

## UNCLAIMED PROPERTY

### STATUTORY PROVISION

Title 12, Delaware Code, Chapter 11.

### COLLECTION/ADMINISTRATIVE AGENCY

The Department of Finance, Division of Revenue, Bureau of Unclaimed Property administers and collects unclaimed property.

### GENERAL LIABILITY

Entities required to report:

**Financial Institutions** - Including any bank, bank and trust company, trust company, savings bank, private bank, credit union, building and loan, and savings and loan association, must report. Both state and federally chartered institutions are required to report. (12 Del Code, Chapter 11, Section 1130)

**Life Insurance Company** - Includes all moneys held and owing by any life insurance company doing business in this state which shall have remained unclaimed and unpaid for five (5) years or more. (12 Del Code, Chapter 11, Section 1181)

**Corporation and other business entities** - Include a post office, a depository, a bailee, a trustee, a receiver or other liquidating officer, a fiduciary, a governmental department, institution or agency, a municipal corporation and the fiscal officers thereof, a public utility, service corporation and every other legal entity incorporated or created under the laws of this state or doing business in this state. (12 Del Code, Chapter 11, Section 1198,(6))

**Financial Intermediaries** - Are required to report and remit distributions for unknown owners on March 1 of each year. Distributions held by financial intermediaries for unknown owners are defined as "Dividends, interest, stock and other distributions made by issuers of securities which are held by financial intermediaries (including, by the way of example and not limitation, banks, transfer agents, brokers, and other depositories) for the beneficial owners whose identities are unknown."

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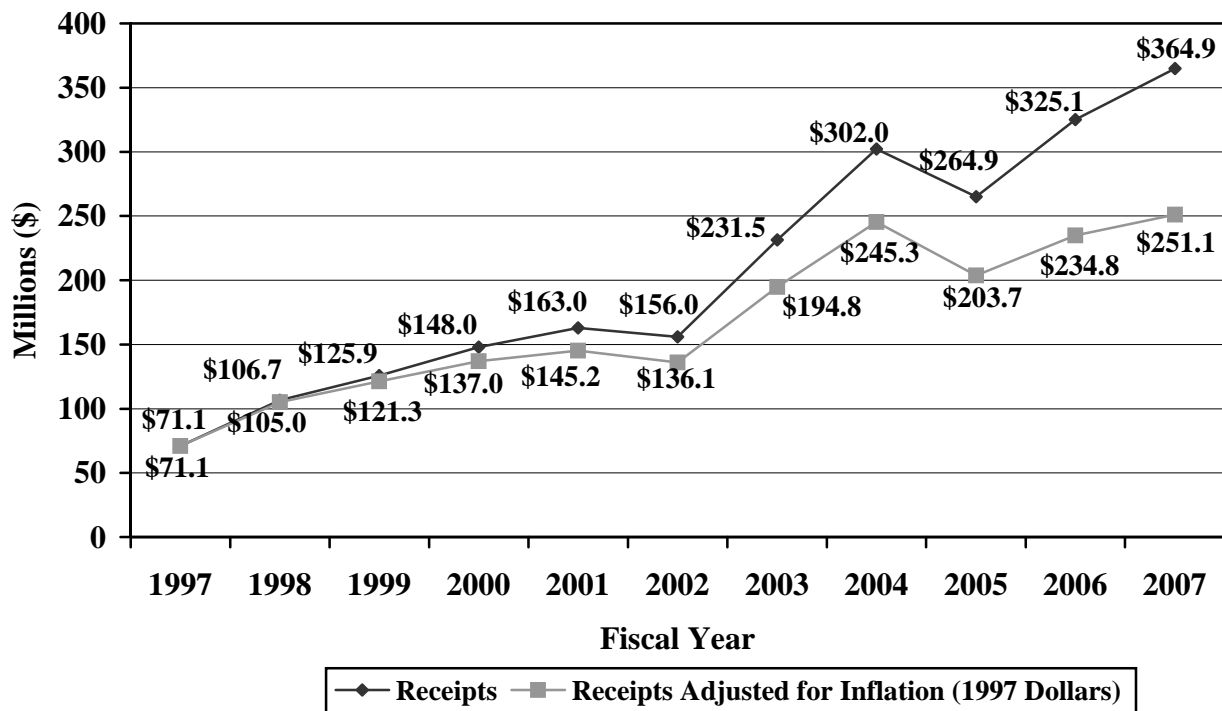
### REPORTABLE ITEMS

