

DEPARTMENT OF TREASURY

STATE TREASURER

**AUDIT STANDARDS FOR EXAMINATIONS UNDER
THE UNIFORM UNCLAIMED PROPERTY ACT**

(By authority conferred on the state treasurer by sections 31 and 40 of the Uniform Unclaimed Property Act, 1995 PA 29, MCL 567.251 and 567.260.)

R 567.1 Definitions.

Rule 1. As used in these rules:

(a) "Act" means the uniform unclaimed property act, 1995 PA 29, MCL 567.221 to 567.265.

(b) "Administrator" means the state treasurer.

(c) "Auditor" means an individual, a business association, public corporation, or any other legal or commercial entity designated and authorized by the administrator or his or her designee to conduct an examination of a person to determine compliance with the act. Auditor also includes those employees, agents, subcontractors, and representatives of the designated and authorized individual, business association, public corporation, or any other legal or commercial entity.

(d) "Confidential information" means all nonpublic proprietary information, information protected by MCL 205.28(1)(f), and any information protected by state or federal law from disclosure including the social security number privacy act, 2004 PA 454, MCL 445.81 to 445.87, and the identity theft protection act, 2004 PA 452, MCL 445.61 to 445.79d. Confidential information does not include information subject to release by law.

(e) "Hardcopy" means any documents, records, reports, or other data printed on paper.

(f) "Machine-sensible record" means a collection of related information in an electronic format. Machine-sensible records do not include hard copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche, or storage-only imaging systems.

(g) "Officer," for purposes of qualifying as an eligible holder under MCL 567.222, means a person who is appointed to serve as the president, vice-president, secretary, or treasurer of a corporation or a person who serves as a senior executive within a corporation or other organization. A senior executive is an individual who directs, controls, and coordinates activities that are generally assigned to a chief executive officer, chief operating officer, or chief financial officer.

(h) "Person" means an individual, business association, state or other government, governmental subdivision or agency, public corporation, public authority, estate, trust, 2 or more persons having a joint or common interest, or any other legal or commercial entity.

(i) "Storage-only imaging system" means a system of computer hardware and software that provides for the storage, retention, and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any

information or data contained on the document in any manner other than to reproduce the document in hard copy or as an optical image.

(j) All terms not defined in these rules have the same meaning as when used in the act.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.2 Prohibition against use of collection goals or quotas.

Rule 2. The administrator shall not use collection goals or quotas during the conduct of an examination of records under the act. If a person has information that an auditor is using a collection goal or quota while conducting an examination, the person shall inform the administrator. If the administrator finds that a goal or quota was used, such use constitutes a violation of law and a breach of contract that shall result in the replacement of the auditor for the examination and termination of a third party auditor contract. If the examination has been completed, the administrator shall review the fieldwork and examination findings to determine if the use of a goal or quota materially affected the results of the examination.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.3 Authority of administrator; selection factors for examination.

Rule 3. (1) The administrator or his or her designee shall have sole authority to select a person for examination or to participate in an examination of that person commenced by another state. Factors that may be considered in determining whether to commence an examination or participate in an examination initiated by another state include, but are not limited to, the following:

- (a) Value of the person's assets.
- (b) Annual sales volume of the person.
- (c) The reporting history of the person.
- (d) Mergers, takeovers, stock splits, sales, exchanges, liquidations, acquisitions, or other changes in equity.
- (e) Evidence or complaints of failure by the person to send written notice under section 18(5) of the act to the apparent owner of property presumed abandoned or other complaints filed by property owners or other interested parties.
- (f) The person has not been previously subject to an examination by the state.
- (g) Examinations or other information indicate a trend or practice of failing to report the presumed abandonment of certain types of property within the person's industry or business sector.
- (h) The extent of the person's operations in this state including employees, vendors, stockholders, customers, and account holders.
- (i) Whether an examination has been initiated by another state or more than 1 state.

(2) If the person selected for examination has information that the selection was not based on the criteria in subrule (1) of this rule or other factors that would reasonably subject a person to examination, the person shall provide the information to the administrator. The administrator will review the information and if the information supports the person's claim that the selection was based on factors that would not reasonably subject a person to examination, the administrator will discontinue the examination. However, the person may still be subject to an

examination for the same property types and periods if at a later time, the person is selected based on the criteria in subrule (1) of this rule or other factors that would reasonably subject a person to examination.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.4 Auditor's compliance with administrator's interpretation of law, policy, and procedures.

