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## **Unclaimed Property Relating to Insurance Companies**

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The following information corresponds to Article VII and Section 1316 of New York's Abandoned Property Law. For more information, refer to Article VII and Section 1316 of the statute.

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### **Unclaimed Property**

Unclaimed property subject to Article VII of the Abandoned Property Law includes:

- Matured endowments
- Life insurance proceeds when the insured reached the limiting age
- Death benefits
- Policy dividends, distributions, and refunds
- Annuity payments

Section 1316 provides statutory coverage for all types of insurance proceeds other than life, including but not limited to amounts on:

- Health insurance
- Property/Casualty Insurance (Fire, Home, Liability, etc.)

An unclaimed deposit made in anticipation of issuance of a policy, which is subsequently not issued, is also subject to Article VII and Section 1316.

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## **Important Dates - Unclaimed Property Relating to Insurance Companies**

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### **December 31**

Cut-off Date for Limiting Age Contracts (Superannuated Policies)

### **January 1**

Cut-off Date for All Other Policies

### **May 1**

Publication Notice Due Date

### **May 10**

Proof of Publication Due Date

### **June 10**

First Class Mailing Completed

### **July 10**

Certified Mailing Completed

### **September 10**

Final Report and Remittance Due Date

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## **Applicable Property Types - Unclaimed Property Relating to Insurance Companies**

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All dormancy periods are as noted.

- 5D** Refunds due by insurance companies (three-year dormancy)
- 6A** Limiting age (superannuated) contracts (no dormancy)
- 6B** Matured endowments (three-year dormancy)
- 6C** Death claims (three-year dormancy)
- 6D** Amounts due under policies of insurance other than life (three-year dormancy)
- 6E** Refunds and other amounts due under policy terms (three-year dormancy)
- 6F** Annuities (three-year dormancy)
- 6G** Retained Asset Accounts, Benefits Access Accounts or similar distribution accounts (three-years dormancy)
- 8X** Late filing interest

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## **Statutory Considerations in Addition to Article VII and Section 1316 - Unclaimed Property Relating to Insurance Companies**

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### **Article V and Section 1315 of New York's Abandoned Property Law**

In addition to Article VII and Section 1316, insurance companies are subject to the statutory requirements of Article V and Section 1315 of New York's Abandoned Property Law, this means that a separate Abandoned Property Report is required to be filed on or before March 10. For more information, refer to Article V and Section 1315 of the statute and to OUF's General Corporations document.

### **Section 3214 of New York's Insurance Law**

Amounts reportable as abandoned property pursuant to Section 700.1(a) (matured endowments) and Section 700.1(c) (proceeds of death claims) include statutory interest payable on matured endowments and death claims as provided in Section 3214 of New York's Insurance Law. Interest pursuant to Section 3214 is to be credited from the date of maturity of an endowment contract, or from the date of death of the insured, until the date that the proceeds of such matured endowment or death claims are deemed abandoned and must be reported as abandoned property together with the principal amounts.

### **Holders Not Authorized to Conduct Business in New York State**

Section 1312 of New York's Abandoned Property Law extends statutory coverage to any insurance company that:

- Is chartered or organized in another state and not authorized to do business in New York
- Holds unclaimed property payable to a person whose last known address is within New York

Such reporting organizations are subject to the same statutory reporting requirements as organizations doing business in New York. However, the publication requirement does not apply.

### **Section 1422 of New York's Abandoned Property Law**

Section 1422 of the APL requires that, at least 90 days prior to your final report, a first class mailing be made to each person whose name is expected to appear on the report unless the address is unknown or the holder can demonstrate that the address it has for the owner is not the owner's current address. In addition, at least sixty days prior to your final report, a certified mailing, return receipt requested, must be made to each person whose name is expected to appear on the report whose abandoned property is valued in excess of \$1000.00

unless a claim has been initiated since the first class mailing was sent, or the first class mailing was returned as undeliverable.

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## **Schedule of Events for Article VII and Section 1316 - Unclaimed Property Relating to Insurance Companies**

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### **December 31 and January 1**

For reporting purposes, an insurance company's year runs from January 1 through December 31 for superannuated policies and January 2 through January 1 for all other policies. December 31 is the cut-off date for superannuated policies, and January 1 is the cut-off date for all other policies. Use these parameters when identifying abandoned insurance accounts/items.

### **January 2 through May 1st**

During this period:

- Review your records and collect data relative to any account/item that may be dormant and subject to reporting.

If you have an account/item subject to reporting:

- Compile the data in one of our reporting formats, so that you may submit it as your final report. If you do not have any items subject to reporting, no further action is required.

### **May 1**

By this date:

- Publish all items that have NOT been reactivated.

