

UNCLAIMED PROPERTY:

History, Laws, & Reporting Requirements

What Is Unclaimed Property? (A Brief History)

Unclaimed property laws date back to when our country was founded, but the current “custodial” unclaimed property model did not come into being until the early 1900s. Initially, only a few jurisdictions enacted such statutes, and those states received—and returned—minimal amounts of unclaimed assets, which usually related to decedents’ estates. This all changed after World War II, when the economy grew substantially, payment systems were created, and new financial products became available. Most Americans came to own financial assets, and a percentage of these assets became abandoned. As more assets became abandoned, a looming issue grew that became increasingly more relevant – What should be done with abandoned/unclaimed property? Who should handle distribution/administration of the unclaimed property? How should this process work?

Types of Unclaimed Property

Illustrative list (not exhaustive):

- Payroll checks
- Accounts payable checks
- Refund checks
- Cashier’s checks
- Insurance proceeds
- Securities
- Money orders
- Accounts receivable credit balances
- Utility deposits
- Bank accounts
- Travelers checks
- Safe deposit box contents

Dormancy/Abandonment Period

Depending on the type/category of property, a specific uninterrupted dormancy period is typically required to be met before property can be reported by a holder as “unclaimed” or “abandoned”. Further, there are various circumstances/actions/events that can trigger an interruption of a dormancy period – the tolling of the dormancy period is not absolute, and can be interrupted and/or reset. Dormancy periods pertaining to different types of property vary among the states.

Unclaimed Property Laws (A Brief History)

1954 Uniform Disposition of Unclaimed Property Act (UDUPA)

The 1954 Act set forth the first attempt to provide a uniform model for facilitating the notice and return of unclaimed property. This model established the earliest example of the unclaimed property models used today, although not identical. The primary distinction in the 1954 Act is that under this initial unclaimed property legislation, entities in possession of unclaimed property (“holders”) initially reported but did not transfer unclaimed assets to the state. Based on the reported information, the state would publish the names of lost owners in a newspaper in the county where the owner resided, and send a letter to the owner’s last known address. Lost owners were directed back to holders to recover their property. If an owner did not reestablish contact with the holder within six months, the owner’s property would then be transferred to the state.

1966 Revision, and 1981 Uniform Unclaimed Property Act (UUPA)

The 1966 Revision to UDUPA, and 1981 UUPA Act did not drastically alter the 1954 model, but did provide some updates. The 1966 and 1981 Acts followed the same bifurcated reporting process, with publication of owner names *prior* to the remittance of property to the unclaimed property program. The states would receive very few claims, other than:

- a. the owner who failed to timely respond to a notice; or
- b. the owner who had independently identified a right to property that had already been transferred into state custody, and who had been directed back to the state by the reporting entity.

There was no active promotion of unclaimed property programs by states, and no compiled lists of all owners due property. In fact, most states filed the hard copy reports, and maintained an index of unclaimed accounts on 3” x 5” cards.

1995 Uniform Unclaimed Property Act, and 2016 Revised Uniform Unclaimed Property Act (RUUPA)

Both the 1995 Act, and RUUPA, further developed the unclaimed property model. By 1995, most states had greatly improved their outreach, and marketing campaigns. States took a more active role in locating apparent owners; states also developed more extensive marketing campaigns including television commercials, and publications. In 2016, the most recent uniform act was adopted. Below are some of the most notable provisions of RUUPA (most current version of model act):

- No business-to-business (B2B) exemption is included in the RUUPA. Therefore, when Illinois adopted many of the provisions of the RUUPA, it actually eliminated its pre-existing B2B exemption.

- Only optional exemptions for gift cards and in-store credits for returned merchandise. Many companies take advantage of state specific reporting exemptions for gift cards and store credits, so making these provisions optional in the RUUPA creates concern that many states may not elect this exemption.
- Expressly requires companies to escheat stored value cards and virtual currency to the state.
- Establishes 5-year statute of limitations if a company filed a non-fraudulent report; otherwise, 10-year statute of limitations. This change is actually good for companies, as many jurisdictions do not currently have a statute of limitations applicable to unclaimed property, or one that is very narrow, applying only to items specifically reported to the state.
- Allows for estimation if the company fails to maintain records. While a company's state of incorporation will estimate potential liabilities where complete records are unavailable during an audit, the RUUPA specifically provides that a state has the authority to do so.
- Authorizes escheatment of foreign-owned property. States are not uniform in their treatment of property payable to a foreign person or entity that is held by a company. Some states specifically exempt these items, while others require them to be reported to the company's state of incorporation.

The Current State of Unclaimed Property Programs

BASICS: The Players – “Owners”, “Holders”, & “Administrators”

The “Owner” is the individual or entity who bears a legally recognized right or equitable interest in the unclaimed property.

The “Holder” is the individual or entity who is in possession of property belonging to another, or is indebted to another by virtue of a legally recognized obligation.

The “Administrator” is typically the State (such as Department of Treasury), or other third-party entity, who is responsible for administering the unclaimed property program by returning unclaimed property to rightful owners. The administrator is typically also charged with enforcing the compliance of reporting requirements on holders.

