



# Common Sense Initiative

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## Business Impact Analysis

Agency, Board, or Commission Name: Ohio Department of Taxation

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

Certificate of tax clearance. \_\_\_\_\_

Rule Number(s): 5703-01-05

Date of Submission for CSI Review: 3/24/2025

Public Comment Period End Date: 3/20/2025

**Rule Type/Number of Rules:**

New/ x rules

No Change/      rules (FYR?     )

Amended/      rules (FYR?     )

Rescinded/ x rules (FYR?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.*

The rule provides instruction of how to comply with the requirement to file a form with the tax commissioner if using the newly-created affidavit method for corporate dissolution recently passed into law. Also, instructions are simplified for requesting a certificate of tax clearance.

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.

ORC 1701.86, as revised by HB 301.

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.*

No.

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.

N/A.

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 new rule prescribes a form to be filled out to comply with the new law, and also streamlines the instructions for requesting a certificate of tax clearance.

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

Successful completion of form prescribed by the tax commissioner for dissolution using the affidavit method.

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.*

ODT posted the proposed rule on its website and send an email seeking comments on the proposed rule to subscribers of ODT's Tax Alert notification system. The rule was posted, and the email was sent, on March 3, 2025 and invited comment through March 20, 2025.

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

No comments were received on the rule.

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?

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.*

The new legislation requires the tax commissioner to prescribe a tax form for corporations utilizing the affidavit method for dissolution. There was no alternative to providing for the form.

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

The existing rule regarding dissolution was rescinded so as not to duplicate 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.

The Ohio Department of Taxation has revised form D5 for use for corporations utilizing the affidavit method for dissolution.

### **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

Taxpayers that are corporations and wish to dissolve using the affidavit method.

- 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.*

Employer time for compliance. Estimated time of completion is one hour based on form length and the nature of information requested.

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).*

Within this rule, the provisions surrounding requesting a certificate of tax clearance were streamlined for readability and excess language was removed.

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

Due to the recent legislation, the Ohio Department of Taxation was required prescribe a form for completion for corporations seeking to dissolve using the affidavit method. While adding the form, we took the time to streamline the rule to simplify it, and also improve readability.

**Regulatory Flexibility**

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

No. The regulation is a permissive option for corporations of any size to dissolve using the affidavit method.

**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 rule does not contain a provision for the imposition of a fine or penalty for a paperwork violation and R.C. 119.14 allows a state agency to impose a penalty where the violation of law concerns the assessment or collection of any tax.

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

This regulation provides for an alternative option by which a corporation may dissolve. Taxpayers seeking assistance with tax matters related to the dissolution of a corporation may contact ODT's Tax Release Unit via telephone at 1-855-995-4422. Taxpayers can find the D-5 form needed for notification of dissolution on ODT's website.