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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

OST 1-2024

CHAPTER 170
OREGON STATE TREASURY

FILED

01/22/2024 9:36 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Amending Unclaimed Property administrative rules to protect confidential information and implement statutory changes

EFFECTIVE DATE: 01/22/2024 THROUGH 07/19/2024

AGENCY APPROVED DATE: 01/18/2024

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NEED FOR THE RULE(S):

HB 2160 from the 2023 legislative session made certain changes to ORS 98 and 192.355 to enhance the Treasurer's ability to protect property rights, improve compliance and ensure certain data are protected from public disclosure to increase the public's confidence that claiming their property will not have unintended negative consequences. These law changes take effect January 1st, 2024. The rules are needed to provide timely guidance to those affected by the laws. In addition, the Treasurer has seen an increase in fraudulent claims and seeks immediate action to reduce the opportunity for fraudulent claims being filed. Lastly, the rules can be improved through greater clarity and alignment with other applicable rules.

JUSTIFICATION OF TEMPORARY FILING:

ORS 98 affects many different stakeholders across Oregon and the U.S. and can impact the financial interests of millions of current and former Oregonians. It is in the best interest of the public to provide immediate specific guidance regarding the changes to ORS 98 and 192.355 so claimants can claim their funds without fear of unintended personal consequences. It is in the best interest of the state that the Treasurer take immediate action to reduce the opportunity for fraudulent claims stemming from information purchased from the Treasurer.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

HB 2160 (2023): <https://olis.oregonlegislature.gov/liz/2023R1/Measures/Overview/HB2160>

RULES:

170-140-0020, 170-140-0115, 170-140-0140

AMEND: 170-140-0020

RULE SUMMARY: Adding provision about protecting certain unclaimed property details purchased by persons from the Treasurer and not disclosed on the Treasurer's website to reduce the opportunity for fraudulent claims.

CHANGES TO RULE:

170-140-0020

Finder's List of Unclaimed and Escheat Property

(1) Any Person may request a Finder's List of Unclaimed and Escheat Property.

(2) To complete the request, the Person must:

(a) Submit the request electronically through the Treasurer's Electronic Payment Gateway.

(b) Email the completed Finder's List Order Form to claims@ost.state.or.us; or

(c) Mail or deliver the completed the Finder's List Order Form to the following address:

Oregon's Unclaimed Property Program

Oregon State Treasury

~~775 Summer Street NE, Ste 100~~

867 Hawthorne Ave SE

Salem, OR 97301-~~1279~~5241

(3) The Person must pay the fee of not less \$150.00 prior to receiving the report. The report will not be released for 20 calendar days unless the request is by credit card, debit card, electronic check, money order, or cashier's check at the time the request is made.

(4) No Person who purchases a Finder's List of Unclaimed and Escheat Property from the Treasurer may publicly publish any detail from the lists that is not available on the Treasurer's unclaimed property website.

[You may order a Finder's List from Treasurer's website at <https://www.oregon.gov/treasury/electronic-payment-gateway/Pages/default.aspx>]

Statutory/Other Authority: ORS 98.050, ORS 178.050

Statutes/Other Implemented: ORS 98.050

AMEND: 170-140-0115

RULE SUMMARY: Adding public records exemptions based on statutory changes made during the 2023 legislative session (ORS 192.355), which take effect January 1st, 2024.

CHANGES TO RULE:

170-140-0115

Evidence Supporting a Claim

(1) Generally. The Claimant may submit documents or records to establish a legal entitlement to Property.

Documents or other records establishing entitlement include, but are not limited to:¶

(a) Copies of documents showing addresses, including but not limited to utility bills, tax records, or original correspondence addressed to the Owner at the address reported to the Director;¶

(b) Passbooks, statements of accounts, canceled checks, deposit slips;¶

(c) Copy of, or original stock certificate in the Owner's name, copy of prior dividend payment or statement, stock transmittal receipt, brokerage firm statement;¶

(d) Original insurance policies, premium or dividend statements;¶

(e) Original deposit slips or receipts;¶

(f) Original certified or photo-copies of court documents;¶

(g) Newspaper articles including marriage announcements, birth or obituary notices;¶

(h) Family or church records, baptismal certificates, or personal correspondence;¶

(i) Public or business records;¶

(j) Signature verification cards from financial institutions;¶

(k) Testimonial evidence, including properly notarized affidavits; or¶

(l) Any other forms of evidence sufficient to meet the burden of proof under the circumstances.¶

(2) Military Medals. If the Claim is for Military Medals, evidence to prove legal entitlement includes, but is not limited to:¶

(a) Military discharge documents;¶

(b) An award certificate of the Military Medal; or¶

(c) Proof of purchase.¶

(3) Successor. If the Claimant is a Successor, evidence to prove legal entitlement includes, but is not limited to:¶

(a) Certified copies of probate documents;¶

(b) Small estate affidavit;¶

(c) Final Decree of Distribution;¶

(d) A will;¶

(e) A death certificate; or¶

(f) Letters Testamentary.¶

(4) Property held for the benefit of a business under an assumed business name (Doing Business As). If the Claim is filed on behalf of an individual, but the Claim relates to Property held for the benefit under an assumed business name or "doing business as", evidence to prove legal entitlement includes, but is not limited to:¶

(a) Tax statements; or¶

(b) Business license.¶

(5) Records assembled, received, or used by the state in connection with a Claim are exempt from public disclosure per ORS 192.355(46), except to the extent that the Claimant consents to the information's disclosure.

Statutory/Other Authority: ORS 98.422, ORS 178.050

Statutes/Other Implemented: ORS 98.392

AMEND: 170-140-0140

RULE SUMMARY: Clarifying and aligning rule language with program practice and other applicable rules.

CHANGES TO RULE:

170-140-0140

Requesting a Contested Case Hearing

(1) A Claimant who disagrees with any proposed decision ~~of~~ issued by the Treasurer under OAR 170-140-0135 may ~~file a request for a~~ file a request for a contested case hearing. ¶

(2) The request must: ¶

(a) Be ~~filed~~ received within 60 days of the date of the Treasurer's decision; and ¶

(b) Be in writing; ¶

~~(c) Identify the issues of law or fact being contested; and ¶~~

~~(d) Provide a summary of the evidence asserted in the petition. ¶~~

(3) The Claimant must file the request for contested case hearing either by: ¶

(a) Emailing the request to claims@ost.state.or.us; or ¶

(b) Mailing or delivering the request to the following address: ¶

¶

Oregon's Unclaimed Property Program ¶

Oregon State Treasury ¶

~~775 Summer Street NE, Ste 100 ¶~~

867 Hawthorne Ave SE ¶

Salem, OR 97301-~~1279~~5241 ¶

(4) The Office of Administrative Hearings will conduct the contested case hearing as provided under OAR 137-003-0515 ~~and~~ O1 to 137-003-0520. ~~The Administrative Law Judge may only issue a Proposed and Final Order. ¶~~

~~(5) No new evidence may be submitted at the contested case hearing. If new evidence is discovered after the request is filed, the administrative law judge must remand the case to the Treasurer for further review~~ 700.

Statutory/Other Authority: ORS 98.422, ORS 178.050

Statutes/Other Implemented: ORS 98.402