



PERMANENT ADMINISTRATIVE ORDER

DSL 12-2019

CHAPTER 141
DEPARTMENT OF STATE LANDS

FILED

06/12/2019 5:32 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: In the Matter of recovering unclaimed Military Medals and US Savings Bonds.

EFFECTIVE DATE: 07/01/2019

AGENCY APPROVED DATE: 06/10/2019

CONTACT: Anne Friend
503-986-5245
anne.m.friend@state.or.us

775 Summer St. NE Ste 100
Salem, OR 97301

Filed By:
Anne Friend
Rules Coordinator

RULES:

141-030-0015, 141-030-0028, 141-040-0007, 141-040-0020, 141-040-0211, 141-040-0212, 141-045-0010, 141-045-0015, 141-045-0021, 141-045-0031, 141-045-0041, 141-045-0061, 141-045-0100, 141-045-0105, 141-045-0115, 141-045-0120, 141-045-0121, 141-045-0122, 141-045-0123, 141-045-0124, 141-045-0125, 141-045-0126, 141-045-0130, 141-045-0150, 141-045-0155, 141-045-0160, 141-045-0170, 141-045-0180, 141-045-0185

AMEND: 141-030-0015

RULE TITLE: Definitions

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Inserting definition relating to US Savings Bonds

RULE TEXT:

As used in this Division and Division 35 of these rules:

- (1) "Administration" means any proceeding relating to the estate of a decedent, whether the decedent died testate, intestate or partially intestate.
- (2) "Affiant" means the person or persons signing an affidavit for a small estate filed under ORS 114.515.
- (3) "Agent" means a person who is filing a petition to recover escheat property on behalf of a claimant.
- (4) "Assets" includes real, personal and intangible property.
- (5) "Claim" includes liabilities of a decedent, whether arising in contract, in tort or otherwise.
- (6) "Claimant" means a person or entity claiming to be the rightful owner and legally entitled to escheat property held by the Department.
- (7) "Claiming Successor" means:
 - (a) If the decedent died intestate, the heir or heirs of the decedent, or if there is no heir, the Director of the Department of State Lands;
 - (b) If the decedent died testate, the devisee or devisees of the decedent; and
 - (c) Any creditor of the estate entitled to payment or reimbursement from the estate under ORS 114.545(1)(c) who has not been paid or reimbursed the full amount owed such creditor within 60 days after the date of the decedent's death.
- (8) "Court" or "probate court" means the court in which jurisdiction of probate matters, causes and proceeding is vested as provided in ORS 111.075.

- (9) "Decedent" means a person who has died.
- (10) "Department" means the Department of State Lands.
- (11) "Devisee" includes "legatee" and "beneficiary".
- (12) "Director" means the Director of the Department of State Lands or the designee of the Director.
- (13) "Distributee" means a person entitled to any property of a decedent under the will of the decedent or under intestate succession.
- (14) "Escheat property" means property paid or delivered to the Department because the devisee or heir could not be found or refused to accept the property.
- (15) "Estate" means the real and personal property of a decedent as from time to time changed in form by sale, reinvestment or otherwise, and augmented by any accretions or additions thereto and substitutions therefore or diminished by any decreases and distributions therefrom.
- (16) "Estate Administrator" means an employee of the Department appointed by the Director to protect the assets of a decedent and administer the estate on behalf of the Department.
- (17) "Finder" means any person who independently searches for and finds the owners of escheat property for a fee paid by the owner.
- (18) "Funeral" includes burial, cremation or other disposition of the remains of a decedent, including the plot or tomb and other necessary incidents to the disposition of the remains.
- (19) "Heir" means any person, including the surviving spouse, who is entitled under intestate succession to the property of a decedent who died wholly or partially intestate.
- (20) "Interested person" includes heirs, devisees, children, spouses, creditors and any others having a property right or claim against the estate of a decedent that may be affected by the proceeding. It also includes fiduciaries representing interested persons.
- (21) "Intestate" means one who dies without leaving a valid will, or the circumstance of dying without leaving a valid will, effectively disposing of all the estate.
- (22) "Intestate succession" means succession to property of a decedent who dies intestate or partially intestate.
- (23) "Issue" includes adopted children and their issue and, when used to refer to persons who take by intestate succession, includes all lineal descendants, except those who are the lineal descendants of living lineal descendants.
- (24) "Known heir" means an heir who has been identified and found.
- (25) "Personal property" includes all property other than real property.
- (26) "Personal Representative" includes executor, administrator, administrator with will annexed and administrator de bonis non, but does not include special administrator.
- (27) "Property" means both real and personal property.
- (28) "Probate" means the court procedure that encompasses all matters and proceedings pertaining to administration of estates as described in ORS 111.085, including but not limited to appointment and qualification of personal representatives, determination of heirships, construction of wills, and the administration, settlement and distribution of estates of decedents. As to the estate of a decedent, "settlement" includes, the full process of administration, distribution and closing.
- (29) "Real property" means all legal and equitable interests in land, in fee and for life.
- (30) "U.S. Savings Bonds" means:
- (a) U.S. savings bonds, series A, B, C, D, E, F, G, H, J AND K, AND U.S. savings notes, governed by 31 C.F.R. 315;
 - (b) Definitive U.S. savings bonds, series EE and HH, governed by 31 C.F.R. 353; and
 - (c) Definitive U.S. savings bonds, series I, governed by 31 C.F.R. 360.
- (31) "Testate" means the circumstances of dying with a legal, valid will that effectively disposes of all the estate.
- (32) "Will" means the legal, valid, written document that disposes of the estate. "Will" includes a codicil or a testamentary instrument that merely appoints an executor or that merely revokes or revives another will.

STATUTORY/OTHER AUTHORITY: ORS 273.045, ORS 111 - 119

STATUTES/OTHER IMPLEMENTED: ORS 111 - 119

ADOPT: 141-030-0028

RULE TITLE: Petitions to Recover Escheated U.S. Savings Bonds

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Establish petition requirements to recover escheated US Savings Bonds.

RULE TEXT:

- (1) Pursuant to ORS 98, a claimant or agent may initiate a claim to recover escheated U.S. Savings Bonds by filing a petition with the Department.
- (2) A petition shall be considered filed upon its receipt by the Department.
- (3) The petition shall provide all information required under subsections (4) of this rule. The petition shall be verified and state the following:
 - (a) The name, age, and place of residence of the claimant by whom or on whose behalf the petition is filed.
 - (b) That the claimant is lawfully entitled to the U.S. Savings Bonds or the amount of the payment received by the state for the U. S. Savings Bonds.
 - (c) That at the time the bonds escheated to the state, the claimant had no knowledge of the escheat proceedings or was unable to prove entitlement to the U.S. Savings Bonds and has subsequently acquired new evidence of that entitlement.
 - (d) If the bond owner is deceased, that the claimant claims the U.S. Savings Bonds or the payments received for the U.S Savings Bonds as an heir or devisee, or as the personal representative of estate of an heir or devisee.
 - (e) If the petition is filed on behalf of the claimant, the identity and authority of the claimant's agent.
- (4) The petition to recover bond payments shall be supported by the following documents:
 - (a) Current photo identification of the claimant, or other satisfactory proof of identity.
 - (b) An acknowledged indemnification agreement signed by the claimant(s) and acceptable to the Department.
 - (c) If the petition is being filed by an agent for a claimant, a Power of Attorney or written, acknowledged authorization given by each claimant to the agent to act on behalf of the claimant. The original Power of Attorney or authorization shall be filed with the petition. A finder who is acting as an agent for a claimant shall be licensed and comply with the requirements of ORS 703.401 to 703.470. The finder shall forward a copy of the finder's current license issued by the Department of Public Safety Standards and Training with the initial Power of Attorney. Subsequent claims filed by a finder shall include the current license number on the Power of Attorney.
 - (d) If the bond owner is deceased and died intestate with no known heirs, certified copies of birth, death, and/or marriage certificates, that show the family relationships of the heirs to the decedent.
- (5) The burden is on the claimant to provide sufficient proof to establish the elements of the claim, and it is the claimant's responsibility to contact persons and to search out documents relating to the application.