Rule 4. When an auditor conducts an examination under a contract with the administrator, the auditor shall conduct the examination in compliance with the administrator's interpretation of the act, policy, and procedures. Except for nondisclosure agreement disputes under R 567.11(4), the person subject to examination may request an interpretation of the act, policy, or procedure from the administrator for resolution. The administrator will respond to the auditor and the person subject to examination.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.5 Notice of commencement of examination.

Rule 5. (1) When the examination will be conducted by an auditor solely on behalf of this state, or with at least 1 other state, the administrator shall notify a person that the state intends to conduct an unclaimed property examination of that person. All of the following apply:

(a) For examinations conducted solely on behalf of this state, the examination authorization notice shall be sent from the administrator directly to a corporate officer or the resident agent of the person subject to examination. Both of the following apply:

(i) The notice shall state that the state will conduct an examination of the person and shall provide the name of the authorized auditor that will conduct the examination.

(ii) The notice shall include the telephone number and address of the administrator or his or her designee and shall state that the administrator or his or her designee will address any questions that the person may have regarding the examination.

(b) For examinations conducted by this state and at least 1 other state, the administrator shall send an examination authorization notice directly to the auditor. All of the following apply:

(i) The multistate audit notice will occur when the auditor has collected authorizations from the participating states and provides them to the person subject to examination.

(ii) The examination authorization notice shall contain the telephone number and address of the administrator or his or her designee. The notice will contain a copy of the third party authorization signed by the administrator or his or her designee.

(iii) Nothing contained in this rule shall be construed to prohibit other states from participating in the multistate audit where the person subject to the examination agrees to allow such participation.

(2) For purposes of a streamlined audit, notice is not completed until the person subject to examination receives both the notice of commencement of the examination and a proposed nondisclosure agreement. The auditor and the person subject to examination shall make a good faith effort to reach agreement on a nondisclosure agreement within 30 days after receipt of the notice of commencement of the examination and a proposed nondisclosure agreement.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.6 General professional standards for conducting an examination.

Rule 6. Auditors shall adhere to the following general standards:

(a) Auditors shall maintain independence and objectivity in all matters relating to the examination and shall not engage in any activity that gives the appearance of a conflict of interest.

(b) Auditors shall use professional judgment in planning and performing examinations.

(c) Auditors shall adhere to, where applicable, generally accepted auditing standards and follow generally accepted practices with regard to unclaimed property examinations.

(d) Auditors shall possess adequate professional competence needed to address the examination objectives and conduct the examination.

(e) Before commencing the examination, auditors shall collectively possess the technical knowledge, skills, and experience necessary to competently conduct the examination.

(f) Auditors shall maintain their professional competence through continued training and education.

(g) Auditors shall possess a system of quality control to provide reasonable assurance that its personnel comply with professional standards and applicable legal and regulatory requirements.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.7 General fieldwork standards for conducting examination.

Rule 7. Auditors shall adhere to the following fieldwork standards:

(a) Auditors shall adequately plan the work necessary to address the audit objectives, including a proposed timeline for each segment of the examination, the proposed property types that will be examined, and the proposed documentation that the person subject to examination may need to provide. The timeline shall take into consideration whether the person subject to the examination intends to provide machine-sensible records and documentation. If access to machine-sensible records and documentation is not provided, the auditor may adjust the timeline to accommodate the format of the records and documentation.

(b) Auditors shall obtain an understanding of the person's internal controls that are significant within the context of the examination objectives.

(c) Auditors shall obtain a sufficient understanding of the person's organization in order to design an examination plan specific to the person being audited.

(d) Auditors shall be familiar with the state's unclaimed property laws, regulations, case law, and reporting requirements.

(e) The personnel conducting the examination shall be properly supervised. Supervision includes all of the following:

(i) Providing sufficient guidance and direction to personnel assigned to the examination to address the examination objectives and follow applicable requirements.

(ii) Being informed about significant problems encountered in the examination.

(iii) Reviewing the work performed.

(iv) Providing effective on-the-job training.

(v) The nature and extent of supervision may vary depending on a number of factors, including the experience of the personnel assigned to conduct the examination.

(f) Auditors shall prepare examination documentation in sufficient detail to enable an experienced auditor, having no previous connection to the examination, to understand the basis of the examination findings from the documentation of the work performed, the property types reviewed, any estimation techniques used, and calculations made which formed a basis for the examination findings.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.8 Auditor contracts.

