

## 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."

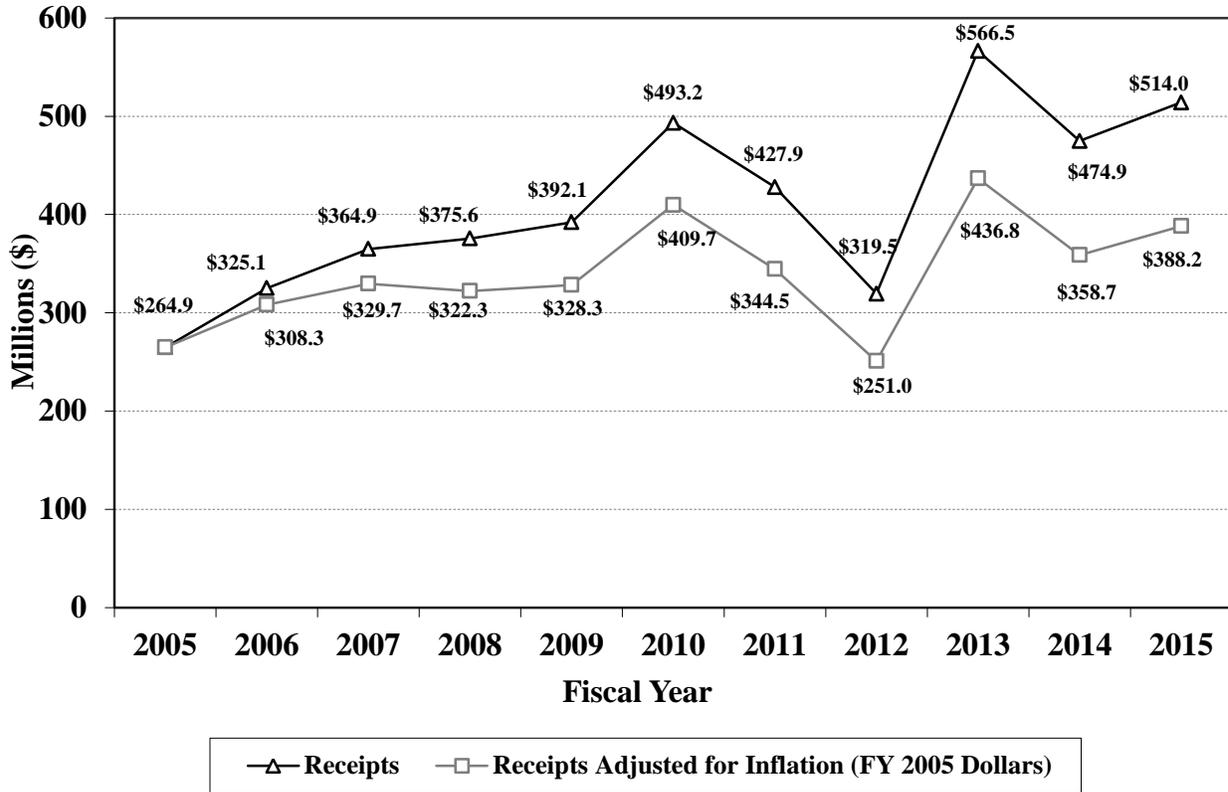
**REPORTABLE ITEMS:** Any debt or obligation which has gone unclaimed or undelivered or security that has remained undelivered for five (5) or more years after the date the owner should have received it or was entitled to claim it must be reported. All property that has gone unclaimed for five (5) or 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. As of June 30, 2008, the dormancy period for investment type properties is three (3) years.

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.

## UNCLAIMED PROPERTY

### RECEIPTS

### Unclaimed Property - Escheat



### LEGISLATIVE HISTORY

Approved Date	Effective Date	Description of Changes
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).

## UNCLAIMED PROPERTY

Approved Date	Effective Date	<u>Description of Changes</u>
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).
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 Escheator's 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. 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).