STATUTORY/OTHER AUTHORITY: ORS 273.045, ORS 98.302-98.436

STATUTES/OTHER IMPLEMENTED: ORS 98

ADOPT: 141-040-0007

RULE TITLE: Safe Deposit Box Fees

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Adopt language to address the safe deposit box fee requirements.

RULE TEXT:

(1) If the claim is for safe deposit box contents received by the Department within the last five years, the claimant shall provide proof that the fees have been paid or waived. Proof may include, but is not limited to:

(a) Safe deposit box rental receipt; or

(b) A waiver of fees from the financial institution; or

(c) Testimonial evidence, including properly notarized affidavits, if (a) and/or (b) above is not available.

(2) If the Department received the contents more than five years from the Reporting Date, the proof of fees or waiver may not be required.

STATUTORY/OTHER AUTHORITY: ORS 98.302-98.436, ORS 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98.302-98.436

AMEND: 141-040-0020

RULE TITLE: Definitions

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Added definition for military medals and US Savings Bonds.

RULE TEXT:

- (1) "Agent" means a person who is filing a claim to recover unclaimed property on behalf of a claimant.
- (2) "Claimant" means a person or entity claiming to be the rightful owner, or a person claiming to be legally authorized to act on behalf of a person or entity claiming to be the rightful owner, and claiming to be legally entitled to unclaimed property held by the Department.
- (3) "Department" means the Department of State Lands.
- (4) "Entity" includes a domestic or foreign limited liability company, corporation, professional corporation, foreign corporation, domestic or foreign nonprofit corporation, domestic or foreign cooperative corporation, profit or nonprofit unincorporated association, business trust, domestic or foreign general or limited partnership, or trust.
- (5) "Escheat property" means property paid or delivered to the Department because the distributee, devisee, or heir could not be found, or refused to accept the property.
- (6) "Finder" means any person who independently searches for and finds the owners of unclaimed or escheat property for a fee paid by the owner.
- (7) "Finder's Report of Unclaimed or Escheat Property" means a report that lists the names of owners of unclaimed or escheat property in the custody of the Department, and may include additional information that would assist in finding the owners.
- (8) "Governmental Entity" means the federal government, the state, any agency or political subdivision of the state or federal government, or any unit of local government.
- (9) "Holder" means a person, wherever organized or domiciled, who is in possession of property belonging to another, a trustee or indebted to another on an obligation.
- (10) "Military Medal" means a medal or decoration awarded to a service member for military service.
- (11) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in case of other intangible property, or a person, or the person's legal representative, having a legal or equitable interest in property.
- (12) "Reporting Date" means the date the safe deposit box contents are received by the Department.
- (13) "Unclaimed Property" means any asset that is paid or delivered to the Department pursuant to ORS 98.352 because the owner cannot be found by the company or person holding the asset.

STATUTORY/OTHER AUTHORITY: 273.045, ORS 98.302 - 98.436

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-040-0211

RULE TITLE: Claim Format

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Increasing the claim amount for notarized signature.

RULE TEXT:

- (1) Pursuant to ORS 98.392, a person claiming interest in unclaimed property reported or remitted to the Department may file a claim for the property or proceeds from the sale of the property at any time.
- (2) A person shall file a claim with the Department on forms provided by the Department, or in a format acceptable by the Department.
- (3) A complete claim shall be considered filed upon its receipt by the Department.
- (4) In order to be complete, each claim shall include:
 - (a) The name and current photo identification or other satisfactory proof of identity of the claimant, such as a driver's license or passport;
 - (b) Current mailing address of the claimant and satisfactory documentation to prove current residence;
 - (c) A description of the claimant's interest in the property;
 - (d) Evidence of the claimant's Business Tax ID, or Federal Tax ID number for business or governmental entity claims;
 - (e) Evidence of ownership satisfactory to establish the validity of the claim; and
 - (f) An indemnification agreement in a form provided by or acceptable to the Department.
- (g) The signature of the claimant on the claim form or other document acceptable to the Department. If the amount of the claim is greater than \$2,500, the signature of the claimant must be notarized.
- (5) In addition to the information required under subsection (4) of this section, if the claimant is the original owner, a description of the nature of the property.
- (6) In addition to the information required under subsection (4) of this section, if the claimant is other than the original owner, a description of the relationship of the claimant to the original owner, and documentation of the basis on which both the original owner and the claimant have legal authority to claim the property. If the original owner of the unclaimed property is deceased and the claimant is an heir or devisee, then the claimant must describe the claimant's relationship to the deceased owner and include documentation that establishes that claimant is the heir or devisee of the original owner. If the owner is a minor or is incapacitated, then the claimant must provide proof of guardianship or conservatorship. Proof of guardianship or conservatorship must be no more than 60 days old at the time the claim is submitted.
- (7) In addition to the information required under subsection (4) of this section, if the claim is being filed by a finder:
 - (a) The claim shall include an original Power of Attorney or written notarized statement provided by each claimant to the finder authorizing the finder to act on behalf of the claimant.
 - (b) The finder shall be licensed and comply with the requirements of ORS 703.401 to 703.470. The finder shall include a copy of this license issued by the Oregon Department of Public Safety, Standards and Training with the claim.
 - (c) An affidavit signed by the claimant for specified types of property as determined by the Department.
- (8) In addition to the information required under subsections (4) to (7) of this section, in order to expedite the determination of the rightful owner, a claimant may include the claimant's Social Security number.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, ORS 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-040-0212

RULE TITLE: Proof of Ownership

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Adding provisions for proof of ownership for the Military Medals and removed the fee language for safe deposit box fees.

RULE TEXT:

- (1) The burden is on the claimant to provide sufficient proof to establish the elements of the claim, and it is the claimant's responsibility to contact persons and to search out documents relating to the claim.
- (2) Name similarity alone is not sufficient to prove entitlement to unclaimed property.
- (3) Documents submitted to establish ownership may include, but are not limited to:
 - (a) Copies of any documents showing addresses, including but not limited to utility bills, tax records, or original correspondence addressed to the owner at the address shown on the Department's records;
 - (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 the Department may consider sufficient to satisfy a reasonable and prudent person under the circumstances of the particular claim.
- (4) When a claimant submits a claim on behalf of the original owner of unclaimed property, the claimant shall provide:
 - (a) Evidence to establish the claimant's legal authority to make a claim for the original owner; and
 - (b) Evidence to establish the original owner's right to the unclaimed property.
- (5) When a claimant submits a claim on behalf of a successor to the original owner of the property, the claimant shall provide:
 - (a) Evidence to establish the claimant's legal authority to make a claim for the successor to the original owner; and
 - (b) Evidence to establish the original owner's right to the unclaimed property; and
 - (c) Evidence to establish the successor's right to the unclaimed property as a successor to the original owner. The evidence that may be used to establish the successor's right to the unclaimed property as a successor to the original owner consists of but is not limited to, certified copies of probate documents, small estate affidavit, Final Decree of Distribution, a will, death certificates, Letters Testamentary, or Guardianship or Conservatorship, or other appropriate documentation.
- (6) When a claimant submits a claim on behalf of a business or governmental entity, the claimant's authority to make a claim on behalf of the entity must be established to the satisfaction of the Department in accordance with the requirements of OAR 141-040-0213.
- (7) As an alternative to the information required under this section, an authorized employee filing on behalf of a business or governmental entity may submit a completed business affidavit on the form supplied by the Department that indemnifies the Department and assures repayment in the event a superior claim is submitted. The Department at its sole discretion, may reject a business affidavit for all or a portion of the claimed properties and require the evidence under this section.
- (8) If the claim is for a negotiable instrument, (cashier's check, money order, certified check, traveler's check) the payee

shall be considered to be the owner unless the purchaser possesses the instrument or provides evidence of payment satisfying the obligation to the payee.

