



Common Sense Initiative

Mike DeWine, Governor
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Business Impact Analysis

Agency, Board, or Commission Name: Department of Taxation

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

Electronic software providers; approval and suspension.

Rule Number(s): 5703-1-15

Date of Submission for CSI Review: 06/29/2023

Public Comment Period End Date: 07/17/2023

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR? ___)

X Amended/1 rules (FYR? Yes)

Rescinded/___ rules (FYR? ___)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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Reason for Submission

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☐ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☒ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☐ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

Regulatory Intent

2. **Please briefly describe the draft regulation in plain language.**

Please include the key provisions of the regulation as well as any proposed amendments.

This rule prescribes the application process to become an Ohio e-file provider. It also lists the reasons why the tax commissioner can revoke or suspend a provider. The rule applies to all taxes that the commissioner administers.

3. **Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

R.C. 5703.05

4. **Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

If yes, please briefly explain the source and substance of the federal requirement.

Not directly. However, many of the terms used are prescribed by the Internal Revenue Service (IRS). The publications are referenced in the rule.

5. **If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

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The rule uses similar guidelines as those used by the IRS, but tailors them to Ohio's state taxes.

6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

The rule requires commercial tax preparation software providers to comply with published guidelines when they sign up to participate in one of Ohio's electronic filing programs. This ensures a more efficient filing process and reduces instances of rejected or incompatible returns due to software errors. No one is required to be a software vendor, and thus the electronic filing program is voluntary; however, if a business chooses to be an electronic software provider and prepare Ohio filings, then this rule is applicable.

7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

Electronic filing programs continue to correctly reflect Ohio's tax forms and instructions, which results in few if any preventable errors when taxpayers utilize them during filing season.

8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No.

Development of the Regulation

9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

The Department posted the proposed amended rule on its website and sent an email seeking comments on the proposed rule change to all subscribers of the Department's Tax Alert notification system who signed up for alerts related to tax education. The rule was posted to the website and the email was sent out on June 9, 2023, which invited comment through June 23, 2023.

10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

The Department did not receive any input from stakeholders. However, the changes to the rule were non-substantive in nature, so business will continue as usual after the adoption of these changes.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

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N/A

- 12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**
Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.

None. The current rule has worked well since it was adopted in 2015.

- 13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

Review of all tax regulations.

- 14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

Since the rule changes are non-substantive in nature, no additional notification will be required. It will be business as usual for software providers in subsequent filing seasons.

Adverse Impact to Business

- 15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

- a. Identify the scope of the impacted business community, and
- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.

Since the rule makes non-substantive changes, there will be no additional costs than those already imposed. Regardless, many of those affected by this rule are far from first timers to the program. Guidelines and testing for software vendors are common among all states that impose some form of income tax. As such, for most businesses, this regulation will not create any additional costs.

- 16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors).**

The proposed changes update verbiage to improve readability.

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17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

Without prior approval and uniformity in commercial tax preparation software, taxpayers would be harmed by not having their returns be able to be submitted, processed, and reviewed by the Department of Taxation in an efficient and effective manner.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. Since the goal is compatibility with the Department's software to ensure taxpayer returns are able to be accepted and processed, all software providers will have to meet the same criteria.

19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

N/A. The proposed rule does not mandate "the collection of information by a state agency or regulatory body." Instead, a software provider's decision to participate in the electronic filing program is voluntary, and thus the collection of information related to the electronic filing program is also voluntary.

20. What resources are available to assist small businesses with compliance of the regulation?

The Department has established designated phone lines and email boxes to assist software providers with the process and to answer questions/ collect submissions. Our response time is usually within 1 to 2 business days. The rule also requires the commissioner to publish guidelines on the topic, which has been done in the past and will continue in the future.