

UNCLAIMED PROPERTY

BACKGROUND

Certain types of presumed abandoned property (see **DEFINITIONS** below) are subject to abandonment provisions of Chapter 72 and other related Texas Property Code (TPC) chapters (abandonment provision items) under certain conditions:

1. the last known address of the apparent owner, as shown on the records of the holder, is in this state;
2. the records of the holder do not disclose the identity of the person entitled to the property, and it is established that the last known address of the person entitled to the property is in this state;
3. the records of the holder do not disclose the last known address of the apparent owner, and it is established that:
 - A. the last known address of the person entitled to the property is in this state; or
 - B. the holder is a domiciliary or a government or governmental subdivision or agency of this state and has not previously paid or delivered the property to the state of the last known address of the apparent owner or other person entitled to the property;
4. the last known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or custodial taking of the property or is in a state in which the state's escheat or unclaimed property law is not applicable to the property, and the holder is a domiciliary or a government or governmental subdivision or agency of this state;

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5. the last known address of the apparent owner, as shown on the records of the holder, is in a foreign nation and the holder is a domiciliary or a government or governmental subdivision or agency of this state; or
6. the transaction out of which the property arose occurred in this state and:
 - A. the last known address of the apparent owner or other person entitled to the property is:
 - i. unknown; or
 - ii. in a state that does not provide by law for the escheat or custodial taking of the property or in a state in which the state's escheat or unclaimed property law is not applicable to the property; and
 - B. the holder is a domiciliary of a state that does not provide by law for the escheat or custodial taking of the property or a state in which the state's escheat or unclaimed property law is not applicable to the property."

TPC §74.1011 stipulates that notice by a property holder of presumed abandoned property is required as follows:

- a) "Except as provided by Subsection (b), a holder who on March 1 holds property valued at more than \$250 that is presumed abandoned under Chapter 72, 73, or 75 of this code or Chapter 154, Finance Code, shall, on or before the following May 1, mail to the last known address of the known owner written notice stating that:
 1. the holder is holding the property; and
 2. the holder may be required to deliver the property to the comptroller on or before July 1st if the property is not claimed.
- b) The notice required under Subsection (a) does not apply to a holder who:
 1. has already provided such notice to the owner of the property or a person entitled to the property under existing federal law, rules and regulations or state law with the time specified under Subsection (a); or

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2. does not have a record of an address for the property owner or any other person entitled to the property.
- c) A holder that provides notice under this section may charge the cost of the postage as cost of service charge against the property.”

However, since Texas is not a true escheat state, most property remitted to the State of Texas (State) can be claimed by the owners at any time and will be available for their heirs if the owners never claim the property. Probate property is the only true escheat property in the State, but it may also be claimed by filing suit in accordance with the Probate Code and §71.301 of the TPC.

Chapter 76 of the TPC provides that each holder who on June 30th holds property presumed abandoned under Chapter 72 or 75, and valued at \$100 or less shall deliver the property to the County Treasurer’s Office (Treasurer’s Office) of the holder on or before the following November 1st accompanied by the property report.

Note that in accordance with Local Government Code §113.064(a), “[i]n a county that has the office of county auditor, each claim, bill, and account against the county must be filed in sufficient time for the auditor to examine and approve it before the meeting of the commissioners court. A claim, bill, or account may not be allowed or paid until it has been examined and approved by the auditor.” Verification (i.e., examine and approve) under this statute relates to the claims approval process and includes, but is not limited to, all County purchases, any service rendered to the County, and refund requests made to the County.

This procedure applies to refunds of property tax overpayments only when the County has issued a refund check that remains outstanding and it becomes subject to the abandonment provisions of Chapter 72 and other related TPC chapters. Otherwise, please refer to the applicable Texas Tax Codes for guidance related to refunds of property tax overpayments.

PURPOSE

To prescribe the process required to identify, report, and remit items subject to abandonment provisions to the State Comptroller (Comptroller). In addition, to prescribe the process required to identify, report, and remit items subject to abandonment provisions with a value of less than \$100.00 to the County Treasurer’s Office.

DEFINITIONS

Presumed Abandoned - In accordance with §72.101 of the TPC, the following condition(s) exist “for longer than three years:

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- the existence and location of the owner of the property is unknown to the holder of the property; and
- according to the knowledge and records of the holder of the property, a claim to the property has not been asserted or an act of ownership of the property has not been exercised.”

Property Code - Code used to identify the type of property subject to abandonment provisions (see Attachment A, *Property Type & Abandonment Schedule*).