(9) If the claim is for securities, claimants are entitled to receive either the securities that the holder delivered to the Department if they still remain with the Department, or the proceeds received from the sale, less any amounts deducted pursuant to ORS 98.386.

(10) If the claim is for securities or negotiable instruments, the claimant shall surrender to the Department with the claim the certificate or the original instrument, if the claimant possesses it. If the claimant does not surrender the original certificate, the Department may require the claimant to provide a lost instrument bond.

(11) If the claim is for Military Medals, the claimant shall provide proof of ownership. Proof may include, but is not limited to:

- (a) military discharge documents; or
- (b) award certificate of the Military Medal; or
- (c) proof of purchase.

(12) If a claim is made on behalf of a creditor of an owner of unclaimed property, the creditor shall provide a certified copy of the writ of garnishment.

(13) In the case of competing claims, the conflict must be resolved by the claimants prior to a claim being deemed complete.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, ORS 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0010

RULE TITLE: Definitions

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Defining terms for Descendants, Military Medals, Service Member, and US Savings Bonds.

RULE TEXT:

- (1) "Capital Gain" means gain or profit realized on the sale or exchange of a capital asset, or the excess of proceeds over cost, or other basis, from the sale of a capital asset.
- (2) "Credit Memorandum" or "Credit Memo" means a transaction posted to a customer account which reduced the account balance and is related to a previously posted invoice or charge, correcting and reducing the amount originally charged.
- (3) "Department" means the Department of State Lands.
- (4) "Descendant" has the meaning given that term in ORS 111.005.
- (5) "Dividend" means cash which accrues by the earnings of a company and which is paid to the Owner of securities issued by that company.
- (6) "Dividend Reinvestment Plan" means additional securities of the same company which are credited to an Owner's account in lieu of cash.
- (7) "Dormant" means without Owner generated activity or Owner contact for a prescribed time.
- (8) "Due Diligence" means the degree of effort required by statute that Holders' of unclaimed property must take to find the rightful Owner of Property before the Property is remitted to the state.
- (9) "Financial Institution" means a Financial Institution, or a trust company, as those terms are defined in ORS 706.008, a safe deposit company, a private banker, a savings and loan association, a building and loan association or an investment company.
- (10) "Holder" means a Person, wherever organized or domiciled, who is:
 - (a) In possession of Property belonging to another;
 - (b) A trustee; or
 - (c) Indebted to another on an obligation.
- (11) "Inactive" means a lack of Owner generated activity or Owner contact for a prescribed time.
- (12) "Insurance Company" means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, which is engaged in providing insurance coverage, including, but not limited to, accident, burial, casualty, workers' compensation, credit life, contract performance, dental, fidelity, fire, health, hospitalization, illness, life (including endowments and annuities), malpractice, marine, mortgage, surety, and wage protection insurance.
- (13) "Intangible Property" includes but is not limited to:
 - (a) Credit balances, customer overpayments, security deposits, refunds, Credit Memos, unpaid wages, unused airline tickets, stored value card balances or similar electronically maintained credit balances except gift cards as defined in ORS 646A.274, and unidentified remittances;
 - (b) Stocks and other intangible ownership interests in business associations;
 - (c) Money deposited to redeem stock, bonds, coupons, and other securities, or to make distributions;
 - (d) Amounts due and payable under the terms of insurance policies;
 - (e) Amounts distributed from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits; and
 - (f) Money, checks, drafts, deposits, interest, Dividends, and income.
- (14) "Last-known Address" means a description of the location of the apparent Owner sufficient for the purpose of delivery of mail.
- (15) "Military Medal" means a medal or decoration awarded to a Service Member for military service.
- (16) "Negative Report" means a report showing the Holder had no Inactive accounts or other unclaimed assets to report

for a particular reporting period.

(17) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in case of other Intangible Property, or a Person, or the Person's legal representative, having a legal or equitable interest in Property.

(18) "Person" means an individual, business association, state or other governmental or political subdivision or agency, public corporation, public authority, estate, trust, two or more Persons having a joint or common interest, or any other legal or commercial entity.

(19) "Positive Owner Contact" means documented contact between an Owner and the Holder; either generated or initiated by the Owner or in response to the Holder.

(20) "Property" includes Tangible and Intangible Property.

(21) "Reportable" means the appropriate dormancy period as set forth in OAR 141-045-026 after which time an Owner has not claimed his or her asset from a holding company, and the Holder has taken appropriate steps to find the Owner, as described in 141-045-0061.

(22) "Safekeeping Depository" means any leased or rented depository used as a deposit for safekeeping of Tangible or Intangible Property.

(23) "Service Member" means the person to whom a Military Medal was initially awarded.

(24) "Tangible Property" means:

(a) Property actually being held in a Safekeeping Depository and includes, but is not limited to:

(A) Contents of safe deposit boxes in financial organizations;

(B) Contents of safekeeping repositories located in hospitals, health-care facilities, motels, hotels, jewelry stores, department stores, professional offices, or any other site where the Holder is acting as a safekeeping custodian for the rightful Owner subject to the following exceptions:

(i) Used personal clothing or similar items with little or no commercial value.

(ii) Items that are hazardous including, but not limited to: batteries, chemicals, explosives, medical waste, ammo, drugs or similar controlled substances.

(b) Property held for the Owner by a court, state or other government, governmental subdivision or agency, law enforcement agency, public corporation or public authority (for instance unclaimed court exhibits) subject to the following exceptions:

(A) Used personal clothing or similar items with little or no commercial value

(B) Items that are hazardous including, but not limited to: batteries, chemicals, explosives, medical waste, ammo, drugs or similar controlled substances.

(c) Notwithstanding the above, Military Medals are considered Tangible Property.

(25) "Third Party Administrator" is a person contracted by the Holder to manage and process account records.

(26) "U.S. Savings Bonds" means:

(a) U.S. Savings Bonds, series A, B, C, D, E, F, G, H, J AND K, AND U.S. savings notes, governed by 31 C.F.R. 315;

(b) Definitive U.S. Savings Bonds, series EE and HH, governed by 31 C.F.R 353; and

(c) Definitive U.S. Savings Bonds, series I, governed by 31 C.F.R. 360.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0015

RULE TITLE: Who Must File Reports

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Corrected Capitalization.

RULE TEXT:

(1) Every Holder shall annually review all accounts that appear to be Dormant or unclaimed according to ORS 98.302 to 98.436 and report to the Department of State Lands in accordance with the schedule established in OAR 141-045-0021. Any Person that manages account records or serves as a registrar, paying agent or Third Party Administrator for a Holder shall notify the Holder annually of any unclaimed amounts Reportable according to ORS 98.302 to 98.436. Such entities include but are not limited to Persons that provide payroll record-keeping services.

