

Unclaimed Property

The Uniform Disposition of Unclaimed Property Act was created as a consumer protection law in order to safeguard the owner's property and provide a means for reuniting the owner with their property. State's rights under these laws are derived from owner's rights – rather than the holder benefiting from the owner not claiming their property, the benefit resides with the state. It acts as custodian of the property until claimed by the owner. The majority of states require a one-time advertisement of the name/address of the owner in the county paper of the owner's last known address. States have also utilized other methods that contribute to the success of reuniting the owner and their property (e.g., having a booth at the State Fair, using the Internet to list owners).

Each state, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands have enacted a version of the Uniform Unclaimed Property Act. Unclaimed property is any financial asset that has been left inactive by the owner. The most common types are savings and checking accounts, un-cashed bank checks, certificates of deposit, and safe deposit box contents. By law, most accounts become unclaimed when there is no owner contact with the holder or no client-initiated activity for a specific period of time (typically three to five years) but vary by state and type of property. Often the owner forgets the account exists, moves and does not leave a forwarding address or the forwarding address expires. In some cases, the owner dies and the heirs have no knowledge of the property.

The Unclaimed Property section has been designed as a helpful tool for compliance officers. Compliance officers are encouraged to check with their applicable state for more specific requirements, especially time requirements and fees.

Unclaimed Property laws require three things of the holder: trying to locate the owner, filing reports with the proper states, and remitting the property to the states.

I. Coverage

- A. "Holders" include a natural person (that is for personal, family, or household purposes), business associations, banking and financial organizations, life insurance corporations, and others holding property belonging to another person.
- B. Unclaimed property that must be identified and reported includes demand, saving, and matured time deposits, drafts, certified checks, cashier's checks, life insurance policy proceeds, money orders, travelers checks, safe deposit box contents, wages, intangible interest (stock) dividends, bond principal and interest, and a variety of intangible personal property.

II. Requirements

- A. Identification of Escheatable Property; Holders must review their records each year to determine if they hold any funds, securities, or other property that has been unclaimed for the required dormancy period.
 - 1. Any demand, savings or matured time deposit (including automatically renewing time deposit accounts), or account subject to a negotiable order of withdrawal,

made with a banking organization, including interest and dividends (excluding any reasonable service charges that may lawfully be withheld) is escheatable to the state when the owner, for more than the prescribed time period (typically three to five years) has not done any of the following:

- a. Increased or decreased the amount of the deposit, cashed an interest check, or presented the passbook or other similar evidence of the deposit for the crediting of interest.
 - b. Corresponded electronically or in writing with the banking organization concerning the deposit
 - c. Otherwise indicated an interest in the deposit as evidenced by memo or other record on file with the banking organization
 - d. The owner has done any of the above actions with respect to another deposit or account at the same institution.
2. Any funds from an individual retirement account (or similar account or plans established pursuant to the internal revenue laws) is escheatable to the state when the owner for more than the prescribed time period (typically three to five years) after the funds become payable or distributable has not done the following:
- a. Increased or decreased the principal
 - b. Accepted payment of principal or income
 - c. Corresponded electronically or in writing with the banking organization concerning the deposit or otherwise indicated an interest in the deposit

The funds are not “payable or distributable” until distribution of all or a part of the funds would be mandatory (i.e., owner reaches age of 70 ½).

3. Any sum payable on a traveler’s check issued by a business association escheats to the state if it has been outstanding for more than the prescribed time period (typically 15 years) from the date of its issuance and the owner has not corresponded in writing or otherwise indicated an interest (as evidenced by memo or other record on file) with the business association.
4. Any sum payable on any other written instrument that the banking or financial organization is directly liable (e.g., draft, certified check, cashier’s check) escheats to the state if it has been outstanding for more than the prescribed period of time (typically 3 to 5 years) from the date it was payable or from the date of its issuance if payable on demand and the owner has not corresponded in writing or otherwise indicated an interest (as evidenced by memo or other record on file) with the banking or financial organization.
5. Any sum payable on a money order issued by a business association, banking organization or financial organization escheats to the state if it has been outstanding for the prescribed period of time (typically 7 years) from the date it was payable or from the date of its issuance if payable on demand and the owner has not corresponded in writing or otherwise indicated an interest (as evidenced

by memo or other record on file) with the business association or banking or financial organization.

