



Ohio Administrative Code Rule 5703-43-12 Enforcement.

Effective: September 19, 2024

(A) As used in this rule, "felony" has the same meaning as in section 109.511 of the Revised Code.

(B) For purposes of enforcing this chapter and Chapter 3780. of the Revised Code and subject to paragraph (C) of this rule, the tax commissioner, by journal entry, may delegate any investigation powers of the commissioner to an employee of the department of taxation who has been certified by the Ohio peace officer training commission and who is engaged in the enforcement of those chapters. A separate journal entry will be entered for each employee to whom that power is delegated. Each journal entry will be a matter of public record and will be maintained in an administrative portion of the journal as provided for in division (L) of section 5703.05 of the Revised Code. When that journal entry is completed, the employee to whom it pertains, while engaged within the scope of the employee's duties in enforcing the provisions of this chapter or Chapter 3780. of the Revised Code, has the power of a police officer to carry concealed weapons, make arrests, and obtain warrants for violations of any provision in those chapters. The commissioner, at any time, may suspend or revoke the commissioner's delegation by journal entry. No employee of the department will divulge any information acquired as a result of an investigation pursuant to this chapter or Chapter 3780. of the Revised Code, except as may be ordered by the commissioner or a court.

(C)

(1) The commissioner will not delegate any investigation powers to an employee of the department of taxation pursuant to paragraph (B) of this rule on a permanent basis, on a temporary basis, for a probationary term, or on other than a permanent basis if the employee previously has been convicted of or has pleaded guilty to a felony.

(2)

(a) The commissioner will revoke the delegation of investigation powers to an employee to whom the delegation was made pursuant to paragraph (B) of this rule if that employee does either of the



following:

(i) Pleads guilty to a felony;

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated plea agreement as provided in division (D) of section 2929.43 of the Revised Code in which the employee agrees to surrender the certificate awarded to that employee under section 109.77 of the Revised Code.

(b) The commissioner will suspend the delegation of investigation powers to an employee to whom the delegation was made pursuant to division (B) of this rule if that employee is convicted, after trial, of a felony. If the employee files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the employee does not file a timely appeal, the commissioner will revoke the delegation of investigation powers to that employee. If the employee files an appeal that results in that employee's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that employee, the commissioner will reinstate the delegation of investigation powers to that employee. The suspension, revocation, and reinstatement of the delegation of investigation powers to an employee under paragraph (C)(2) of this rule will be made by journal entry pursuant to paragraph (B) of this rule. An employee to whom the delegation of investigation powers is reinstated under paragraph (C)(2)(b) of this rule will not receive any back pay for the exercise of those investigation powers unless that employee's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the employee of the felony.

(3) Paragraph (C) of this rule does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or revocation of the delegation of investigation powers to an employee under paragraph (C)(2) of this rule will be in accordance with Chapter 119. of the Revised Code.