(2) The Holder is responsible for the accuracy of the reports and retention of all records associated with the reports as defined in ORS 98.354 whether the report is filed by the Holder or another Person on behalf of the Holder.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0021

RULE TITLE: Dormancy Periods

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms

RULE TEXT:

(1) Except as provided in this rule, the dormancy period for all Tangible and Intangible Property is three years. After the expiration of the dormancy period, the Property is presumed abandoned and subject to the provisions of these rules pertaining to unclaimed property.

(2) The dormancy period for the following deposits or refunds held by a utility is one year if unclaimed by the apparent Owner after the date of termination of services or when the funds otherwise become payable or distributable:

(a) A deposit to secure payment, or a sum paid in advance for utility services, less lawful deductions; and

(b) A sum received for utility services, which the utility has been ordered to refund, including interest on the sum, less lawful deductions.

(3) The dormancy period is one year for all intangible personal property distributable in the course of dissolution of a business association or Financial Institution.

(4) The dormancy period for the following Property is two years:

(a) Tangible and Intangible Property held in a safe deposit box or other safekeeping repository;

(b) Assets of dissolved cooperatives;

(c) Stale dated government checks or warrants including unrepresented payroll checks;

(d) Tangible and Intangible Property held by a court, state, or other government, governmental subdivision or agency, law enforcement agency, public corporation or public authority;

(e) Life or endowment insurance policies where the insured would have attained the limiting age under the mortality table of an existing policy; and

(f) All intangible personal property and any income or increment on such Property held in a fiduciary capacity.

(5) The dormancy period for money orders is seven years.

(6) The dormancy period for traveler's checks is 15 years.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0031

RULE TITLE: Examples of Unclaimed Property

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms

RULE TEXT:

(1) The following types of Property that are unclaimed for three years without Positive Owner Contact are presumed abandoned and are Reportable to the Department:

- (a) Any account deposited in a Financial Institution and any accrued interest and Dividends;
- (b) Any account including shares, Dividends, deposit accounts, and interest held by credit unions as defined in ORS 723.006 that are due or standing in the name of a member, beneficiary or other person who cannot be contacted by first class mail at the last address shown on the records of the credit union;
- (c) Any sums payable for which a Financial Institution is directly liable, including checks, drafts, cashier's checks, certified checks, or similar instruments;
- (d) Any stock, mutual fund, or other certificate of ownership, Dividend, profit, distribution interest, payment on principal or other sum held or owing by a business association for a shareholder, certificate holder, member, bondholder or the actual instrument or book entry shares which shows ownership or interest in stocks, bonds except U.S. Savings Bonds, or mutual funds;
- (e) Any certificate of deposit. If the account is in the form of a Dividend Reinvestment Plan, the dormancy period shall begin at the first maturity date after the Holder determines that the Owner cannot be located;
- (f) Funds held or owing under any life or endowment insurance policy or annuity contract that has matured or terminated and has become due and payable as established from the records of the Insurance Company.
- (g) Credit Memos issued in the ordinary course of the Holder's business;
- (h) Except as provided in OAR 141-045-0031(3)(c), unpaid wages, including commissions and wages represented by uncashed payroll checks owing in the ordinary course of the Holder's business;
- (i) Any other disbursements generated during the ordinary course of the Holder's business; and
- (j) All intangible personal property not otherwise covered by ORS 98.302 through 98.436 that is held or owing in the ordinary course of the Holder's business after it becomes due and payable.

(2) The following types of Property that are unclaimed for two years without Positive Owner Contact are presumed abandoned and are payable to the Department:

- (a) A life or endowment insurance policy or annuity contract not matured by actual proof of the death of the insured or annuitant according to the records of the Insurance Company, pursuant to ORS 98.314(3);
- (b) All Tangible and Intangible Property held in a safe deposit box or any other Safekeeping Depository in the ordinary course of the Holder's business after the lease or rental period has expired. This category of Property does not include:
 - (A) Personal property that has been willfully abandoned by the Owner, such as automobiles, furniture, household goods, or Property covered by other statutes;
 - (B) Tangible Property consisting of used personal clothing or household items with little or no commercial value or any hazardous materials.
- (c) All Intangible Property held for the Owner by any court, state or other government, governmental subdivision or agency, county fiscal officer, public corporation, public authority, quasi-governmental agency, public officer of this state, political subdivision of this state, or Public Employees' Retirement System, except those with a court order prohibiting the withdrawal of same, including, but not limited to:
 - (A) Fines;
 - (B) Bail;
 - (C) Restitution;
 - (D) Child support;
 - (E) Condemnation payments;

(F) Judgment proceeds;

(G) Unclaimed municipal bonds and the interest thereon.

(d) All intangible personal property and any accrued interest held in a fiduciary capacity, including but not limited to property management security deposits, attorney trust accounts, escrow accounts, trust accounts and funds in an individual retirement account or a retirement plan or a similar account or plan established under the Internal Revenue laws of the United States if under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.

(e) Tangible Property held for the Owner by a court, state or other government, governmental subdivision or agency, public corporation or public authority; law enforcement agency, other than Property seized by a removing authority as defined by ORS 98.245(1)(b). This category of Property does not include:

(A) Personal property that has been willfully abandoned by the Owner, such as automobiles, furniture, household goods, or Property covered by other statutes;

(B) Tangible Property consisting of used personal clothing or household items with little or no commercial value except Military Medals or any hazardous materials.

(f) Property held by a dissolved cooperative.

(3) Funds in an individual retirement account or a retirement plan or a similar account or plan established according to the Internal Revenue laws of the United States of America are not payable or distributable within the meaning of OAR 141-045-0021(4)(f) unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory or the Holder has determined the account owner is deceased and is unable to distribute to the beneficiaries.

(4) The following types of Property that are unclaimed for one year without Positive Owner Contact are presumed abandoned and are Reportable to the Department:

(a) Deposits made by a subscriber with a utility to secure payment or any sum paid in advance for utility services;

(b) Sums received for utility services which a utility has been ordered to refund;

(c) All unclaimed intangible personal property distributable in the course of a dissolution of a business association, or Financial Institution.

(5) Any sums payable on a money order or similar written instrument, other than a third party bank check that has been outstanding for more than seven years after its issuance is considered unclaimed and Reportable to the Department.

(6) Any sum payable on a traveler's check that has been outstanding for more than 15 years is considered unclaimed and Reportable to the Department.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0041

RULE TITLE: Report Forms

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms

RULE TEXT:

(1) A Holder shall submit reports electronically in a format prescribed by the Department.

(2) A Holder may request permission to submit a hard copy report. The request must be in writing and include an explanation of the difficulty of filing electronically.

(3) The Department shall post on its website, electronic formatting requirements, and instructions. Any changes to electronic formatting requirements shall be posted at least one reporting cycle prior to the effective date.

(4) The Department may provide a separate reporting form to Holders of any safekeeping repository, for a detailed listing of all contents and Owners.

(5) The Department may, at its discretion, require Holders to file Negative Reports.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0061

RULE TITLE: Actions Required of Holders Before Reporting

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms

RULE TEXT:

(1) As soon as it appears that an account with a value of \$100 or more is Inactive, but not less than 60 (sixty) days prior to filing the annual report, each Holder shall exercise Due Diligence in making a reasonable, good faith effort to:

- (a) Confirm that an account is in fact Inactive;
- (b) Notify the Owner that the Holder will report the account to the Department as unclaimed property; and
- (c) Locate the Owner.

