



DCU BULLETIN

Division of Credit Unions

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Unclaimed Property: What Credit Unions Need to Know

The Department of Financial Institutions periodically receives questions from credit unions on how to treat unclaimed property. We worked with the Washington State Department of Revenue (DOR) to compile a list of answers to commonly asked questions.

While this bulletin is written for Washington state-chartered credit unions, we encourage federal and out-of-state credit unions doing business with Washington residents to use it as a guide as well.

WHAT IS UNCLAIMED PROPERTY?

Unclaimed property is money or intangible property owed to an individual or business. Property is considered unclaimed after it is held for an extended period of time with no owner contact and a “good faith” effort has been made to locate the owner.

WHAT DO CREDIT UNIONS DO WITH UNCLAIMED PROPERTY?

The Washington Unclaimed Property Act (Chapter 63.29 RCW) requires businesses and other organizations to review their records each year to determine whether they hold any funds, securities, or other property that have remained unclaimed for the required abandonment period. Holders of unclaimed property must file an annual report and transfer the property to DOR. Abandoned property that must be turned over to the state includes:

- deposits
- uncashed checks
- loan overpayments
- dividend payments
- certificates of deposit
- retirement accounts
- safe deposit box contents

WHAT HAPPENS TO PROPERTY WHEN IT IS TURNED OVER TO THE STATE?

State law protects unclaimed property until it is returned to its rightful owners or their heirs. DOR acts as custodian of the property and administers a program to locate the owners. Once reported to DOR, unclaimed property is available for refund to owners or their heirs indefinitely.

WHEN IS PROPERTY CONSIDERED ABANDONED?

The holding period before property is considered abandoned varies by type of property. The types of property usually held by credit unions are discussed in this bulletin. You can find examples of other property that is reportable, and the reporting period for each type, in the *Unclaimed Property Reporting Booklet*, published by DOR (see the end of this bulletin for the internet link to the booklet).

Savings (Share) and Checking (Share Draft) Accounts

Savings (share) and checking (share draft) accounts are abandoned if there is no positive owner contact for three years. Positive owner contact is any documented contact initiated by the owner, including:

- deposits
- withdrawals
- correspondence
- phone calls
- address changes
- activity on a related account

Positive owner contact does not include:

- unreturned mail
- automatic interest transfers (except the first one)
- automatic payments
- internally initiated address changes (such as adding plus four digits to the zip code)
- service charges

One problem unique to credit unions is that they often require members keep a share account in order to have certificates of deposit or other accounts. If the member's share account becomes unclaimed property, but related accounts are not, the credit union must either report the related accounts early, or change its bylaws to allow related accounts to stay open without the share account.

Safe Deposit Boxes

For safe deposit box contents, the abandonment period is five years, which begins at the expiration of the box lease.

Uncashed Checks

Uncashed official checks, like cashiers checks or certified checks, are presumed abandoned three years after they are issued, or three years from the last positive

owner contact. Payroll checks are reportable after one year. Credit unions may not deduct any charges for a payee's failure to present the check for payment.

The payee is the owner of a check, not the member who wrote it. As a result, credit unions may not redeposit stale-dated check amounts back in a member's account without a written statement from the member indicating that the check was either lost or not used for the purpose intended.

Credit unions are rarely required to report uncashed money orders or traveler's checks, as that is generally the responsibility of the company that originates them, such as American Express. However, if the credit union issues its own money orders, it will be required to report them.

Certificates of Deposit (Share Certificates)

Non-renewing certificates of deposit (CDs), also known as share certificates, are presumed abandoned three years after maturity. Automatically renewing CDs are abandoned three years after the expiration of the initial rollover period. If the rollover period is less than one year, the period to count for abandonment begins after one year.

IRAs, KEOGHs, and Other Retirement Plans

Traditional retirement accounts are not payable or distributable until distribution of all or part of the funds would be mandatory, when the account holder is 70½ years old. Traditional retirement accounts need to be reported to DOR when the owner is at least 73½ years old and there has been no positive owner contact for three years.

Roth IRAs are not payable until the owner reaches 59½ years old. Thus, Roth IRAs do not need to be reported until the owner is at least 62 ½ years old, and there has been no positive owner contact for three years.

Pre-Paid Credit or Debit Cards

Credit union-issued gift certificates (including pre-paid credit or debit cards) that may be used for buying goods or services at unaffiliated businesses are presumed abandoned after three years of non-activity. Other types of gift certificates and

cards are subject to more complex rules, which changed on January 1, 2005. Before embarking on a gift card program, credit unions should consult legal counsel to ensure that they are following the appropriate rules.

WHEN DO CREDIT UNIONS HAVE TO REPORT UNCLAIMED PROPERTY TO THE STATE?

Credit unions are required to report unclaimed property to DOR annually, before November 1 each year, for property that has gone unclaimed for the required period as of June 30 of that year. If the required abandonment period ends after June 30 of any year, the property is reported the following year. Credit unions that have reported unclaimed property in the past, but have nothing to report for the current year, should file a zero report.

Savings (Share) and Checking (Share Draft) Accounts

For most property held by credit unions, such as deposits and checks, the abandonment period is three years. Thus, property that has gone unclaimed for three years as of June 30, 2005 must be reported before November 1, 2005. No fees may be assessed against accounts after June 30, but interest must continue to be paid on funds in interest-bearing accounts. The following examples are for the 2005 reporting period:

- If a member has a savings account that has been inactive since March 15, 2002, the three-year abandonment period ended March 15, 2005. In this case, the abandonment period has passed before the June 30 deadline, so the funds in that account must be reported to DOR before November 1, 2005. The credit union must continue to pay interest due on the account, but cannot assess any further fees after June 30, 2005.
- If a member has a checking account that has been inactive since July 1, 2002, the three-year abandonment period does not end until July 1, 2005. Since the end of the abandonment period is after the June 30 deadline, the funds do not need to be reported to DOR in 2005. They must be reported before November 1, 2006.