Property subject to abandonment provisions - Consists of, but is not limited to the following:

- all funds and property held in trust for others (i.e., escrow funds, child support, restitution, inmate accounts, civil deposits, etc.) and the funds held in the court registry (including cash bonds).
- outstanding claims where, due to County policy, no warrant or check was issued.
- outstanding refund checks for cash bonds, bail bonds, escrow funds, child support, restitution, inmate accounts, etc.

PROCEDURES FOR UNCLAIMED PROPERTY

A. COUNTY DEPARTMENT

1. Reviews, as of March 1st each year, outstanding items to determine if any item meets the conditions indicated in the **BACKGROUND** above, and has been presumed abandoned for the appropriate length of time as indicated in the *Property Type & Abandonment Schedule* published by the Comptroller in the following website <http://www.window.state.tx.us/up/reporting.html>.
2. Ascertains the value of the item(s), if abandonment provision items are identified.

Note: If **no** items have been identified, no action needs to be taken, as negative reports (reports indicating nothing was found that met abandonment provisions) are not required by the State.

3. Prepares and mails notices to owners of property presumed abandoned on or before May 1st in accordance with TPC §74.1011, if applicable.

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Note: The mailing of the remaining notices to meet this requirement is the responsibility of the respective departments that file the unclaimed property reports for their presumed abandoned property. In addition, the written notices must state the following:

- a) "the holder is holding the property; and
- b) the holder may be required to deliver the property to the comptroller on or before July 1st if the property is not claimed."
- c) claimants may submit a claim to the State Comptroller's office

Individual Items in Excess of \$100.00 – Cash

1. Completes an electronic listing of all outstanding items in excess of \$100.00 individually and a Summary of the listing.

Note: Cash bonds should be segregated and listed at the end of the report.

2. Submits the report of the unclaimed property items to the Comptroller on or before July 1st of each year by one of the following means:
 - a) Entering the data directly into the Comptroller's computerized reporting system after accessing their website and setting up an online password-protected account with the Comptroller (Online Express Reporting System).
 - b) Submitting the report electronically through the Comptroller's file transfer process that utilizes their free downloadable software or any commercial unclaimed property software that creates a file in the format approved by the National Association of Unclaimed Property Administrators (NAUPA).

Note: Successful uploads to the Comptroller's reporting system will generate an Unclaimed Property Holder File Upload Confirmation. The confirmation should be referenced on the TEXNET funds transfer request or check upon payment.

- c) Submitting the report to the Comptroller at the appropriate address on CD-ROM.
3. If remittance of the unclaimed property funds to the Comptroller is by check, processes the check as follows

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- a) Completes Texas State Form 53-119, *Texas Unclaimed Property Holder Report and Payment*.
- b) Processes the check in accordance with internal procedures.

Note: The check should be for the amount reported less the amount for cash bonds.

- c) Prepares a cover memo identifying which item numbers are for cash bonds and the total amount of cash bonds reported.
- d) Forwards the cover memo, Texas State Form 53-119, *Texas Unclaimed Property Holder Report and Payment*, the internally produced check, and the electronic listing on CD ROM (if applicable) to the Comptroller, Texas Unclaimed Property Division, P.O. Box 12019, Austin, Texas 78711-2019, return receipt requested for delivery on or before July 1st of each year.

Note: Instructions should be included with the CD- ROM (if applicable) to ensure that it is properly matched with the check.

- e) Retains one copy of the Texas State Form 53-119, *Texas Unclaimed Property Holder Report and Payment*, and the electronic listing in file for a period of *ten (10) years*.
- f) Forwards one copy of the Texas State Form 53-119, *Texas Unclaimed Property Holder Report and Payment*, and the electronic listing to the County Treasurer's Office with a copy of the cleared check for reference.

4. Performs the following for reported but un-remitted cash bond funds:

- a) Secures the un-remitted cash bonds until directed by a court order to deliver the funds to the Comptroller.

Note: The court order may be issued at the discretion of the court or upon petition by the Comptroller.

- b) Upon petition by the court, remits cash bond funds in accordance with the applicable procedures above and as directed by the Comptroller's instructions.

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Individual Items in Excess of \$100.00 - Marketable Securities

1. Prepares a Texas State Form 53-107, *Texas Securities Inventory Form*, listing the security by issue name.
2. Forwards the securities, Texas State Form 53-106, *Texas Report of Securities and Related Cash*, and Texas State Form 53-107, *Texas Securities Inventory Form*, to the Comptroller.