(2) In exercising Due Diligence under subsection (1) of this section, a Holder may:

- (a) Verify that the Owner has not communicated in writing with the Holder concerning the asset;
- (b) Verify that the Owner has not otherwise indicated an interest in the asset as evidenced by a memorandum or other record on file prepared by an employee of the Holder;
- (c) Verify that the Owner does not own other accounts in the Holder's organization about which the Owner has communicated with the Holder (for example, the Trust Department of a Financial Institution could contact other departments of that institution); or
- (d) Where the account is that of a credit union member, verify that the member has participated in voting during a regularly scheduled credit union meeting.

(3) If a Holder is unable to locate an Owner, the Holder may exercise Due Diligence under subsection (1) of this section by:

- (a) Verifying that the Owner is not a current employee of the Holder;
- (b) Reviewing telephone directories, or other available databases to verify address and telephone number;
- (c) Verifying that the Owner is not a well-known individual or organization (for example, Department of Treasury, IRS); or
- (d) Any other effort the Holder may take to find an Owner.

(4) A Holder shall retain records or documentation of its compliance with the requirements of this section for three years and make the records or documentation available for inspection by the Department upon request.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0100

RULE TITLE: Report and Delivery of Unclaimed Property to Department

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Revised the requirement of financial institutions to report safe deposit box fees.

RULE TEXT:

(1) Every person holding funds or other Tangible or Intangible Property, presumed abandoned according to ORS 98.302 to 98.352 shall report and pay or deliver all such Property to the Department, except that funds transferred to the General Fund by governmental agencies pursuant to ORS 293.455(1)(a) shall only be reported to the Department.

(2) Each Holder shall be responsible for the content, accuracy, and timeliness of the Holder's report, regardless of whether the report is prepared by the Holder or its agent. The Holder shall designate a staff contact person responsible for the report.

(3) For accounts Dormant as of June 30, the Holder shall file the report after October 1, but not later than November 1.

(4) The Department may, at its discretion, postpone the reporting date, or allow early reporting and payment or delivery upon written request by any person required to file a report.

(5) A Holder shall report Property having a value of \$50 or more per account or Owner of record, individually, and shall include the following information, if known:

(a) The complete name, address of record, Social Security number, previous names, and any previous addresses of each listed Owner; and

(b) The type of account, identification number, reference number, last activity or transaction date used to presume abandonment, and any specific description of the unclaimed property according to the records of the Holder.

(6) If the Holder believes it is more efficient, it may report a lump sum value, known as an aggregate, for the total of individual accounts \$49.99 or less, except when the total amount held for any one Owner of several small amounts equal or exceed \$50 dollars. If Owner detail is not submitted, the Department may request the Holder to certify ownership when a potential claim exists for a portion of the lump sum reported.

(7) To assist the Department in returning funds to the Owner of record, a Holder may report the Owner detail information required under subsection (5) of this rule for Property having a value of \$49.99 or less per account or Owner of record but the Department may not require this action.

(8) In addition to the information required above, a life insurance company shall also report the following information, if known:

(a) The full name of each insured or annuitant, or if a class of beneficiaries is named, the full name of each current beneficiary in the class, and last known address according to the Holder's records;

(b) The address of each beneficiary; and

(c) The relationship of each beneficiary to the insured.

(9) A Holder of Safekeeping Depositories shall comply with the following additional requirements:

(a) The Holder shall complete the specific report form for safekeeping contents or include the required information in the Holder's computer-generated format and file the report, separate from the contents, no later than November 1.

(b) In addition to the information required in subsection (5) of this section, list each item left in a Safekeeping Depository, and the identity of the Owner. The Holder shall include information about the original box if the Holder moved items to a safekeeping area.

(c) In accordance with directions from the Department, the Holder shall deliver the package of Safekeeping Depository contents marked "to be delivered unopened," to the Department by certified mail, return receipt requested or hand carried by a courier. The Department shall sign a receipt for the unopened package upon delivery to the Department, and forward the receipt to the Holder within five working days.

(d) The Holder shall clearly identify on the package the Holder's complete name and return address.

(e) With the exception of hazardous Tangible Property noted in OAR 141-045-0031(2)(b), the Holder shall forward the complete contents of Safekeeping Depositories to the Department intact. The Holder may not convert, substitute or

exchange any coins and currency found in the box.

(f) The Holder shall include information about Safekeeping Depository costs in its report to the Department. The Department may require the Owner to furnish proof from the Holder pursuant to OAR 141-040-007 before a claim for a safe deposit box is approved.

(10) Any Holder, business association, transfer agent, registrar or other Person acting on behalf of the Holder of an intangible equity ownership interest deemed unclaimed according to ORS 98.322 shall, in addition to supplying the information required in OAR 141-045-0100(5) above:

(a) Report and transfer the shares directly to the Department's designated stock broker or transfer agent via available electronic medium and include a confirmation of the transfer with the report.

(b) When an electronic method of transfer is not available the Holder shall:

(A) Where the original certificate is being held by the Holder for the Owner (i.e., stock or other certificate of ownership of a business association which has been returned to the Holder, who cannot find the Owner), cancel that certificate and issue a replacement certificate of ownership to the Department; or

(B) When the Holder does not hold the original certificate, issue a replacement certificate i.e., a duplicate certificate of ownership or other distribution or stock or other certificates of ownership of a business association issued in the name of the Department of State Lands as custodian of unclaimed property. The original certificate of ownership is presumed to be in the possession of the missing Owner to the Department.

(c) In any case, the Holder shall report and forward to the Department all outstanding accrued Dividends, along with the certificate.

(11) In addition to supplying the information required in OAR 141-045-0100(5), a Holder reporting mutual funds in book entry form shall:

(a) Transfer the account directly into the Department's account at the Department's designated broker dealer and forward a confirmation of account transfer to the Department along with the report; and

(b) Forward future income in the form of cash (for example, Dividends, Capital Gains, etc.) payable to the Department from mutual fund accounts with Dividend Reinvestment Plans.

(12) If the Holder is a dissolved agricultural cooperative, the Holder shall forward the original reports detailing unclaimed dissolved agricultural cooperative accounts to the Department along with the funds, and file a copy of the report with the State Board of Higher Education. The Department shall reconcile the report to the delivered funds, deduct the costs as provided for in ORS 62.720 and forward the funds to the State Board of Higher Education within 14 working days after receiving the funds.

(13) The receiver or other liquidating agent for a dissolved corporation shall prepare a report containing the names and Last-known Addresses of the Persons entitled to such funds.

(14) Before October 1 each year, each state agency shall prepare a report of all checks, warrants, and orders drawn by it which have been outstanding for a period of more than two years prior to July 1, and that have not been paid by the State Treasurer. The report shall not include checks or orders that have already been paid pursuant to indemnity bonds. The agency shall forward the report to the Department before November 1.

(15) After October 1, the State Treasurer may refuse payment of the unrepresented checks or orders included in the report, and upon instructions by the issuing agency shall:

(a) Transfer and credit the amounts of the unrepresented checks or orders dedicated for general funding to the General Fund;

(b) Except for federal funds governed by federal laws and rules as provided in ORS 291.003 and 409.040(2), transfer all other funds to the Department; and

(c) Report information about any payment made to an Owner subsequent to filing the report, but before transferring the funds to the Department.

(16) If the Holder of the unclaimed account is a successor to other Persons who previously held the Property, or if the Holder has had a name change, the Holder shall include in the initial report prior known names and addresses of the original or previous Holder.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, ORS 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0105

RULE TITLE: Confidentiality of Records

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

(1) All records of Dormant accounts shall be exempt from public review as follows:

(a) The Holders shall withhold Dormant account information for 12 months from the time the Property becomes Reportable to the Department.

