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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

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CHAPTER 170

OREGON STATE TREASURY

FILED

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& LEGISLATIVE COUNSEL

FILING CAPTION: Improve the protection of unclaimed property and Holder compliance under HB 2160 (2023)

EFFECTIVE DATE: 01/01/2024 THROUGH 06/23/2024

AGENCY APPROVED DATE: 12/27/2023

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NEED FOR THE RULE(S):

HB 2160 (2023) made certain changes to ORS chapter 98 and 192.355 to enhance the Treasurer's ability to protect property rights and improve the ability of unclaimed property holders to comply with the law. These law changes take effect January 1st, 2024. The temporary rules are needed to provide timely guidance to those affected by the laws. In addition, the rules can be improved through greater clarity and specificity.

JUSTIFICATION OF TEMPORARY FILING:

ORS chapter 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 chapter 98 and 192.355 so holders of unclaimed property have ample time to implement process changes to fully comply with due diligence requirements and the new abandonment timelines. In addition, some stakeholders requested that program guidance be included in rule to ensure compliance. The temporary rules will allow the program a longer timeframe to obtain input from stakeholders and ensure the rules are as clear and complete as possible for every affected group.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

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

RULES:

170-145-0005, 170-145-0010, 170-145-0015, 170-145-0020, 170-145-0025, 170-145-0040, 170-145-0045, 170-145-0050, 170-145-0055, 170-145-0100

AMEND: 170-145-0005

RULE SUMMARY: Adding definitions for properties that were not specifically addressed in previous rules; clarifying definitions and adding examples to provide better guidance; removing definitions that are no longer needed.

CHANGES TO RULE:

170-145-0005

Definitions

For the purposes of these rules, unless the context requires otherwise, the capitalized words and phrases used in these rules have the same meaning as provided in ORS 98.302 and:

- (1) "Capital Gains" means gains 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) "Descendant" has the meaning given that term in ORS 111.005.
- (4) "Distribution" has the meaning given that term in ORS 98.322(1)(a).
- (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.
- (56) "Dividend Reinvestment Plan" means additional securities of the same company which are credited to an Owner's account in lieu of cash.
- (67) "Dormant" means without Owner generated activity or Owner contact for a prescribed time. See also "Inactive".
- (78) "Due Diligence" means taking reasonable and necessary steps in good faith to locate the rightful Owner of Property before the Property is reported to the state.
- (89) "Examination" means examining the records of any Person to determine whether the Person has complied with ORS 98.352. The Treasurer may select a Person to participate in one of the following types of Examination conducted by the Treasurer's Authorized Representatives:
 - (a) A full audit;
 - (b) A limited-scope audit, where only specific property types are reviewed; or
 - (c) A self-directed audit where the Person is guided through the review by the Treasurer's Authorized Representatives.
- (10) "Government Body" means a court, state or other government, governmental subdivision or agency, law enforcement 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.
- (911) "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.
- (102) "Inactive" means a lack of Owner generated activity or Owner contact for a prescribed time. See also "Dormant".
- (143) "Intangible Property" has the same meaning as ORS 98.302(7), and includes, without limitation:
 - (a) Stored value card balances or similar electronically maintained credit balances ~~except gift cards as defined in ORS 646A.274;~~
 - (b) ~~Crypto;~~
 - (b) Virtual currencies (e.g. Bitcoin, etc.); and
 - (c) Unidentified remittances.
- (124) "Military Medal" means a medal or decoration awarded to a Service Member for military service.
- (135) "NAUPAMineral" means the National Association of Unclaimed Property Administrators gas, oil, coal, oil shale, other gaseous liquid or solid hydrocarbon, cement material, sand and gravel, road material, building stone, chemical raw material, gemstone, fissionable and nonfissionable ores, colloidal and other clay, steam and other geothermal resources, and any other substance defined as a mineral by law of this state.
- (16) "Mineral proceeds" includes:
 - (a) All obligations to pay resulting from the production and sale of minerals, including net revenue interests, royalties, production payments, and joint operating agreements; and
 - (b) All obligations for the acquisition and retention of a mineral lease, including bonuses, delay rentals, shut-in royalties, and minimum royalties.
- (147) "Negative Report" means the Holder did not have any Inactive accounts or other unclaimed assets to report for a particular reporting period.
- (158) "Notice" has the same meaning as ORS 98.322(1)(b).
- (19) "Person" has the same meaning as ORS 98.302, and includes an estate and a trust.
- (1620) "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, e.g. email, phone call, letter, personal contact etc. Automated, recurring and/or prescheduled credit and debit transactions do not qualify as Positive Owner Contact.