Individual Items in Excess of \$100.00 - Personal Property

1. Secures the personal property, other than cash and marketable securities, included on the remitted electronic listing in separate packages until notified by the Comptroller to remit the items.
2. Prepares an inventory sheet for each account and places a copy in the package.
3. Receives remittance instructions from the Comptroller.
4. Remits the personal property, other than cash and marketable securities, in accordance with the Comptroller's instructions.

Individual Items \$100.00 or Less - Cash

1. Completes a summary of unclaimed property for items \$100 or less - cash and an electronic listing of those abandonment provision items prepared in a format acceptable to the Treasurer's Office.
2. Lists the abandonment provision items that are \$100 or less, utilizing the following guidelines, when the electronic listing is completed:
 - a) Cash bonds \$100 or less should be segregated and listed at the end of the report.
 - b) Personal property items should be fully described and listed separately with a value of \$0.

Note: The \$0 value is an indicator that the item is personal property and was not included in the cash remittance.

3. Performs the following with respect to the cash bonds identified above:

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- a) Secures the reported but un-remitted cash bond funds until a court order is received directing remittance to the County Treasurer's office.
- b) Receives the court order directing remittance of cash bonds to the County Treasurer's Office.

Note: The court order may be issued at the discretion of the court or upon petition by the Treasurer's Office.

- c) Processes payment for the court ordered remittance in accordance with internal procedures.
4. Prepares a cover memo identifying which items are for reported but un-remitted cash bonds.
5. Emails the cover memo, the summary of unclaimed property for items \$100.00 or less-cash, and the electronic listing to the Treasurer's Office on or before November 1st of each year.
6. If remittance of the unclaimed property funds to the Treasurer's Office is by check, process the check as follows:
 - a) Process the check for the amount reported less the amount of cash bonds in accordance with internal procedures.
 - b) Forwards the check and an attached summary of unclaimed property for items \$100.00 or less-cash to the Treasurer's office on or before November 1st of each year.

Individual Items \$100.00 or Less – Personal Property Other than Cash

1. Secures the personal property other than cash included on the summary of unclaimed property for items \$100.00 or less-personal property other than cash and the electronic listing until notified by the Treasurer's office to remit the items.
2. Remits the personal property \$100.00 or less in accordance with the Treasurer's Office instructions.
3. Retains supporting documentation in file for a period of *ten (10) years*.

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**Additional Reporting Requirement by the County Treasurer's Office -
Zero Reports**

1. If departments have no unclaimed and/or abandoned property to report to either the State Comptroller or the County Treasurer, the County Treasurer's office requires that departments complete Form XX *Zero Unclaimed Property Form* and submit it to the Treasurer's office. The completed form for each respective department will be kept in file for reference purposes for a period of ten (10) years.

B. COUNTY TREASURER'S OFFICE

Individual Items in Excess of \$100.00 – Cash & Personal Property Other Than Cash

1. Receives and reviews electronic listing of items in excess of \$100.00-cash and personal property other than cash from respective department and keeps record of the file submitted to the Comptroller for a period of *ten (10)* years.

Individual Items \$100.00 or Less - Cash

1. Receives from the respective department the email that contains the cover memo and electronic listing of unclaimed property items.
2. Verifies the funds remitted agree with the amounts reported on the electronic listing and the summary of unclaimed property for items \$100 or less-cash less the amount for reported but un-remitted cash bonds.
3. Issues out an official County Treasurer's receipt for the amount of the remittance and processes the remittance in accordance with internal procedures to the credit of the *Unclaimed Money Fund*.

Note: Cash bonds reported but un-remitted should not be credited until such time that the funds are received.

4. Verifies the following information in the applicable year's listing of unclaimed property for items \$100.00 or less.
 - a) The listing is in alphabetical order.
 - b) The listing contains the name and last known address of each person

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who appears to be the owner of the property, a brief description of the property.

- c) The listing contains the name and number of the department remitting the funds to the Treasurer's office.
5. Ensures that the listing is available for public inspection during normal business hours and posted in the County's website.

Note: The social security number of the owner, if known, is considered confidential and not to be released for public inspection.

6. Retains the listing for a period of *ten (10)* years.

Individual Items \$100.00 or Less - Personal Property Other than Cash

1. Obtains and reviews respective department's electronic listing for personal property (items with a value of \$0) to determine which property is to be auctioned and which is to be salvaged.

Note: The \$0 value is an indicator that the item is personal property and was not included in the cash remittance.