Any debt or obligation which has gone unclaimed or undelivered or security that has remained undelivered for five (5) or more years after the date the owner should have received it or was entitled to claim it must be reported. All property that has gone unclaimed for five (5) or more years as of the preceding December 31, for all holders except Financial Institutions. Financial Institutions include all property that has gone unclaimed for five (5) years or more as of the preceding June 30. Holders also must report and deliver all underlying share certificates where the owner for five (5) years has failed to cash a dividend or correspond in writing regarding the property.

Unclaimed property is reported to the State of Delaware pursuant to the U.S. Supreme Court case Texas v New Jersey, 379 U.S. 674 (65). On March 30, 1993, the United State Supreme Court ruled in the case of Delaware v New York, 113 s.ct. 1550 (93) that the primary and backup rules set forth in Texas v New Jersey still stand and remain unchanged. Pursuant to Texas v New Jersey, unclaimed property will be reported to the state of the lost owner's last known address. If the owner's address is unknown or is in a foreign country, the unclaimed property is reported to the state of incorporation of the holder of the unclaimed property. For those lost owners with a last known address that is in a state which does not have an applicable statute for the type of property being reported, the unclaimed property is reported to the state of incorporation of the holder.

### REVENUE RECEIPTS

#### Unclaimed Property - Escheat



## UNCLAIMED PROPERTY

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
4/17/39	4/17/39	Administration and Enforcement of Escheat's Law vested in the State Tax Department and the State Tax Commissioner shall be the State Escheator (42 Del. Laws c 57).
8/2/55	8/2/55	Major update of entire escheats code. General provisions established Abandoned Property Fund for payment of claims, annual report by escheator to the State Treasurer. Established publication requirements by State Escheator, sale of property, assumption of liability by the State and return of erroneously paid property, claims procedures, non payment of interest by State Escheator, verification of reports, penalties.  Established reporting, payment and publication requirements for Banking Organizations, Court of Chancery, and unclaimed property held by the State Bank Commissioner after receivership (50 Del. Laws c 507).
7/23/70	7/23/70	Vested administration and enforcement of Escheat's Law in the Department of Finance. Established the Secretary of Finance as the State Escheator (57 Del. Laws c. 741).
4/12/73	4/12/73	Established a provision for the sale of all abandoned property other than money within 15 months after delivery to the State Escheator (59 Del. Laws c 16; HB 99).
7/21/76	1/1/77	Repealed the Abandoned Property Fund and established that all escheated funds be deposited directly into the General Fund and that all claims to be paid from the General Fund. Repealed provision for the annual report by the State Escheator to the State Treasurer. Increased penalties for failure to report or make payment by banking organizations (60 Del. Laws c 598; HB 1031).
7/4/85	7/4/85	Dormancy period reduced from 25 years to 7 years for property held by banking organizations (65 Del. Laws c 140; HB 255).
6/28/88	6/28/88	Dormancy period reduced from 7 years to 5 years for property held by banking organizations, life insurance companies, and corporate holders. Reporting due dates changed from June 30 and September 30 to March 1 and May 31 for corporate holders (66 Del. Laws c 379; HB 686).