(217) "Property" has the same meaning as ORS 98.302, and includes Tangible and Intangible Property.¶

(1822) "Reportable" means the appropriate Dormant or Inactive period as set forth in OAR 170-145-0010 after which time an Owner has not claimed his or her asset from a ~~Holder~~Holding company, and the Holder has taken appropriate steps to find the Owner, as described in 170-145-0015.¶

(1923) "Safekeeping Depository" means any leased or rented depository used as a deposit for safekeeping of Tangible or Intangible Property.¶

(204) "Security" has the same meaning as ORS 98.322(1)(c).¶

(25) "Service Member" means the Person to whom a Military Medal was initially awarded.¶

(216) "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, and 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; and¶

(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.¶

(227) "Third-party Administrator" is a Person contracted by the Holder to manage and process account records.¶

(238) "Treasurer" means the State Treasurer as established under Article VI, section 4 of the Oregon Constitution, the State Treasurer's designee, or the State Treasurer's Authorized Representative.¶

(249) "Treasurer's Authorized Representative" means a Treasury, Department of Consumer and Business Services, or Office of the Secretary of State employee or any other Person under contract with the Treasurer to conduct the eExamination.¶

(2430) "Treasury" means the Oregon State Treasury, which is the administrative branch of the Office of the State Treasurer.¶

(2531) "U.S. Savings Bonds" has the same meaning as ORS 98.319.
Statutory/Other Authority: ORS 178.050, ORS 98.302 to 98.436
Statutes/Other Implemented: ORS 98.302 to 98.436, 98.992

AMEND: 170-145-0010

RULE SUMMARY: Adding new timeframes for property being presumed abandoned based on statutory changes made during the 2023 legislative session (ORS 98), which take effect January 1, 2024.

CHANGES TO RULE:

170-145-0010

Determining When Holders Must Report Property

Property becomes Reportable when presumed abandoned under Exhibit A in the table attached to this rule.

Statutory/Other Authority: ORS 178.050, ORS Chapter 98

Statutes/Other Implemented: ORS 62.720, ORS 98.302 to 98.436, ORS 98.992

RULE ATTACHMENTS DO NOT SHOW CHANGES. PLEASE CONTACT AGENCY REGARDING CHANGES.



**OAR 170-145-0010
Determining When Holders Must Report Property**

Property becomes Reportable when presumed abandoned under the following table:

(1) All Holders

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Intangible personal property in the course of a dissolution of a business association or Financial Institution	One year	The date of final distribution
(b) Unpaid wages, including commissions, and wages represented by uncashed payroll checks owing in the Holder's ordinary course of business	One years	Date the instrument becomes due and payable
(c) Property held in a safety deposit box or any other safekeeping repository in Oregon	Two years	Date the lease or rental period expired
(d) Assets of a dissolved cooperative	Two years	Date of final distribution
(e) Any Credit Memo issued in the Holder's ordinary course of business	Three years	Credit Memo becomes payable or distributed without Positive Owner Contact
(f) Any other disbursements issues during the Holder's ordinary course of business	Three years	Date it became payable or distributable notwithstanding the Owner's failure to make demand or to present any instrument or document required to receive payment
(g) All intangible personal property, not otherwise covered by ORS 98.302 to 98.436 and 98.992, including any income or increment thereon	Three years	Date it became payable or distributable notwithstanding the Owner's failure to make demand or to present any instrument or document required to receive payment



If the Property is:	And has been Dormant or Inactive for more than:	After the:
(h) Money order or similar written instrument other than a third-party bank check	Seven years	Money order has been outstanding after its issuance
(i) Traveler's check	15 years	After its issuance, unless the owner has communicated in writing with the issuer concerning the traveler's check

(2) All Holders holding Property in a fiduciary capacity

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Intangible personal property and any income or increment thereon, including but not limited to, property management security deposits, attorney trust accounts, escrow accounts, and trust accounts	Three years	It becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary
(b) 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	Three years	Distribution of all or part of the funds comes mandatory under the terms of the account or plan and the Holder is unable to distribute
(c) Funds in an account established under ORS 126.805 to ORS 126.886	Three Years	Not payable or distributable unless the minor on whose behalf the account was opened attains the age of 21 years