(b) The Department shall withhold unclaimed account information for 24 months after receipt of the report and Property.

(c) All lists of uncashed warrants or stale dated checks issued by a government or public authority pursuant to ORS 98.336 shall be exempt from public review from the issued date until 24 months after the Property is remitted to the Department.

(2) The Department may not disclose to any other state or any Person any confidential information provided by the Department of Revenue from taxpayer returns.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0115

RULE TITLE: Requirements of the Department of State Lands to Locate Owners

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Specifying owner location requirements for Military Medals and US Savings Bonds and capitalization correction of defined terms.

RULE TEXT:

- (1) Within one year after receipt of reports, payment, and delivery of accounts as required by OAR 141-045-0100, the Department shall provide public notice that the names of Owners of unclaimed property have been added to the Department's unclaimed property Website by publishing notice at least twice in a newspaper or other generally circulated periodical published in this state.
- (2) The Department also shall make reasonable efforts to locate the Owners of unclaimed property reported and received by the Department. The Department's efforts shall include, but need not be limited to the following:
- (a) Contracted services with established firms, credit bureaus, telephone networking companies; or
 - (b) Interagency agreements with other governmental agencies, such as Social Security Administration, Insurance Commission, Motor Vehicles Division, Corporation Commission; or
 - (c) Use of the internet, reverse directories, telephone books, or other such publications.
- (3) Within one year after receipt of safekeeping contents, the Department shall make public a pictorial record of Military Medals received in Safekeeping Depositories. The record will include any information from the Holder that the department determines is necessary to facilitate the identification and location of a Service Member or a Descendant of a deceased Service Member. All confidential information will be excluded from the record.
- (4) Within one year after the receipt of safekeeping contents, the Department shall make reasonable efforts to locate the Owners of U.S. Savings Bonds held in the protective custody and possession of the administrator. The Department's efforts shall include, but need not be limited to the following:
- (a) Each Person listed on the face of the U.S. Savings Bonds, each apparent Owner of the U.S. Savings Bonds and each Person otherwise appearing to be an Owner of the U.S. Savings Bonds will be contacted at the Last-known Address of the Person; and
 - (b) Notice of the U.S. Savings Bonds shall be published in the discretion of the administrator in a manner that is most likely to attract the attention of all Persons having a legal or beneficial interest in the U.S. Savings Bonds.
- (A) Publishing efforts may include, but need not be limited to the following;
- (i) Publishing notice in a newspaper or other generally circulated periodical published in this state; and
 - (ii) Providing public notice that the names have been added to a public Website listing the U.S. Savings Bonds; and
 - (iii) Publishing notice on social media such as Facebook, Twitter, Instagram, or any other currently relevant social media platform in use at the time of publication;
- (B) The notice must contain the following information:
- (i) The name of each Person listed on the face of the U. S. Savings Bonds, each apparent Owner of the U.S. Savings Bonds and each Person otherwise appearing to be an Owner of the U.S. Savings Bonds;
 - (ii) The Last-known Address or location of each Person described in subsection (4)(a) of this section;
 - (iii) A statement explaining that the U.S. Savings Bonds are presumed to be abandoned and have been taken into the protective custody and possession of the administrator;
 - (iv) A statement that the information about the U.S. Savings Bonds can be obtained upon inquiry to the administrator at any time by any Person having a legal or beneficial interest in the bonds;
 - (v) A statement that a claim for the U.S. Savings Bonds may be made under ORS 98.392;
 - (vi) A description of the escheat proceedings under this section; and
 - (vii) Any other information the administrator considers appropriate or necessary to locate all Persons having a legal or beneficial interest in the U.S savings bonds such as the safekeeping repository Owner's name and the location of the safekeeping repository.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0120

RULE TITLE: Examination of Holder Accounts

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

- (1) In accordance with ORS 98.412, the Department may examine the records and other accounts of any Holder to determine whether the Holder has complied with the provisions of ORS 98.302 to 98.436.
- (2) The Department may conduct an examination whether or not the Holder believes it is in possession of Reportable Property.
- (3) The examination may be performed by personnel employed by the Department of State Lands, employees of the Department of Consumer and Business Services, Division of Audits of the Office of the Secretary of State, or any other designated person under contract with the Department of State Lands.
- (4) To the extent possible, the Department shall enter into agreements with other state or federal entities who regularly examine the records of Financial Institutions. Under the agreements, the state and federal agencies shall examine the records of the Financial Institutions to determine compliance with ORS 98.352. If the state or federal agency does not enter into an agreement with the Department, the Department shall conduct the examination.
- (5) The types of records and accounts subject to examination include, but are not limited to:
 - (a) Contractual agreements between depositors and the Financial Institution regarding the deduction of service charges authorized according to ORS 708.500, account increases or decreases, and the cessation of interest payments;
 - (b) Records of current accounts, Dormant accounts, and accounts that may have been closed and archived;
 - (c) The Holder's procedures for administering Dormant accounts, including searching for and notifying Owners to ensure compliance with OAR 141-045-0030;
 - (d) Bank reconciliations, outstanding checklists and bank statements;
 - (e) Aged accounts receivable reports;
 - (f) Reports from transfer agents showing last date of positive contact with stockholders;
 - (g) Uncashed checks that have been returned by the United States Post Office as undeliverable;
 - (h) Uncashed payroll checks that have been returned by a company plant or office;
 - (i) Journal entries that specifically write off stale dated checks;
 - (j) Third Party Administrators' contracts, records and reconciliations; and
 - (k) Holder trial balance of accounts.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0121

RULE TITLE: Procedure for Examination of Holder

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

(1) The Department shall give written notice to the Holder at least ten days prior to an examination of all records and accounts subject to the Unclaimed Property Act.

(2) The Department may conduct an examination opening conference with a Holder before beginning an examination. At the opening conference, the Department shall identify the examination period, describe the general examination methods that will be used, and provide the initial request for records.

(3) The Department shall issue a report of preliminary findings reflecting the potential liability for unclaimed property. The Department shall allow not less than 30 days for the Holder to respond to the preliminary findings report.

(4) Upon completion of an examination, the Department shall provide a written report reflecting the total unclaimed property reporting liability and any interest due on amounts due and owing for failure to report and deliver Property due and payable for prior years. The Department may hold a conference with the Holder to provide the written report. The written report shall include information to the Holder that includes:

(a) Recommendations for maintaining ongoing compliance; and

(b) Explaining the availability of an appeal of the findings as described in OAR 141-045-0126.