### **May 10**

By this date:

- File proof of publication, including an invoice, a copy of the advertisement, and an affidavit.

### **May 11 through August 31**

During this period:

- Annotate publication charges.
- Complete report removals based on contact with owners.

### **June 10**

By this date:

Send a first class mailing to each person or entity whose name appears on your report of abandoned property and request a signed written statement that acknowledges the property's existence. This requirement does not apply to those accounts that meet the exclusionary provisions of Section 1422.

Reactivate all owners who respond to the mailing. Their property will no longer be dormant, and you should remove them from reporting consideration.

### **July 10**

By this date:

If an owner hasn't responded to the first class mailing, or if the first class mailing was not returned as undeliverable, and the value of all unclaimed property held for the owner exceeds \$1000, you are required to send a second notification via certified mail, return receipt requested.

You may charge the cost of the certified mailing against the property's value.

Reactivate all owners who respond to the mailing. Their property will no longer be dormant, and you should remove them from reporting consideration. Please note that we consider a return receipt to be customer contact if the receipt bears the signature of the account owner. Therefore you should verify return receipt signatures against the other signature records you may have for an account owner.

### **September 1 through September 10**

During this period:

- Finalize the report.
- Arrange for payment.
- Submit the report, payment, and a Verification and Checklist. We need to receive them by the close of business on September 10.

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## **Important Issues - Unclaimed Property Relating to Insurance Companies**

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### **Beneficiary Information**

With respect to insurance/annuity proceeds payable upon the death of the insured, the report should include identifying information for both the insured and the beneficiary.

### **Drafts**

Section 1316 does not apply to amounts that the insurance company can prove are offers, unaccepted by payee (the obligation is not liquidated), to settle a claim prior to establishment of liability under the terms of its policies. The issue of "drafts" is complex, and you should consult our legal staff.

### **Group Insurance Policies**

Article VII and Section 1316 apply to unclaimed amounts on group plans established as employee benefits. Such amounts are not subject to the preemption provision of the Employee Retirement Income Security Act (ERISA).

### **Insurers Not Doing Business in New York State**

Article VII and Section 1316 apply to all insurance companies, including insurers not doing business in New York but holding unclaimed amounts due to a New York resident. Reinsurers are subject to the same requirements as insurers.

### **IRA and Keogh Accounts**

If you cannot contact the account's owner, the law requires you to report an individual retirement account (IRA) or Keogh account in the cut-off year in which the account's owner reached age 70 ½. If you cannot reasonably obtain the owner's date of birth, presume the owner was twenty-one on the account's opening date.

In reporting, use the property type that reflects the nature of the account. For example, use 6F if the proceeds represent an annuity distribution. In the date field, enter the date on which the owner reached age 70 ½. In the Description of Security field, enter IRA. This clarifies that you are not reporting the account prematurely.

### **Pension Payments**

Article VII and Section 1316 do not apply to pension payments. Such payments are reportable by the corporation, which offers the pension plan under the definition of wages.

### **Reporting Residency Requirements**

Article VII and Section 1316 require reporting amounts owed to New York residents. If you cannot determine the address of the person apparently entitled to proceeds under Article VII or if you are uncertain which person is entitled to the funds, presume that the last known address of the entitled person is the same as the last known address of the insured according to the insurance company's records. Furthermore, Article VII requires that insurers organized under New York laws report amounts held for unknowns. Under the provisions of Section 1316, amounts held by an insurance company incorporated in New York for individuals whose last known address is unknown are reportable to New York, as well.

### **Retained Asset Accounts**

Many insurance companies provide for payment distributions on life insurance policies in the form of a Retained Asset Account (RAA) option. It is the position of this Office that the RAA's represent an insurance distribution. A three year dormancy period applies from the date of distribution or written contact with the beneficiary/recipient, whichever is later. Property type 6G was established for RAAs to differentiate them from other types of policy distributions. If your organization is holding any dormant RAA's and has not reported them in previous years, contact us to file a voluntary compliance report. If your company has already been reporting these accounts to New York, they should now be reported separately using property type 6G.

### **Roth IRA**

We recognize that while the Roth IRA is not subject to the mandatory distribution rules during the original owner's lifetime, confusion may exist among both the public and the holder community as to the treatment of this product with respect to the Abandoned Property Law. Accordingly, for the purpose of consistency, OUF has as a matter of policy determined not to penalize reporting organizations for treating the Roth IRA in the same manner as the traditional IRA and reporting them in the year the owner reaches the age of 70 ½.

### **Two-Party Checks**

Proceeds of "insurance other than life," payable to the insured and another person, who is not insured under the policy, are also abandoned property.