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(3) Business Association

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Stock, certificates of ownership, or other intangible equity ownership interests in a Business Association	Three years	The requirements under ORS 98.322 are met
(b) Dividends, profit distributions, interest, payment on principle, or other sum	Three years	The requirements of ORS 98.322 are met

(4) Financial Institution

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Any sum payable on a Credit Union drawn check, draft or similar instrument, including a cashier's check and a certified check that are due or standing in the name of a member, beneficiary, or other Person	Three years	Date it became payable or the date of its issuance if payable on demand subject to the requirements of ORS 98.308
(b) Any demand, savings or matured time deposit, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, mutual investment certificate or any other interest	Three years	Date of the last Positive Owner Contact subject to the requirements under ORS 98.308
(c) Any certificate of deposit in the form of a Dividend Reinvestment Plan	Three years	First maturity date after the Holder determines that the Owner cannot be located
(d) Any funds payable for which a Financial Institution is directly liable, including checks, drafts, cashier's checks, certified checks, or similar instruments	Three Years	After it was payable or after its issuance if payable on demand subject to the requirements of ORS 98.308



(5) Government Body

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Fines, bail, restitution, child support, condemnation payments, judgment proceeds, municipal bonds and the interest thereon, and all other Intangible Property	Two years	Date of the most recent Positive Owner Contact
(b) Tangible Property other than Property seized by a removing authority under ORS 98.245(1)(b), personal Property willfully abandoned by the Owner (e.g., automobiles, furniture, household goods, or other Property specifically addressed by statute); Tangible Property consistent of used personal clothing or household items with little or no commercial value, except Military Medal or any hazardous materials	Two Years	Date of the most recent Positive Owner Contact
(c) Intangible Property, including uncashed warrants	Two Years	The Property has remained unclaimed

(6) Insurance Company

If the Property is:	And has been Dormant or Inactive for more than:	After the:
(a) Funds owing under a life or endowment insurance policy or annuity contract	Three years	Funds become due and payable
(b) 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 company	Two years	Date the policy or annuity contract matured and the proceeds became due and payable under requirements in ORS 98.314(3)



(7) Utility company or municipality

If the Property is:	And has been Inactive for more than:	After the:
(a) A Deposit or other sum paid in advance for Utility services	One year	Date of termination of services or funds otherwise become payable
(b) A refund the Utility has been ordered to return	One year	The date the refund became payable

AMEND: 170-145-0015

RULE SUMMARY: Adding due diligence requirements based on statutory changes made during the 2023 legislative session (ORS 98.322), which take effect January 1, 2024; clarifying other rules to align the rule language with practice and program guidance to holders.

CHANGES TO RULE:

170-145-0015

Holder's Due Diligence Requirements

- (1) A Holder must report all Property presumed abandoned under Oregon law to the Treasurer.¶
- (2) When the value of the Property being reported is more than \$100.00 for an individual owner, the Holder must comply with section (3) of this rule.¶
- (3) More than 60 days prior to reporting Property presumed abandoned under OAR 170-145-0015, each Holder must:¶
 - (a) Exercise Due Diligence to locate an Owner of the Property or account when the Property or account has been Inactive for the length of time required under ORS 98.302 to 98.436 and 98.992; and¶
 - (b) If the Owner is located, notify the Owner of:¶
 - (A) The type of Property being held;¶
 - (B) The process for claiming the Property from the Holder; and¶
 - (C) That if the Owner fails to claim the Property, the Holder will report the Property or account to the Treasurer as unclaimed Property.¶
 - (4) A Holder must clearly demonstrate that it complied with the requirements of this rule by:¶
 - (a) Verifying that the Holder has not had any Positive Owner Contact related to:¶
 - (A) The subject Property or account; and¶
 - (B) Any other Property or account belonging to the Owner (e.g., the trust department of a Financial Institution should contact other departments of the institution);¶
 - (b) Verifying the lack of a memorandum or other record on file indicating an interest in the Property;¶
 - (c) If the Holder is a credit union or the property is a Security, verify that the Owner has not participated in voting during a regularly scheduled meeting; and¶
 - (d) If the Holder is unable to locate the Owner:¶
 - (A) Verifying that the Owner is not a current employee of the Holder;¶
 - (B) Reviewing telephone directories, or other available databases to verify the Owner's address mailing address, email address, and telephone number;¶
 - (C) Verifying the Owner is not a well-known individual or organization (e.g., Department of Treasury, IRS); and¶
 - (D) ~~A~~Verifying any other effort the Holder may take to find an Owner.¶
 - (5) If a Holder is holding any Property presumed abandoned under ORS 98.322, the Holder must clearly demonstrate that it complied with the following requirements:¶
 - (a) Holder must send the initial Notice to the Owner by the primary method it uses to communicate with the Owner, either email or standard mail.¶
 - (A) If the Holder believes the Owner's email address is not valid, then the Holder must send Notice by standard mail.¶
 - (B) If the Holder primarily communicates by standard mail and has a valid email address, Notice may also be sent by electronic mail, at the discretion of the Holder.¶
 - (b) If the initial notice is returned or is undeliverable or the Holder has received no response in 30 days after giving the notice, then the Holder must send an additional notice by first class mail to the Owner's last known address.¶
 - (6) A Holder must retain the records or documentation of its compliance with the requirements of this rule for three years and make the records or documentation available for inspection when requested by the Treasurer. Statutory/Other Authority: ORS 178.050, ORS 98.422, ORS 98.352
Statutes/Other Implemented: ORS 98.352