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<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
6/25/90	6/25/90	Amended general provision regarding sale of property from 15 months to "at the discretion of the State Escheator" (67 Del. Laws c 245; HB 580).
7/2/90	9/1/90	Amended all other abandoned property provisions to change the reporting requirements for gift certificates and added a provision addressing escheat of gift certificates (67 Del. Laws c 264; HB 731).
7/2/90	8/2/90	Definition of banking organization amended to include national banks and banks chartered in any state. Examination of records provisions amended to allow for the issuing of summons or to take testimony for persons holding abandoned property. Vested the examination of banking organizations to the State Bank Commissioner. Provided for the escheat of underlying shares (67 Del. Laws c 267; HB 751).
7/8/91	7/8/91	Amended State Escheators publication responsibilities. Reduced the dormancy period from 20 years to 5 years for unclaimed property being held by the Court of Chancery. Added a provision for the escheat of personal property held by the federal government. Revised penalty and added interest provisions for all types of holders. Repealed provision for private escheat of gift certificates and added a provision for private escheats in general (68 Del. Laws c 122; HB 346).
2/4/94	2/4/94	Added to the definition of all other abandoned property distributions held by financial intermediaries to be reported and remitted on March 1 (69 Del. Laws c 180; HB 370).
2/1/96	2/1/96	Changed the reporting requirements of credit unions from all other abandoned property to banking organizations. Eliminated provision for duplicate reports and the requirement of an annual report pertaining to the charge of a fee by the State Escheator regarding claims (70 Del. Laws c 298; HB 232).
7/14/98	7/14/98	Exemption of unclaimed capital credit payments held by rural electric cooperatives from the Escheats Law (71 Del. Laws c 448; HB 730).
6/14/99	1/1/94	Exempted from the escheats law gift certificates having a face value of \$5.00 or less (72 Del. Laws c 45; HB 54 w/ HA 1).
7/12/99	7/12/99	71 Del. Laws, c 448, exempted cooperative electric utilities from remitting unclaimed capital credits to the state as abandoned property beginning in 2003. This bill changed the effective date of the exemption to the year 2000 (72 Del.

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<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		Laws c 142; HB 178).
8/4/99	8/4/99	Earmarked \$10 million annually to the Transportation Trust Fund (72 Del. Laws c 249; SB 249).
7/22/02	7/22/02	Created a period of limitation and penalties for unclaimed property similar to those pertaining to tax requirements (73 Del. Laws c 417; SB 420).
4/27/05	4/27/05	Required payments when abandoned property reports are filed on March 1; Required holders to immediately report and pay over property that would ordinarily be payable to this State but may be paid elsewhere due to another jurisdiction's shorter dormancy or report period; And, provided that the State Escheator may, in certain circumstances, accept early custody of abandoned property (75 Del. Laws c 19; SB 25).
7/01/06	7/01/06	Increased annual earmark to the Transportation Trust Fund from \$10 million to \$24 million (75 Del. Laws c 350; SB 350).

### REPORTING AND PAYMENT DATES

HOLDER TYPE	PERIOD ENDING	REPORT DUE	REMITTANCE DUE
CORPORATIONS	12/31	3/1	3/1
FINANCIAL INSTITUTIONS	6/30	8/1	11/10
FINANCIAL INTERMEDIARIES	12/31	3/1	3/1
LIFE INSURANCE COMPANIES	12/31	5/1	12/20
COURTS	12/31	4/10	4/10

## **STATUTORY PROVISION**

Title 19, Delaware Code, Chapter 33.

## **COLLECTION/ADMINISTRATIVE AGENCY**

The tax is administered by the Department of Labor, Division of Unemployment Insurance.

## **GENERAL LIABILITY**

All employers are liable for unemployment insurance tax with respect to any calendar year if they (a) pay wages of \$1,500 or more during any calendar quarter in that year or (b) employ at least one person on 20 days during such calendar year, each day being in a different week. Agricultural employers are liable with respect to any calendar year if they pay \$20,000 or more in any calendar quarter or employ 10 or more persons on each of 20 days, each being in a different week. Employers of domestic or household workers are liable with respect to any calendar year if the employer pays cash remuneration of \$1,000 or more in any calendar quarter of that year. Government entities and non-profit organizations are not liable under the Federal Unemployment Tax Act (FUTA), but are covered by State law and may pay assessments (taxes) or elect to reimburse the Unemployment Insurance Trust Fund for all benefits paid to their former employees on a dollar for dollar basis.

## **TAX RATES**

For experience-rated employers, the State's basic unemployment insurance rate ranges from 0.1% to 8.0% depending on the employer's benefit wage ratio and the State's experience factor. In addition, all assessed employers are charged a supplemental assessment of 0.2%. The effective assessment rate equals the basic rate plus (+) the supplemental assessment rate.<sup>4</sup> The minimum effective assessment rate is 0.3% and the maximum effective assessment rate is 8.2%.

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<sup>4</sup> Beginning January 1, 2004, the supplemental assessment rate was set at 0.2% and no longer varies as a result of changes in the Unemployment Insurance Trust Fund balance.