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## **Due Diligence - Unclaimed Property Relating to Insurance Companies**

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Insurers are required to conduct due diligence in the form of mailings and publication. The associated costs for completing publication and certified mailing due diligence may be charged individually to the abandoned accounts involved in the due diligence effort, while the costs for completing the first class mailing requirement cannot be offset. You may not take a bulk deduction against the report's total value. A positive customer response to any due diligence attempt negates the need for further due diligence actions on an account.

You should exercise due caution in attempting to contact entitled owners who reside in politically sensitive countries. Also, please note that certified mailing requirements do not apply to residents of foreign countries. Address any questions pertaining to this subject to our Director of Audits.

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## **Publication - Insurance Companies**

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The law requires Insurance Companies to:

- Publish a notice of unclaimed property that consists of the names and last known addresses, sorted alphabetically by last name, of all persons appearing to be entitled to abandoned property amounting to fifty dollars or more. The notice shall state that:

A report of unclaimed amounts of money or other property has been made to the State Comptroller and that a listing of names of persons appearing to be entitled is on file and open to public inspection at (insurance company name).

Such held amounts of money or other property will be paid or delivered to proven entitled parties by (insurance company name) through August 31.

On or before September 10, any remaining unclaimed monies or other properties will be paid or delivered to the State Comptroller.

- Publish the notice by May 1st.
- Publish the notice in the county in which the last known address of the policyholder is located or the adjacent county if no newspaper is published in such county.
- Publish the notice in a newspaper printed in English and any other newspaper that will substantially serve to inform the public of such abandoned property.
- File proof by affidavit of publication with the State Comptroller on or before May 10.

As primary publications should be in English, the cost of subsequent publications is not deductible.

### **Items to Disqualify**

When determining what items to publish, disqualify any item for which one of the following is true:

- The item is less than \$50.
- You don't know the address or it is in a foreign country.
- There are special circumstances the holder feels make it desirable to withhold the name and address from publication, as in the case of well-known entities and individuals (IRS, GM, celebrities, etc.).

After applying the above criteria, disqualify all items if:

- They are payable within a New York City county (New York, Kings, Queens, Richmond, or Bronx) and the sum of the account value of all items to be advertised in the county is less than \$10,000.00.

- They are payable in a county outside of New York City and the sum of the account value of all items to be advertised in the county is less than \$2,500.00.

You should publish any items remaining after disqualifications. Remember that you should only list an individual's name once.

### **Allocation of Publication Costs**

Allocations of publication costs are on a pro rata basis. Use one of the following two methods to determine the cost that can be allocated to each item published.

#### ***Percentage Method***

With the percentage method, you divide the amount of the item you are publishing by the total amount of the items you are publishing by county and multiply the quotient by the total advertising expense.

For example: You are publishing a \$100.00 item along with other items (in the same county). The total for all items is \$10,000.00, and the total advertising expense for this county is estimated at \$50.00.

$$\frac{\$100.00}{\$10,000.00} \quad \text{or} \quad .010 \times \$50.00 = \$.50$$

#### ***Cost Per Dollar Method***

With the cost per dollar method, you divide the estimated total advertising expense for a particular county by the total amount of the items to be published in that county. The resulting percentage is then multiplied by the face value of the item being advertised to determine the amount of advertising charges to be applied to that item.

Using the example above, the calculation is:

$$\frac{\$50.00}{\$10,000.00} \quad \text{or} \quad .005 \times \$100.00 = \$.50$$

For the example above, regardless of the method applied, the publication cost you could deduct is \$.50.

You may not make a bulk deduction for publication against the total value of the report.

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## **Mailing Requirements**

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### **First Class and Certified Mailings**

The law requires that all organizations do the following:

- At least 90 days prior to their final report/remittance date, send a first class mailing to each owner whose name is expected to appear on that report unless;
  - The owner address is unknown, or
  - The holder can demonstrate that the address it maintains for the property owner is not the property owner's current address

And

- At least 60 days prior to their final report/remittance date, send a certified mailing, return receipt requested, to each owner whose name is expected to appear on that report with abandoned property valued in excess of \$1000.00 unless;
  - A claim has been initiated since the first class mailing was sent, or
  - The first class mailing was returned as undeliverable.

### **Multiple Owners**

For cases in which multiple owners of an item have different addresses, you must send a letter to each owner. You may deduct the additional costs of mailing a certified notice to more than one address.

### **Multiple Items**

Where feasible, if you are reporting more than one item for the same customer, one letter should address all of the items you are reporting.

### **Costs**

You may deduct the mailing costs for certified mail. Deduct such charges from each item for which you are mailing the notice. You may not make a bulk deduction against the final remittance.