AMEND: 170-145-0020

RULE SUMMARY: Removing specific language about reporting format; adding language about lawyer trust accounts based on revised reporting process agreed upon by the Oregon State Bar and Oregon State Treasury.

CHANGES TO RULE:

170-145-0020

Reporting Form and Format

(1) A Holder must submit reports electronically ~~using the NAUPA II Standard Electronic File Format. The reports must be submitted through the Unclaimed Property Portal located at <https://unclaimed.oregon.gov/app/submit-a-report> and in the requested format.~~¶

(2) Notwithstanding section (1) of this rule, 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. The Holder must follow the form and format required by the Treasurer if the request is approved.¶

(3) A Holder must file a Negative Report if required by the Treasurer.¶

¶

[Ed Note: You may request of a copy of the NAUPA Standard Electronic File Format from the Treasurer, or you may download a copy from the NAUPA website by copying and pasting the following address:

<https://mk0unclaimedproo4yy1.kinstacdn.com/wp-content/uploads/NAUPAStandardElectronicFileFormat-11-20-19.pdf>]

(4) A Holder of lawyer trust account funds or interest on lawyer trust account funds must submit a report in writing and remit the funds to the Oregon State Bar. The Oregon State Bar will provide the report data to the Treasurer based on the Treasurer's instruction.

Statutory/Other Authority: ORS 178.050, ORS 98.422, ORS 98.352

Statutes/Other Implemented: ORS 98.352

RULE SUMMARY: Clarifying and aligning rule language with practice and program guidance to holders.

CHANGES TO RULE:

170-145-0025

Reporting and Delivery of Property to the Treasurer

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

(2) The Holder must designate an employee to serve as ~~the contact Person responsible~~ for the report.¶

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

(4) The Treasurer 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. Such action is at the Treasurer's discretion.¶

(5) A Holder must report all Property having a value of \$50 or more per account or Owner of record, individually, and, regardless of value, presumed abandoned according to ORS 98.302 to 98.352 and the timelines established in (3) above.¶

(a) Reported Property must include the following information, if known:¶

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

(bB) 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.¶

(6b) 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¶

(A) If the Holder chooses to aggregate Owner Property, the Treasurer may request the Holder to certify ownership when a potential claim exists for a portion of the lump sum reported.¶

(7) To assist the Treasurer 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 Treasurer may not require this action provide any available detail for each Property, such as Owner, contact information, amount due and other identifier that would allow the Treasurer to look for Owners and reunite them with their Property. The Holder may choose to upload this information securely through the Unclaimed Property website or send by letter or fax.¶

(B) If the Holder does not provide Owner detail for aggregate Property, the Treasurer may request the Holder to certify ownership when a potential claim exists for a portion of the lump sum reported.¶

(86) In addition to the information required above, a life insurance company must 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 according to the Holder's records;¶

(b) The address of each beneficiary; and¶

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

(97) A Holder of Safekeeping Depositories must comply with the following additional requirements:¶

(a) The Holder must 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 section (5) of this rule, list each item left in a Safekeeping Depository, and the identity of the Owner. The Holder must include information about the original box if the Holder moved items to a safekeeping area.¶

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

(d) The Holder must clearly identify on the package the Holder's complete name ~~and return address,~~ the branch (if applicable), the return address, and name and phone number of contact person.¶