(5) Within 30 days after the Department delivers a final report of examination findings, the Holder shall deliver to the Department any unclaimed property and interest due to the Department based on the examination findings. Upon request of the Holder, the Department may establish a payment schedule or extend the payment period.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0122

RULE TITLE: Entering into Contract with Contract Auditor

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

The Department may enter into a contract with a Person for the sole purpose of examining the records of Holders to determine compliance with ORS 98.302 to 98.436. The Department may consider any factors the Department deems relevant when entering into a contract for services requested in the performance of an unclaimed property examination.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0123

RULE TITLE: General Conditions and Requirements of Contract with Contract Auditor

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

- (1) A contract auditor shall comply with all terms and conditions specified in the contract with the Department.
- (2) A contract auditor may not subcontract any work without the prior written authorization from the Department. The contract auditor is responsible for ensuring that any subcontractors used during an examination possess sufficient training and experience to adequately perform the unclaimed property examination and agree to comply with all terms and conditions of the contract auditor's contract with the Department.
- (3) A contract auditor shall possess an ability to examine the records of entities holding various types of unclaimed property.
- (4) A contract auditor shall have security procedures in place to ensure that all unclaimed property examination reports and working papers are secure.
- (5) A contract auditor shall have the ability to evaluate and comment on the Holder's procedures and accounting systems related to capturing unclaimed property for present and future reporting period.
- (6) A contract auditor shall maintain independence in mental attitude in all matters relating to an examination assignment.
- (7) A contract auditor may not engage or present itself as representing the Department in any examination without the prior written consent from the Department.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0124

RULE TITLE: Contract Auditor Guidelines

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

A contract auditor shall adhere to the following guidelines:

- (1) A contract auditor shall not participate in examinations in which the contract auditor's participation could be construed or perceived as a conflict of interest. If either the Department or the contract auditor believes that the auditor cannot conduct an assigned examination due to a conflict of interest or for any other reason, the Department shall determine whether recusal of the contract auditor from the assignment is appropriate or necessary. If the contract auditor is recused from conducting the examination of a Holder, the Department may authorize another contract auditor to complete the examination.
- (2) A contract auditor shall maintain strict confidentiality of any nonpublic records or documents gathered during the course of an examination in accordance with the contract between the Department and the contract auditor.
- (3) A contract auditor shall properly document the review and make the auditor's working papers gathered during examinations available on demand for review by the Department and the Department of Justice.
- (4) Upon request of the Department or the Holder, the contract auditor shall provide the Holder with relevant copies of working papers supporting any calculation made of unclaimed property Reportable and deliverable to the Department.
- (5) A contract auditor shall maintain working papers for a minimum of five years following the completion of an examination assignment, the delivery of unclaimed property, the resolution of any appeal or the finality of judgment in any litigation, whichever is later.
- (6) A contract auditor shall conduct examinations consistent with ORS 98.302 to 98.436, OAR 141-045-0121 (Procedures For Examination Of Holder) and other applicable statutes and rules, policies of the State Land Board and the Department of State Lands, generally accepted accounting principles, generally accepted auditing standards and any relevant rules related by examinations adopted pursuant to ORS 98.302 to 98.436 as such rules relate to the reporting and delivery of unclaimed property from Holders.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0125

RULE TITLE: Owner Identification Information

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

(1) Every Holder shall maintain a record of the name and Last-known Address of the Owner, any signature cards, or other evidence which would assist in the identification of the Owner for three years after the Holder has remitted the Property to the Department.

(2) Any Holder that sells traveler's checks, cashier's checks, Credit Memos, money orders, or other similar written negotiable instruments, other than third party bank checks for which the business is directly liable, or that provides such instruments to others for sale, shall maintain a record of those instruments while they remain outstanding, including the state and date of issue, for three years after the date the Holder has remitted the Property to the Department.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0126

RULE TITLE: Appeal of Examination Findings

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

(1) Request for a contested case hearing. Any Holder adversely affected by the findings or decision of the Department may request a contested case hearing pursuant to the provisions of ORS 183.413 to 183.470. The request for a contested case hearing must be received by the Department within 21 days of the date of mailing or delivery of the final written report described in OAR 141-045-0121(4). If a Holder fails to request a contested case herein within the time allowed, the findings and decision shall become final.

(2) Collaborative Dispute Resolution for Findings Based on Estimates. Any Holder who is adversely affected by the findings or decision of the Department where the findings or decision are based on estimates as described in OAR 98.412(4) may request the Department engage in collaborative dispute resolution. A Holder may retain the right to a contested case while requesting collaborative dispute resolution, but a request to engage in collaborative dispute resolution does not enlarge the time allowed for a Holder to request a contested case hearing, as set forth is (1) above. The Department may decline to engage in collaborative dispute resolution and set the case for a contested case hearing. If the Department decides to participate in collaborative dispute resolution the Department shall postpone the contested case hearing to give the parties a reasonable opportunity to complete the collaborative dispute resolution, but in no event shall the hearing be postponed more the 45 days from the date of the request for a contest case hearing. The collaborative dispute resolution shall consist of mediation or such other process as the parties may agree. Department and the Holder shall select a trained facilitator/mediator from a list of pre-qualified individuals and share the costs of the facilitator/mediator.

STATUTORY/OTHER AUTHORITY: 273.045, ORS 98.302 - 98.436

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0130

RULE TITLE: Service Charges and Payments of Interest on Deposit Accounts

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

(1) With respect to any demand, savings or matured time deposit with a Financial Institution, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, mutual investment certificate or any other interest in a Financial Institution, a Holder may not impose any charge or cease payment of interest due to dormancy or inactivity unless:

(a) There is a written contractual agreement between the Holder and the Owner of the account clearly and prominently setting forth the conditions under which a service charge may be imposed, or the payment of interest terminated;

(b) The establishment of a service charge, the change of an existing service charge or the change of a policy pertaining to the payment of interest is uniformly applied to all Dormant or Inactive accounts;

(c) The Holder shall give written notice to the Owner at the Owner's Last-known Address whenever an account becomes Dormant or Inactive; and;

(d) Three months written notice is given by first-class mail to the Last-known Address of the Owner of a Dormant or Inactive account before the Holder may apply a service charge to the account or stop paying interest on that account.

(2) A signature card is not a written contractual agreement for the purposes of subsection (1)(a) of this section, however, the signature card and the written contractual agreement may be contained in one instrument.

(3) A Holder may not deduct from the amount of any instrument subject to ORS 98.308(5) or (6) any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the Holder and the Owner of the instrument pursuant to which the Holder may impose a charge, and the Holder regularly imposes such charges and does not regularly reverse or otherwise cancel them.

(4) Notwithstanding the provisions in subsections (1) to (3) of this section, a Holder may not deduct a service charge or fee or otherwise reduce an Owner's unclaimed account unless:

(a) There is a valid written contract between the Holder and the Owner that allows the Holder to impose a charge;

(b) The service charge or fee is imposed uniformly on all accounts; and

(c) Three months' written notice is given by first-class mail to the Last-known Address of all Owners before the charge or fee is levied.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0150

RULE TITLE: Disposition of Unclaimed Property

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

The Department shall dispose of all Tangible Property presumed abandoned and delivered to the Department in accordance with OAR 141-045-0185.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0155

RULE TITLE: Relief From Liability

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

(1) Upon delivery or payment of Reportable unclaimed property to the Department in compliance with ORS 98.302 to 98.436, the state shall assume custody of the Property and the Holder is relieved of all liability for any claim which then exists or which thereafter may arise or be made in respect to the Property, to the extent of the value of the Property so paid or delivered.

(2) The Department shall indemnify the Holder of securities presumed abandoned according to ORS 98.322 to the extent allowed under the Oregon Constitution.

(3) No Person shall have any claim against the state, the Holder, any transfer agent, registrar or other Person acting for or on behalf of a Holder for any change in market value of the Property occurring after delivery by the Holder to the Department, or after sale of the Property by the Department.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0160

RULE TITLE: Deposit of Funds

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

(1) All funds received pursuant to ORS 98.302 to 98.436, including the proceeds from the sale of unclaimed property, shall be deposited by the Department of State Lands in the Common School Fund Account with the State Treasurer.

(2) Before making a deposit, the Department shall record the name and Last-known Address of each Person reported by the Holder to be entitled to the unclaimed property, the amount due the Owner, the name of the Holder, and any identifying account, policy or contract number.

