio State Bar Association, the Ohio Board of Embalmers & Funeral Directors, the Ohio Bankers' League, the Ohio Association of Realtors, and the National Federation of Independent Businesses. Only one stakeholder proposed revisions to the rule, which the Division did not include after consideration. No comments were received during the CSI public comment period.

The business community impacted by the rule includes holders of unclaimed funds as defined in ORC 169.01(D), which encompasses a wide range of industries, entities, companies, and agencies. The adverse impacts created by the rule include reporting requirements, providing documentation, and remitting funds. According to the Department, the cost in terms of time varies significantly depending on the type of business, its operations and policies, the number of accounts examined, the types of unclaimed property in the holder's possession, and other factors. Additionally, the Department asserts that the proposed revisions to the rule are intended to promote transparency, accuracy, and clarity to holders regarding their compliance responsibilities. The Department states that the adverse impacts to business are justified to fulfill statutory law to ensure that unclaimed funds are paid to the rightful owners.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Department should proceed in filing the proposed rule with the Joint Committee on Agency Rule Review.