(e) With the exception of hazardous Tangible Property, the Holder must forward the complete contents of Safekeeping Depositories to the Treasurer intact. The Holder may not convert, substitute or exchange any coins

and currency found in the box.¶

(f) ~~The Holder must include information about Safekeeping Depository costs in its report to the Department. The Treasurer may require the Owner to furnish proof from the Holder pursuant to OAR 170-145-0015 before a claim for a safe deposit box is approved.¶~~

~~(10) Inventory contents before remitting Tangible Property to the Treasurer and include inside each package the inventory sheet and Owner information. If the Holder returns any boxes to Owners between reporting and remitting Tangible Property to the Treasurer, the Holder must provide documentation for any boxes returned to Owners.¶~~

~~(g) The Holder must include information about Safekeeping Depository costs in its report to the Department. The Treasurer may require the Owner to furnish proof from the Holder pursuant to OAR 170-145-0015 before a claim for a safe deposit box is approved.¶~~

~~(8) A holder of lawyer trust account funds or interest on lawyer trust account funds must comply with 170-145-0025(4) and the following additional requirements:¶~~

~~(a) Provide written reports to the Oregon State Bar in a format provided by the Treasurer.¶~~

~~(b) Property may not be comingled with other property types.¶~~

~~(c) Property may not be reported for non-Oregon addresses. Such Property must be reported to the state of record.¶~~

~~(9) 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 must, in addition to supplying the information required in section (5) of this rule:¶~~

~~(a) Report and transfer the shares directly to the Treasurer'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 must:¶~~

~~(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 Treasurer; 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 Office of the State Treasurer as custodian of unclaimed Property. The original certificate of ownership is presumed to be in the possession of the missing Owner.¶~~

~~(c) In any case, the Holder must report and forward to the Treasurer all outstanding accrued Dividends, along with the certificate.¶~~

~~(14) In addition to providing the information required in section (5) of this rule, a Holder reporting mutual funds in book entry form must:¶~~

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

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

~~(12) If the Holder is a dissolved agricultural cooperative, the Holder must forward the original reports detailing unclaimed dissolved agricultural cooperative accounts to the Treasurer along with the funds; and file a copy of the report with Oregon State University. The Treasurer must reconcile the report to the delivered funds, deduct the costs as provided for in ORS 62.720 and forward the funds to Oregon State University within 14 working days after receiving the funds.¶~~

~~(13) The receiver or other liquidating agent for a dissolved corporation must 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 must 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 must not include checks or orders that have already been paid pursuant to indemnity bonds. The agency must forward the report to the Treasurer 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 must:¶~~

~~(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 Treasurer; and¶~~

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

~~(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 must include in the initial report prior known names and~~

addresses of the original or previous Holder.

Statutory/Other Authority: ORS 178.050, ORS 98.422, ORS 98.352

Statutes/Other Implemented: ORS 98.412

RULE SUMMARY: Clarifying and aligning rule language with practice and program guidance to holders.

CHANGES TO RULE:

170-145-0040

Holder Examinations

Every Person receiving at least 10 business days written notice is subject to an eExamination by the Treasurer.¶

(1) The Person subject to an eExamination must provide all records, without redaction or omission, necessary to determine whether the Person has complied with the requirements of ORS 98.352. Unless authorized by the Treasurer, records must be in an electronic format. The Person or Holder subject to Examination must provide records timely during the Examination.¶

(2) A Holder subject to an eExamination under ORS 98.412(4) must provide all records to the Treasurer or the Treasurer's ~~a~~Authorized ~~r~~Representative, including those records created or maintained by any Person serving as the Holders' registrar, paying agent, Third-Party Administrator, or any other Person creating or maintaining records on behalf of the Holder.¶

(3) The Person or Holder subject to eExamination must present all records and accounts requested and include, but are not limited to:¶

(a) Contractual agreements between depositors and the Financial Institution regarding the deduction of authorized service charges ~~authorized according to ORS 708.500~~, account increases or decreases, and the cessation of interest payments;¶

(b) Records of current accounts, Inactive accounts, and accounts that may have been closed and archived;¶

(c) The Holder's procedures for administering Inactive accounts, including searching for and notifying Owners to ensure compliance with OAR 170-145-0015;¶

(d) Bank reconciliations, outstanding checklists, check registers, void check listings, and bank statements;¶

(e) ~~Aged~~Customer accounts receivable aging reports;¶

(f) Reports from transfer agents showing the name, address, and last date of positive contact with stockholders;¶