(3) Before making a deposit, the Department may deduct:

(a) Any costs in connection with the sale of unclaimed property;

(b) Any costs of mailing, publication, or other efforts to locate Owners of unclaimed property as set forth in OAR 141-045-0115; and

(c) Reasonable service charges.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0170

RULE TITLE: Claims for Recovery of Unclaimed Property

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

(1) Any Person may submit a claim for recovery of unclaimed property reported to the Department in accordance with ORS 98.302 to 98.436 and OAR 141-040-0200 through 141-040-0220.

(2) If the claim allowed is for Property deposited in the Common School Fund Account, the Department shall return the Property or make payment of the proceeds of the sale of the Property to the claimant.

(3) If the claim allowed is for funds deposited in the General Fund, the Department shall pay the claim and file a request for reimbursement with the State Treasurer. The State Treasurer shall reimburse the Department within five working days from the fund against which the check or order represented in the claim was issued.

(4) A Holder, subsequent to payment or delivery of accounts to the Department may make payment to the apparent Owner and file a claim with the Department. The Department shall reimburse the Holder within 60 days after receiving proof from the Holder that the Owner was paid. The Department shall not assess any fee or other service charge. Upon receiving the funds from the Department, the Holder shall assume liability for the claimed asset and hold the Department harmless from all future claims to the account.

(5) A Person making a claim pursuant to ORS 98.392 for securities is entitled to receive either the securities delivered to the Department by the Holder, if they still remain with the Department, or the proceeds received from sale, less any amounts deducted pursuant to 98.386. The Department may require claimants to provide a lost instrument bond if the original certificate is not surrendered to the Department.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0180

RULE TITLE: Penalties

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Capitalization correction of defined terms.

RULE TEXT:

Penalty for failure to report, pay or deliver Property under ORS 98.302 to 98.436. A Person who willfully fails to render any report, to pay or deliver Property or to perform other duties required by 98.302 to 98.436 and 98.992 may be required to forfeit and pay to the State Treasurer to be deposited in the Common School Fund Account, an amount determined by the Department of State Lands pursuant to 183.090 of not more than \$1,000 for individuals and \$50,000 for corporations. This penalty shall be assessed only after at least one reporting cycle, and only after the Department has provided the Person with written instructions, including copies of applicable laws and policies. The Department may waive any penalty due under this section with appropriate justification.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98

AMEND: 141-045-0185

RULE TITLE: Disposition of Unclaimed Property, Real Property and Personal Effects

NOTICE FILED DATE: 04/25/2019

RULE SUMMARY: Providing disposition of military medals and US Savings Bonds held by DSL and capitalization correction of defined terms.

RULE TEXT:

(1) Except as otherwise provided in subsections (2), (3), (7), (8), (13), (14) and (15) of this rule, the Department shall sell the contents of safe deposit boxes received from banks or credit unions or other safekeeping repository, all Property and personal effects belonging to a deceased Person and all other Property presumed abandoned and delivered to the Department at such time and place, and in such manner as the Department determines will bring the highest return.

(a) In choosing the most favorable method for sale of Property under this subsection, the Department may consider:

(A) A public oral auction;

(B) An electronic commerce forum;

(C) Any other method of sale that ensures the highest returns and provides for open, public participation.

(b) In choosing the most favorable location for the sale of Property under this subsection, the Department may consider:

(A) The population of the location;

(B) The cost of conducting the sale in the location;

(C) The type of Property being sold;

(D) The public access to the proposed sale location, including parking; and

(E) Any other indicator of market potential of the location.

(2) Contents of safe deposit boxes received from banks or credit unions or other safekeeping repository may be sold after one year unless the Department considers it in the best interest of the state to do otherwise.

(3) Securities shall be sold on the exchange at prices prevailing at the time of the sale or by any other method the Department considers advisable.

(4) In disposing of unclaimed property or Property received as part of an escheated estate, the Department of State Lands may:

(a) Obtain the services of a qualified appraiser to assist with the determination of values;

(b) Employ a qualified investment advisor to assist with the custody and sale of securities;

(c) Employ an auctioneer to conduct a public, oral auction or estate sale to dispose of Property;

(d) Offer the Property through electronic commerce; or

(e) Contract with a real estate broker to sell real property.

(5) Sales shall be conducted by a contractor hired through a process conducted in accordance with the requirements of ORS 279.310 to 279.323. The contractor may not be an employee or relative of an employee of the Department.

(6) For a sale by public oral auction held under subsection (1) of this section, the Department shall publish at least a single notice of the sale at least 10 days in advance of the sale in a newspaper of general circulation in the county where the Property is to be sold. For a sale by a method other than public oral auction, the Department shall publish at least a single notice in a newspaper of general circulation in Marion County.

(7) If the Department determines after investigation that any item delivered as unclaimed property or received as part of an escheated estate has insubstantial commercial value, the Department may:

(a) Destroy or otherwise dispose of the Property at any time, pursuant to ORS 98.384 including personal papers obtained by escheat under ORS 112.055.

(b) Donate items with little or no commercial value including used clothing, worn-out or broken furniture, and common houseplants to charitable service organizations or other persons such as friends or neighbors of the decedent.

(8) The Department may donate, sell or dispose of food that is part of an escheated estate on site.

(9) If the cost of a public auction would exceed the value of a particular item, the Department need not offer the Property for sale. The Department may dispose of the item by obtaining at least three oral bids or request sealed bids

from interested parties, selling the item to the highest bidder. Examples are old vehicles, trailers, and extremely heavy or awkward items that would require special handling.

(10) No donations, sales, or other disposition of any unclaimed property or Property belonging to estates may be made to employees of the Department or the State Land Board or members of their immediate household, parents, or children not living at home.

(11) The Department may decline the highest bid and re-offer the Property for sale if the Department considers the bid price insufficient.

(12) The purchaser of Property at any sale conducted by the Department takes the Property free of all claims of the Owner or previous Holder, and of all Persons claiming through or under them. The Department shall execute any documents necessary to complete the transfer of ownership.

(13) The Department may not sell or destroy a Military Medal. The Department shall retain the Military Medal until a claim is filed for the Military Medal by a Service Member or by a Descendant of a deceased Service Member.

(14) The Department may deliver a Military Medal to one of the following custodians if the recipient agrees, in writing, to retain the Military Medal for the Service Member or a Descendant of a deceased Service Member:

(a) A military veterans' organization qualified under section 501(c)(19) of the Internal Revenue Code;

(b) The agency that awarded the Military Medal;

(c) A state or federal agency; or

(d) The Oregon Military Museum established under ORS 396.555.

(15) U.S. Savings Bonds received in safe keeping will be held in the custody of the Department until an Owner or Person having legal or beneficial interest in the U.S. Savings Bonds has claimed them or if no Person has been identified as the Owner within three years after the first public notice pursuant to ORS 98.302 – 98.436;

(a) Title to the U.S. Savings Bonds shall vest in the State of Oregon; and

(b) The administrator may seek an order from the Marion County Circuit Court escheating the U.S. Savings Bonds to the State of Oregon provided:

(A) The U.S. Savings Bonds have reached the final extended maturity date or the final maturity, or have stopped earning interest;

(B) The U.S. savings bonds are in the possession of the state; and

(C) Have been abandoned by all Persons entitled to payment for the U.S. Savings Bonds under the applicable federal regulations.

(c) Upon receipt of an order to escheat, the administrator may apply to the United States Treasury for payment to the state for the U.S. Savings Bonds.

STATUTORY/OTHER AUTHORITY: ORS 98.302 - 98.436, ORS 273.045

STATUTES/OTHER IMPLEMENTED: ORS 98