Over the last twenty or so years, unclaimed property programs across all states have become much more efficient and capable, including aggressive outreach and marketing campaigns, highly efficient claims processing, and user-friendly websites. Most states have improved substantially in the areas of outreach (locating apparent owners and/or claimants), website efficiency, and overall claim payouts.

The Current State of Louisiana Unclaimed Property

Louisiana, like other states continues to improve in these areas. Most claims can be easily started via the state unclaimed property website:

<https://louisiana.findyourunclaimedproperty.com/>

This site offers an array of functions for both owners and holders, including comprehensive search features, as well as seamless electronic reporting for holders.

Louisiana Unclaimed Property Laws

The Louisiana “Uniform Unclaimed Property Act” was enacted in 1972, and can be found at Louisiana Revised Statutes Title 9, Sections §151 – §182. A link to the beginning of the Act (La.R.S.9:151) is provided below:

<https://www.legis.la.gov/legis/Law.aspx?d=106688>

Notable Sections

§153. Definitions – this section provides specific definitions for most of the terms commonly used within the area of unclaimed property.

§154. Presumptions of abandonment – this section provides dormancy/abandonment periods for various types of unclaimed property.

§156. Rules for taking custody – this section provides the conditions and circumstances that must exist in order for the state to take custody of unclaimed property.

§159. Report of abandoned property – this section provides the reporting requirements for holders in possession of unclaimed property.

§160. Payment or delivery of abandoned property – this section provides the requirements for transferring the property to the state (administrator).

§164. Public sale of abandoned property – this section provides the authority for the state to sell abandoned property after a period of time of state possession.

§171. Periods of limitation – this section provides time limitations on the owner’s right to receive or recover property.

§172. Requests for reports and examination of records – this section provides the authority for the state to request reports from holders who have not filed a report; also provides state audit authority over holders.

§173. Retention of records – this section provides the time periods required for holder records retention.

§176. Interest and penalties – this section provides for interest and penalties to be assessed against holders who fail to timely report, pay, or deliver property.

Louisiana Holder Reporting Process

Important Reporting Dates

Report Due Date:	“Before November 1 each year” (deadline = October 31);
Report Start Date:	July 1 (Reporting period = July 1—June 30 following year);
Report Cut-off Date:	June 30 (Reporting period = July 1—June 30 following year);
Included Property:	All property that has met the dormancy period by June 30.

Step 1 – Identify Potential Unclaimed Property

TIPS: Check with all departments within your company. Look for outstanding checks of any nature (payroll, vendor checks, etc). Look at the date of last activity on accounts. Include any past-due items. Pay attention to known individuals (previous reporting of a specific individual’s property – there may be more property).

Step 2 – Apply The Appropriate Dormancy/Holding Period (based on property type)

TIPS: Reference La.R.S.9:154 for Louisiana dormancy periods. Five (5) years for bank accounts and many types of property. Shorter dormancy periods for some types of property. IRAs, and other tax-deferred accounts have special rules – see La.R.S.9:154(A)(13).

Step 3 – What Constitutes Activity on a Bank Account?

TIPS: A customer-generated deposit or withdrawal. A one-time or recurring ACH transaction that is authorized by the account holder. The accessing of a deposit account by the owner through the website, or other restricted access point of the financial institution. NOT activity – posting interest or dividends.

Step 4 – Track Returned Mail

TIPS: Reference La.R.S.9:154(A)(4) – “no property under this Paragraph shall be presumed abandoned if a banking or financial organization has forwarded a statement or other written communication to the owner within the preceding 90 days with regard to the property at the owner’s last known address and the statement or communication has not been returned to the banking or financial organization as undeliverable...”

Step 5 – Subsequent Returned Mail – Does Dormancy Clock Reset?

TIPS: No – the date of last activity remains the same. The account is immediately reportable upon statements being returned.

Step 6 – Perform Due Diligence

TIPS: Reference La.R.S.9:159(E) – mandates a written notice not more than 120 days nor less than 60 days. All items \$50.00 or greater. If address is not known to be inaccurate, returned mail indicates an inaccurate address.

Step 7 – Elements of Good Due Diligence

TIPS: Envelope should stand out from other routine bank correspondence. Include specific information about the property. Provide instructions for reactivating the account or receiving a refund. Include a response deadline, and contact telephone number. Include a notice that the funds will be transferred to the state after a certain date – please allow processing time.

Step 8 – Prepare the Report

TIPS: Electronic file is required. Use NAUPA standard file format. There are many vendors for Unclaimed Property Software. You can also use your own in-house program.

Step 9 – Contents of the Report

TIPS: Account number or check number if applicable. Date of last activity or check date. Type of property. Amount of property. Interest bearing (Y or N)? Owner name(s). Last known address. Social Security Number(s). Date(s) of birth. Owner relationship for multi-owner accounts. Is owner an individual or business (Y or N)?

Step 10 – File the Report

TIPS: File online at <https://louisiana.findyourunclaimedproperty.com/app/submit-a-report>

If you have any questions about how to file a report, or any other unclaimed property questions, please contact us:

Louisiana Department of Treasury
Unclaimed Property Division
Phone:1-888-925-4127

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