## UNCLAIMED PROPERTY

Approved Date	Effective Date	<u>Description of Changes</u>
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).
4/16/08	4/16/08	Suspended FY 2008 \$24 million earmark to the Transportation Trust Fund (76 Del. Laws c 205; HB 357).
6/30/08	6/30/08	Reduced from five (5) to three (3) years the period of dormancy for investment type properties (76 Del. Laws c 276; SB 334).
6/30/08	6/30/08	Mandated the escheat of monies due on unclaimed pari-mutuel tickets after a one year period of dormancy (76 Del. Laws c 277; SB 335).
7/1/08	7/1/08	Earmarked up to \$75 million in revenues in excess of \$390.4 million in collections for the K-12 School Construction Prioritization Fund. Suspended FY 2009 \$24 million earmark to the Transportation Trust Fund (76 Del. Laws c 288; HB 525, Sections 9 and 11).
7/1/09	7/1/09	Suspended FY 2010 \$24 million earmark to the Transportation Trust Fund & Earmarked up to \$10 million in excess of \$374 million for OPEB (77 Del. Laws c 87; SB 190, Section 5; & 77 Del. Laws c 86; HB 295, Section 31).
7/23/10	7/23/10	Provides for an administrative review process at the conclusion of an unclaimed property examination. Creates a limited exemption from the definition of property for abandoned property purposes that arises from transactions between merchants. Clarifies that the State may employ estimation techniques in certain circumstances in order to determine a holder's liability. Reduces the administrative burden of compliance. (77 Del. Laws c 417; SB 272).
7/1/10	7/1/10	Suspended FY 2011 \$24 million earmark to the Transportation Trust Fund & Earmarked up to \$70 million in excess of \$424 million as follows: \$10 mm for OPEB; \$10 mm for the TTF; \$10 mm for Debt Reduction; and \$40 mm for K-12 Construction Fund (77 Del. Laws c 329; HB 500, Section 11; & 77 Del. Laws c 328; SB 315, Section 31).
7/1/11	7/1/11	Increased from \$24 to \$40 million the annual earmark to the Transportation Trust Fund. Earmarked \$115 million to the Building Delaware's Future Now Fund (78 Del. Laws c 76; SB 130, Sections 15 & 39).
7/11/12	7/11/12	Holders not currently reporting any or all amounts or types of abandoned property or already engaged in claims an enforcement procedure with the State Escheator would be eligible to resolve claims via a voluntary disclosure agreement (VDA) with the Secretary of State. The "look-back" period covered by such VDAs is reduced. The Act sunsets on July 1, 2015. (78 Del. Laws c 317; SB 258).

## UNCLAIMED PROPERTY

Approved Date	Effective Date	<u>Description of Changes</u>
1/30/13	1/30/13	Expanded the program allowing holders of abandoned property to enter a voluntary disclosure agreement (VDA) with the Secretary of State. Holders that elected into a voluntary self-disclosure prior to June 30, 2013 now have until June 30, 2015 to enter a payment plan with the state. Clarified that a holder may enter into the new voluntary disclosure program with respect to any related property that was not included in an earlier voluntary self-disclosure. Clarified State Escheator's duties with respect to protecting confidential information. (79 Del. Laws c 2; HB 2).
7/1/13	7/1/13	Capped the annual contribution to the general fund from unclaimed property \$514 million. Funds above that amount will be deposited into a holding account entitled "Escheat-Special Fund." The Joint Legislative Committee on the Capital Improvement Program may allocate funds from the holding account to The K-12 Construction Fund, The Debt Reduction Fund, and The Other Post-Employment Benefits Fund. (79 Del. Laws c 29; SB 145).
6/30/14	6/30/14	Codified longstanding confidentiality practices of the Department of Finance and the Secretary of State regarding financial information obtained during examination of abandoned property holders. Also changed the penalty for failing to file an abandoned property report to the lesser of 5% per month or \$100 per day and the maximum penalty to \$5,000. Extended the Secretary of State voluntary disclosure agreement (VDA) submission deadline to September 30, 2014 and the VDA's sunset to July 1, 2016. (79 Del. Laws c 278; SB 228).
7/1/14	7/1/14	Suspended FY 15 \$40 million earmark to the Transportation Trust Fund. (79 Del. Laws c 229; HB 425, Section 15).
1/29/15	1/29/15	Limited single audit firm to no more than 50% of the total examinations undertaken after January 1 <sup>st</sup> , 2015. Prohibited senior supervisory, Department of Finance staff related to unclaimed property from accepting employment or compensation from examining firms for two years after leaving employment with the State. Bound the Secretary of Finance to accept the determination of an independent reviewer within the administrative appeal process unless a proper appeal to the Delaware Court of Chancery is made. Required the Secretary of Finance to provide a best practice manual for unclaimed property examinations and to update regulations accordingly. Limited examination contracts with the Department of Finance to a maximum of five years and required current contracts are negotiated down to this five year maximum. (80 Del. Laws c 2; SB 11 w SA 2).
7/1/15	7/1/15	Repealed the \$40 million earmark to the Transportation Trust Fund. Capped the annual contribution to the general fund from unclaimed property at \$554 million. (80 Del. Laws c 78; SB 160, Section 15).

## UNCLAIMED PROPERTY

Approved Effective  
Date Date

Description of Changes

7/22/15 7/22/15 Required new examinations focus on parties that have neglected to enter the Secretary of States VDA or whom have otherwise failed to comply with holder requirements of Title 12. Shortened Delaware's look-back period for new examinations to 1991 from enactment until December 31st, 2016. Instituted a rolling look-back period for new examinations after January 1st, 2017 for twenty-two years from the calendar year in which written notice of the examination is provided. Set the interest rate on unpaid abandoned property payments at 0.5% per month unless a reasonable cause for delay is proven. Capped total interest due at 25% of the unclaimed property payment due with the exception of penalties listed elsewhere (effective March 1, 2016). Extended a variety of deadlines and specified a variety of look-back periods for The Secretary of State's VDA Program. Barred Bad Actors and withdrawals from the Secretary of State's VDA from entering the Department of Finance's VDA program. Obligated Holders who have previously filed the past five years to designate a contact person for correspondence with the State and to update this contact information as necessary. (80 Del. Laws c 114; SB 141).

### REPORTING AND PAYMENT DATES

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