Safe Deposit Boxes

Safe deposit box contents are considered abandoned five years after the expiration of the box lease. If safe deposit contents have gone unclaimed for five years as of June 30, 2005, they must be reported before November 1, 2005. The box contents are *not* sent with the report. DOR will notify the credit union of when and how the box contents must be delivered.

In some cases, DOR will reject safe deposit box contents. If DOR rejects the contents, the credit union may dispose of them as it chooses. Within five years after delivery to DOR, the agency sells safe deposit box contents at auction. After the auction, credit unions may claim auction proceeds as reimbursement for drilling fees and rental charges. The following example is for the 2005 reporting period:

- If a credit union member rented a safe deposit box, and the lease expired December 31, 1999, the five-year abandonment period ended December 31, 2004. Because this is prior to the June 30, 2005 deadline, the box contents must be reported to DOR before November 1, 2005. DOR would sell the contents by 2010. If the auction proceeds were \$150.00, and the credit union reported unpaid rent and delinquent fees of \$200, the credit union could claim the \$150 sale proceeds as reimbursement for its unpaid fees.

Note: If unclaimed property is not reported or delivered by the date required by law, credit unions may be charged interest. Interest is calculated from the date the property should have been reported to DOR to the date DOR actually received the property.

DO CREDIT UNIONS HAVE TO REPORT THE PROPERTY OF OUT-OF-STATE OWNERS OR OWNERS WITHOUT ADDRESSES?

All credit unions, regardless of their location, must report to DOR any unclaimed property they hold that belongs to someone with a last known address in Washington. Credit unions incorporated or domiciled in Washington must also report property of unknown owners, items with no owner address, and property of owners with foreign last known addresses. Washington domiciled credit unions may report out-of-state abandoned property to DOR, but they must follow the other state's abandonment periods. However, some states may require credit unions to report property directly to them.

DO CREDIT UNIONS HAVE TO PAY INTEREST ON INACTIVE ACCOUNTS BEFORE THEY BECOME ABANDONED?

Credit unions must pay interest on interest-bearing accounts until the property is sent to the state, unless the contract with the account-holder permits the credit union to stop paying interest. Once the monies in an interest-bearing account are sent to DOR, the state pays interest on the funds for up to ten years, at the same rate reported by the credit union.

DO CREDIT UNIONS HAVE TO NOTIFY PROPERTY OWNERS BEFORE REPORTING ABANDONED PROPERTY TO THE STATE?

For items \$75 or greater, written notices must be sent to owners between May 1 and August 1 for property that is reportable to DOR before November 1 of that year. The credit union only needs to send notices to owners who appear to have valid addresses. The notice should inform the owner that, if not claimed, the property will be reported to the state by a certain date. (See the sample letter in the *Notification of Owners Guide* on the DOR Unclaimed Property website. Links to this guide are at the end of this bulletin.)

WHEN CAN CREDIT UNIONS CHARGE INACTIVITY FEES AND STOP PAYING INTEREST ON ACCOUNTS?

DOR's position on charging inactivity fees is, they are generally not in the best interest of the missing owner. Customers impacted by these fees are usually unaware of them and cannot complain or move their funds. Incorrectly charged inactivity fees or ceased interest will be considered unclaimed property if discovered during a DOR audit.

Before charging inactivity fees or ceasing interest on an account, the credit union must fulfill three requirements:

First, there must be an enforceable written contract with clear terms allowing inactivity charges or ceasing of interest. The contract should clearly define what inactivity is, and when the charge will begin or interest will cease. The contract must be accessible to members. If the credit union changes its inactivity terms, it must send a notice of those changes to all account holders at their last known addresses.

Second, for accounts over \$10, the credit union must send written notice to the owner, at his or her last known address, no more than three months before the first inactivity charge or cessation of interest. The notice must state the amount of the fee or that interest will cease.

Third, the credit union must regularly impose such charges or cease interest payments, and it must not regularly reverse or cancel them or retroactively credit interest on accounts.

FOR MORE INFORMATION

The DOR Unclaimed Property Section publishes a number of guides, which can be found on their website, with more detailed information to help you follow Unclaimed Property Act rules. You may find the following guides particularly useful:

General Information Guide: <http://dor.wa.gov/docs/pubs/ucp/generalo.pdf>

Financial Institutions Guide: <http://dor.wa.gov/docs/pubs/ucp/FinInstut.pdf>

Notification of Owners Guide: <http://dor.wa.gov/docs/pubs/ucp/NotofOwn.pdf>

Unclaimed Property Reporting Booklet: <http://dor.wa.gov/docs/pubs/ucp/ucpreport.pdf>

Audits, Internal Control, and Recordkeeping Guide:

<http://dor.wa.gov/docs/pubs/ucp/RRetaud.pdf>

Unclaimed Property Review for Financial Institutions: May be requested by calling Nancy Savage at the number listed below.

DOR also has representatives who will come to your credit union and answer questions about unclaimed property reporting at no charge. Consultations can help credit unions avoid mistakes and reduce the chance of being selected for an audit. To schedule a consultation, send an email to ucp@dor.wa.gov, or call 1-800-435-2429 (in Washington) or (360) 705-6706. If you have any other questions, please call Nancy Savage of DOR at (360) 570-3254.