6. Any wages or salaries escheats to the state if they have remained unclaimed by the owner for more than the prescribed time period (typically one year) after the wages or salaries become payable.
7. The contents of any safe deposit box or any other safekeeping repository escheats to the state if it has been unclaimed by the owner for more than the prescribed time period (typically two to five years) from the date on which the lease or rental period on the box or repository expired (or the date of any termination of any agreement).

B. Notification of Escheat

1. Banking or financial organizations, business associations, or other holders of personal property are required to make reasonable efforts to notify by mail any customer that the customer's deposit, account or other interest in the banking or financial organization will escheat to the state. Notification is not required if:
 - a. The holder does not have in its records an address for the apparent owner or records indicate the address to be inaccurate
 - b. The deposit, account, share or other interest is less than a prescribed amount (e.g., \$50.00)
2. A service charge may be imposed for the notice, in an amount not to exceed the administrative cost of mailing the notice or exceed a specified amount. (A service charge cannot be imposed for sending notices that are not required [e.g., for accounts with balances less than the prescribed amount]).

C. Fees and Interest

1. Usually, no service, handling, maintenance or other charge or fee may be imposed because of the inactive or unclaimed status of the deposit or account.
2. In most states, the banking organization cannot discontinue interest or dividends because of inactivity on the account.

D. Reporting of Escheated Funds or Property

1. Reporting and escheatment of unclaimed property is to the state of the owner's last known address (as shown on the records of the holder).
 - a. If no address is shown or for foreign addresses, the property is reportable to the state of the holder's domicile.
 - b. Money orders and traveler's checks are normally reported to the state where they are purchased.

2. Annual Report Filing. Each state has a specific report / report format that must be followed.
 - a. Report Date. The reports are typically due on November 1 of each year for property held as of June 30 or fiscal year-end next preceding
 - b. Aggregate Reporting. All properties below a specified dollar amount (varies by state) may be reported together as one aggregate sum.
 - c. Based on the number of records being reported the state may require diskette / electronic reporting (will not accept paper-based reports).
3. Reciprocal Reporting. Many states have entered into reciprocal agreements and obtained letters of understanding to exchange and collect unclaimed property for other states. This reduces the number of report forms a holder may need to file with each individual state. Specific guidelines must be followed in order to reciprocal report (e.g., notification to each reciprocal in writing)
4. Property Remittance
 - a. States either:
 - (1) Report and remit; all property specified in a report is paid or delivered to the state at the same time the report is filed.
 - (2) All property is reported to the state by a specific deadline, and then the state provides notification to owners and gives them a period of time to claim their property directly from the holders. All property not claimed by the specified date are then turned over to the state.
 - b. Everything reported must be delivered to the state (in accordance with their reporting and delivery instructions) unless the state determines that it is not in their interest to take custody of the property. In those cases, the state will authorize the holder in writing to dispose of the property (e.g., the reported contents of a safe deposit box listed only documents and other items of no real (commercial) value; the state will usually not take possession of this property and authorize the destruction).
 - c. Based on the dollar amount of the remittance (payment of unclaimed accounts [cash]), the state may require remittance by electronic funds transfer instead of by cashier's check.

III. Recordkeeping

- A. Holders shall retain all records pertaining to the property for a specific period of time (typically 7 years, but could be “permanent”) after the property is reported.
 - 1. The records must contain all the information required as outlined in the state’s filing/reporting instructions.
 - 2. The holder of the funds for the state may request owner information (more specific information that may be in bank records and not listed on the escheatment report) in order to determine if a claim can be paid.

IV. Penalties

- A. States may assess interest, penalties and audit costs for non-compliance.
 - 1. Willful failure to render a report, perform other duties as outlined in the law, pay or deliver escheated property as outlined is punishable by fine (per each day or violation up to a maximum).
 - 2. Failure to report and deliver unclaimed property within the time prescribed by the state will result in interest payments to the state based on the value of the property from the date the property should have been reported to the date the property is received.