Rule 8. (1) An auditor shall provide the person subject to examination with a copy of the auditor's contract with the state at the examination entrance conference, if the examination is conducted by an auditor that is not an employee of the state.

(2) If the person subject to examination believes that the auditor has not complied with the contract or the examination standards, and that noncompliance has or is likely to materially affect the results of the examination, the person should notify the administrator.

(3) The administrator shall monitor auditor contracts and confirm compliance with the provisions of the contract and with the audit standards.

(4) The administrator shall investigate any complaints regarding an auditor that are received from a person subject to an examination.

(5) If the administrator determines that the auditor has not conducted an examination in material compliance with the examination standards, the contract, or the act, and the administrator believes that the auditor cannot conform its conduct to the standards, contract, or the act, the administrator may replace the auditor with another auditor to complete the examination.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.9 Examination entrance conference.

Rule 9 (1) The administrator shall determine before or as part of the entrance conference whether the person is an "eligible holder," the basis for that determination, and whether the person has elected to follow the streamlined audit process. All of the following apply:

(a) If the eligible holder claims its status based on a percentage of payroll or percentage of real and tangible personal property, except inventory, owned or rented in this state, the percentage must be 20% or greater than the percentage in paragraph (i) or (ii) of this subdivision:

(i) The numerator is the aggregate Michigan payroll during the entire 4 years that follow the dormancy period and the denominator is the aggregate of all payroll during the entire 4 years that follow the dormancy period.

(ii) The numerator is the aggregate of all Michigan real and tangible personal property, except inventory, owned or rented in Michigan during the entire 4 years that follow the dormancy period and the denominator is the aggregate of all real and tangible personal property, except inventory, owned or rented everywhere during the entire 4 years that follow the dormancy period.

(b) If the eligible holder claims its status based on employment in this state of the majority

of officers that direct, control, and coordinate the activities of the business, the percentage must be greater than 50% where the numerator is the aggregate number of days all officers were employed in this state during the entire 4 years that follow the dormancy period and the denominator is the aggregate number of days all officers were employed anywhere during the entire 4 years that follow the dormancy period. For purposes of this subrule, a “day” includes any part of a calendar day.

(c) An eligible holder wholly owns a subsidiary corporation in this state if it directly owns 100% of the subsidiary corporation or if it owns 100% of the subsidiary corporation through 1 or more wholly owned intermediate subsidiaries.

(2) If the person subject to examination disputes the determination that it is not an “eligible holder,” the person may request a redetermination by the administrator. Within 30 business days of the determination, the person shall provide the basis for disputing the determination and may provide additional supporting information to the administrator. Within 30 business days of receipt of request for redetermination, the administrator shall determine if the person is an eligible holder and shall notify the person of the decision. If the administrator is not able to provide a response within 30 business days, the administrator will provide the requestor with the expected date for a response, not to exceed 15 business days.

(3) The auditor shall contact the person subject to examination to schedule an entrance conference within 30 days from the date of the notice provided in R 567.5. At this time, a proposed confidentiality agreement shall also be provided to the person subject to examination. If contact with the person subject to the examination is not made within 30 days, the auditor shall notify the administrator or his or her designee to explain the cause for delay.

(4) At the entrance conference, the auditor shall provide the person the following information:

- (a) Identification of the states participating in the examination.
- (b) A description of the components and stages of the examination.
- (c) Expected duration of the examination.
- (d) A description of the respective responsibilities of the person subject to examination and the auditor.
- (e) Identification of the potential types of property that may be subject to examination.
- (f) An initial records request.
- (g) Identification of the time period that is subject to examination.
- (h) The applicable dormancy periods for each property type subject to examination as well as the statutory citations that govern the dormancy period for each property type.
- (i) Explanation of the principles of unclaimed property law, applicable case law, and the process of reporting property to multiple states.
- (j) Explanation of the examination methods, including estimation techniques that may be used by the auditor for those periods where records are not available or are insufficient.
- (k) A document that summarizes the items discussed at the examination entrance conference.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.10 Good faith.

Rule 10. The auditor and the person subject to examination shall act in good faith to conduct the examination under the terms and within the time frame established in the entrance

conference.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.11 Confidentiality.

Rule 11. (1) The auditor shall ensure that all nonpublic records obtained from the state and the person subject to examination are confidential records.