### **Mailing Requirements – Dividend Reinvestment Accounts**

Article V requires you to send notification to the apparent owners of securities that are enrolled in reinvestment plans. This notification, which is to be sent via certified mail return receipt requested, should advise owners that in the absence of establishing written communication with the holder their securities will be delivered to the State Comptroller as abandoned property. A return receipt signed by the owner of the property is to be considered contact.

Additionally, Article V stipulates that owners of unclaimed wages be notified at the last known address of record via first class mail.

In either of the above cases the notifications must be sent in the calendar year prior to the year in which you are required to deliver the property to the State Comptroller. You may not deduct the cost of sending notifications from the value of the abandoned property.

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## **Remittance**

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Refer to the industry-specific document that applies to your business for information regarding appropriate remittances. Note – electronic funds transfer is available to remit payment. Contact the Reports Processing Unit at [nysrpu@osc.ny.gov](mailto:nysrpu@osc.ny.gov) for account and routing number information.

With each final report of abandoned property, you should include the applicable remittance payable to the Comptroller of the State of New York. You should mail it to the following address:

New York State Office of the State Comptroller  
Office of Unclaimed Funds  
Remittance Control, 2nd floor  
110 State Street  
Albany, New York 12236

In accordance with OUF's internal control procedures, you should send all payments to the above address. At no time should you send any remittances to our New York City office.

### **Electronic Funds Transfer**

E-cash is now a viable method to make payment of the amount due for your report of abandoned property. Please contact our Communication Center or our Reports Processing Unit for further instruction and for account and routing number information.

# Report Samples - Unclaimed Property Relating to Insurance Companies

## Multiple Entitlement Account

This sample shows the proper handling of an item subject to multiple entitlements, regardless of property type. This example is specific to the proper reporting of an insurance policy listing both an insured and a beneficiary. There is a separate record for each owner, but the Account Title, as it appears on the reporting organization's records, is the same for all owners. Note that the Property ID and the Date are the same on both records, and that the Initial and Escheated Amount fields are only completed on the first record.

Owner Last Name Childs		First Name Dorothy	M.I. M	Suffix	Account Title Dorothy M. Childs (Insured) John J Childs (Beneficiary)			
Owner Address .Street 1 .17.River.Road			Owner Address .Street 2		Owner City Riverview	State NY	Zip 12182	Country if not USA
Soc. Sec. No./Empl. ID No. 123456789	Property Type 6B	Prop ID # 106241	Date (MMDDYY) 031098	Initial Amount 419.62	Escheated Amount 416.15	Removal Indicator (if applicable enter P or R) Owner Claimed <input type="checkbox"/> Otherwise Reduced to Zero <input type="checkbox"/>		Multiple Owners Yes <input checked="" type="checkbox"/>
Description of Security			CUSIP Number of Security		No. of Shares or Denomination		Method of Transfer	

Owner Last Name Childs		First Name John	M.I. J	Suffix	Account Title Dorothy M. Childs (Insured) John J Childs (Beneficiary)			
Owner Address .Street 1 .17.River.Road			Owner Address .Street 2		Owner City Riverview	State NY	Zip 12182	Country if not USA
Soc. Sec. No./Empl. ID No.	Property Type 6B	Prop ID # 106241	Date (MMDDYY) 031098	Initial Amount	Escheated Amount	Removal Indicator (if applicable enter P or R) Owner Claimed <input type="checkbox"/> Otherwise Reduced to Zero <input type="checkbox"/>		Multiple Owners Yes <input checked="" type="checkbox"/>
Description of Security			CUSIP Number of Security		No. of Shares or Denomination		Method of Transfer	

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## Publication Samples - Unclaimed Property Relating to Insurance Companies

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### **NOTICE OF NAMES OF PERSONS APPEARING AS OWNERS OF CERTAIN UNCLAIMED PROPERTY HELD BY name of insurance company.**

The following persons appear from our records to be entitled to unclaimed property consisting of cash amounts of fifty dollars or more:

Hill, Joseph  
5897 Truman Blvd., Troy, NY 12180

Hoffman, Ada E.  
Rte. 20, Albany, NY 12212

Richmond Savings Bank  
257-03 Hillside Avenue, Albany, NY 12211

Simpson, Robert  
1138 Clinton St., Schenectady, NY 12301

Walsh, David  
714 Washington Ave, Albany, NY 12205

A report of Unclaimed Property will be made to the Comptroller of the State of New York, pursuant to Article VII and/or Section 1316 of the Abandoned Property Law. A list of the names contained in such notice is on file and open to public inspection at the principal office of the insurance company, located at address of insurance company, where such abandoned property is payable. Such abandoned property will be paid on or before August 31 next to persons establishing to its satisfaction their right to receive the same. In the succeeding September, and on or before the tenth day thereof, such unclaimed property will be paid to the Comptroller of the State of New York, and shall thereupon cease to be liable therefore.