2. Notifies respective department to remit personal property.
3. In collaboration with the Purchasing Department secures personal property until final disposition.
4. In collaboration with the Purchasing Department makes arrangements with contracted auctioneer to auction the personal property.
5. In collaboration with the Purchasing Department prepares a listing detailing the property being released to the auctioneer.
6. After auction is conducted, receives the monies from the auctioneer and a detail of the proceeds received for each item auctioned.
7. Issues out an official County Treasurer's receipt and deposits the auction proceeds to the credit of the *Unclaimed Money Fund*.
8. Updates the unclaimed property listing to reflect the items auctioned and ensures the updated unclaimed property list is available for public inspection and posted in the County's website.

Individual Items \$100.00 or Less - Cash Bonds

1. Petitions the court(s) that entered the final judgment in the underlying criminal case to order the funds delivered to the County Treasurer's Office.
2. Receives funds for the cash bonds previously reported but *un-remitted* from the respective department.
3. Verifies the funds remitted agree with the amount(s) petitioned.
4. Receipts and issues out an official County Treasurer's receipt for the amount of the remittance to the credit of the *Unclaimed Money Fund* and processes remittance in accordance with internal procedures.
5. Updates the unclaimed property listing to reflect the remitted cash bonds and ensures the updated unclaimed property list is available for public inspection and posted in the County's website.

C. FILING OF CLAIMS FOR INDIVIDUAL ITEMS OF \$100.00 OR LESS

1. Potential claimant(s) verifies list of Unclaimed Property for items of \$100.00 or less, as posted in the County's website. Claimants can also verify the Unclaimed Property List at the County Treasurer's Office during regular business hours.
2. Claimant(s) files, with the County Treasurer's Office, the County Treasurer Form TR-NG-010, *Request for Unclaimed Property Distribution*.
3. After claim is filed by claimant(s), verifies identity of claimant(s) by verifying an unexpired official state issued identification (ID).
4. Claimant(s) acknowledges identity by signing the *Request for Unclaimed Property Distribution* form *under oath* in the presence of a notary public.
5. Keeps a copy of the completed *Request for Unclaimed Property Distribution* form for reference.
6. Issues out check to claimant and updates the Unclaimed Property list to reflect the following information for claims filed:
 - a) Date claim was submitted by claimant to the Treasurer's Office
 - b) Claim Acceptance or Denial by the Treasurer's Office
 - c) The check number, date, and amount issued to claimant in relation

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to the property being claimed

- d) Updates the last known name and address of claimant (if necessary)

D. TRANSFER OF FUNDS FROM THE UNCLAIMED MONEY FUND TO THE GENERAL FUND

1. In accordance with statutory provisions (TPC §76.602) the Treasurer, after deducting funds sufficient to pay anticipated expenses and claims of the *Unclaimed Money Fund*, may transfer the remainder from the *Unclaimed Money Fund* to the *General Fund* at the end of the County's fiscal year.

Note: The County Treasurer, upon request, may seek guidance from the Department of Budget & Management (DBM) and/or County Auditor's office in order to determine sufficient funds to pay anticipated expenses and claims of the *Unclaimed Money Fund*, and the remainder funds to transfer to the *General Fund*.

The Treasurer may use the *Unclaimed Money Fund* generally for the administration and enforcement of the Unclaimed Property process, including expenses of forms, notices, examinations, travel, court costs, supplies, equipment, and employment of necessary personnel and other necessary expenses, and may adopt rules necessary to carry out the Unclaimed Property process, in accordance with statutory provisions.

2. Seeks Commissioners Court approval to transfer the remainder funds from the *Unclaimed Money Fund to the General Fund* at the end of the County's fiscal year.
3. If Commissioners Court approves transfer of the remainder funds from the *Unclaimed Money Fund to the General Fund*, keeps copy on file of the transfer (i.e. journal entry ledger) performed by the Auditor's office and Commissioners Court agenda minutes for reference.
4. Maintains copies of records in relation to the Unclaimed Property Fund/Process for a period of *ten (10) years*, which is subject to audit by the County Auditor's Office and budgetary procedures adopted by Commissioners Court (TPC §76.603).

REFERENCES

Texas State Form 53-107, *Texas Securities Inventory Form*

Texas State Form 53-119, *Texas Unclaimed Property Holder Report and Payment*

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Attachment A, *Property Type & Abandonment Schedule*
County Treasurer Form TR-NG-010, *Request for Unclaimed Property Distribution*
County Treasurer Form TR-NG-XX, *Zero Unclaimed Property Form*

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