(2) Auditors shall not disclose confidential information obtained during the audit to any person other than to the administrator or his or her designee and, in the case of a multistate examination, to authorized representatives of a state participating in the examination but only to the extent such confidential information relates to property that may be subject to reporting in such state.

(3) Auditors shall not use confidential information obtained from the person subject to an examination for any purpose other than for purposes of the examination. Auditors shall take all reasonable steps to ensure that the confidential information provided by the person subject to an examination is securely maintained.

(4) An auditor and a person subject to examination may enter into a mutually agreeable nondisclosure agreement. However, if the person and the auditor are unable to enter into a mutually agreeable nondisclosure agreement within 30 calendar days from the date the agreement was first presented by the auditor to the person subject to the examination, then the examination shall commence without an agreement in place subject to subrules (1) to (3) of this rule.

(5) The auditor must promptly cure any deficiencies and comply with any applicable federal and state laws and regulations pertaining to unauthorized disclosures. The administrator and the auditor will cooperate to mitigate, to the extent practicable, the effects of any breach, intrusion, or unauthorized use or disclosure. The auditor must report to the administrator in writing any use or disclosure of confidential information, whether suspected or actual, other than as required by the contract within 10 days of becoming aware of the use or disclosure or the shorter time period as is reasonable under the circumstances.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.12 Records format.

Rule 12. (1) In order to conduct the examination efficiently, a searchable machine-sensible record is preferred. The person subject to examination may provide information in an alternative format such as hardcopy, microfilm, microfiche, or other storage-only imaging systems in the form of a machine-sensible record. The auditor may adjust the timeline for the examination if a searchable machine-sensible record is not provided.

(2) For purposes of examining accounting records, machine-sensible records shall be capable of being retrieved and converted to a standard record format, such as, but not limited to, chart of accounts, income statement, balance sheet, account ledgers, and bank reconciliations. The person subject to examination is not required to retrieve and convert machine-sensible records other than those created in the ordinary course of business.

(3) All hardcopies and data stored on microfilm, microfiche, or other storage-only imaging systems shall be provided in a manner that allows the auditor to locate any particular record.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.13 Remediation.

Rule 13. (1) After the compilation of the preliminary findings from an examination, the auditor shall provide a copy of the findings to the person subject to examination and a notice that a remediation period of 120 days begins upon receipt of the findings. During the remediation period, the property presumed abandoned may be remediated from the preliminary findings by providing documents to the auditor that include 1 or more of the following:

- (a) Documentation of accounting or data entry error.
- (b) Documentation that the last known owner address is not in this state or that the owner address is unknown and the person subject to an examination is not domiciled in this state.
- (c) Documentation from the presumed owner indicating that the property is or is not owned by that person.
- (d) Documentation of transactions or other activity by an owner that establishes that the property has not been abandoned.
- (e) Documentation showing that the apparent liability has been satisfied.
- (f) Documentation that the obligation did not exist or is not fixed and certain.
- (g) Other documentation that proves that the property is not subject to or presumed abandoned under the act.

(2) Remediation documentation shall be provided to the auditor conducting the examination within the 120 day remediation period unless the auditor grants an extension of the remediation period. Extension of the period shall be granted where the person has made a good faith effort to provide the documentation as described in subrule (1) of this rule.

(3) Within 30 days of the expiration of the original or extended remediation period, a closing conference shall be held between the auditor and the person subject to an examination at which time the total unclaimed funds reporting liability resulting from the examination shall be calculated.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.14 Examination report.

Rule 14. (1) The examination report shall be filed by the auditor with the administrator or his or her designee within 45 days following the closing conference with the person subject to examination.

(2) During the time period described in subrule (1) of this rule, the auditor shall adjust the calculation of the potential amount of property due based on any additional information presented to the auditor at the closing conference.

(3) A copy of the examination report shall be provided to the person subject to the examination.

History: 2017 MR 5, Eff. March 14, 2017.

R 567.15 Subsequent examinations.

Rule 15. (1) Upon acceptance of the audit report by the administrator and receipt of the

property or amount deliverable, at the administrator's discretion, the administrator shall not conduct or authorize a subsequent examination of the person for the property types and time periods covered in the examination.

(2) Intentional misrepresentation, evasion, or fraud on the part of the person will void any such agreement.

History: 2017 MR 5, Eff. March 14, 2017.