(g) ~~Uncashed checks that have been returned as undeliverable;~~¶

~~(h) Uncashed payroll checks that have been returned by a company plant or office;;~~¶

~~(h) Journal entries that specifically write off stale dated checks;~~¶

~~(i) Third Party Administrators' contracts, records, and reconciliations; and~~¶

~~(j) Holder trial balance of accounts and/or chart of accounts.~~¶

~~(4) The Holder may not report or deliver any past-due Property directly or through a transfer agent during the Examination unless the Treasurer provides written authorization to do so.~~¶

~~(45) Journal entries that specifically write off stale dated checks;~~¶

~~(j) Third Party Administrators' contracts, records and reconciliations; and~~¶

~~(k) Holder trial balance of accounts or chart of accounts. During the Examination, the Holder may not report and remit current annual reports directly to the Treasurer. Instead, the Holder must deliver the reports to the Treasurer's Authorized Representative between October 1st and November 1st. The representative will review the reports to ensure past-due property is not included. Once the review is complete, the representative will inform the Holder of their findings, instruct the Holder on any needed changes to the report, and provide a new reporting deadline. Current reports will not be considered late when the Holder complies with this requirement and the new deadline.~~¶

~~(46) The Holder must respond to the Treasurer's preliminary findings by providing a written response within 30 days.~~¶

~~(57) The Holder must deliver to the Treasurer any Property, interest, and penalties due based on final eExamination findings within 60 days unless the Holder requests to resolve the dispute through a collaborative dispute resolution process or files a request for contested case hearing. If the Holder fails to request a collaborative dispute resolution process or contested case hearing within the time allowed, the eExamination findings and decisions become final. The Holder may request a payment plan or payment period adjustment from the Treasurer.~~¶

~~(68) A Holder that has been subject to an eExamination by the Treasurer is required to file an annual Holder's report, including a Negative Report, for the five years immediately following the examination date even if it is not in possession of Property to report and remit. If the Holder has no Property to report for five consecutive years, the Holder may request permission to stop filing Negative Reports until the Holder has Property to report.~~

Statutory/Other Authority: ORS 178.050, ORS 98.422

Statutes/Other Implemented: ORS 98.412

AMEND: 170-145-0045

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

CHANGES TO RULE:

170-145-0045

Records Maintenance, Retention, and Disclosure

(1) The Holder is responsible for the content, accuracy, and timeliness 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.¶

(2) Every Holder must maintain a record of the name and Last-known Address of the Owner and such signature cards and other evidence which would assist in the identification of the owner for three years after the Property has been remitted to the Treasurer.¶

(3) Except as provided in section (4) of this rule, a Person may not release a list of records within:¶

(a) Twelve months after the date the Property is Reportable; and¶

(b) Twenty-four months after the date the Property has been delivered or remitted to the department.¶

(4) Lists of uncashed warrants, stale dated checks, or other Property held by a Government Body under ORS 98.336 are exempt from public review for 24 months after the Property is remitted to the Treasurer.¶

(5) Records assembled, received, or used by the state or its audit vendor in connection with a Holder Examination are exempt from public disclosure per ORS 192.355(46).

Statutory/Other Authority: ORS 178.050, ORS 98.422

Statutes/Other Implemented: ORS 98.302 to 98.436, ORS 98.992

AMEND: 170-145-0050

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

CHANGES TO RULE:

170-145-0050

Request for Collaborative Dispute Resolution

(1) Either the Holder or the Treasurer may request the other to engage in a collaborative dispute resolution process when the findings or decision are based on estimates as described in OARS 98.412(4). Both parties must agree to the process, and either party can terminate the process at any time. ¶

(2) A Holder who disagrees with eExaminations findings by or a decision of the Treasurer under these rules may request to resolve the dispute through a collaborative process. ¶

(3) The Holder's request must: ¶

(a) Be filed within 60 days of the date of the Treasurer's final eExamination findings; and ¶

(b) Be in writing. ¶

(4) The Holder must file the request to resolve the dispute through a collaborative process either by: ¶

(a) Emailing the request to holder@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 100867 Hawthorne Ave SE ¶~~

~~Salem, OR 97301-12795241 ¶~~

(5) The parties may agree to use mediation or other facilitated process to complete the collaborative dispute resolution process. ¶

(6) To preserve the right to a contested case hearing, a Holder must file a request for contested case hearing under OAR 170-145-0055. A Holder's request to resolve the dispute through a collaborative process does not stay or suspend the time that the Holder may request a contested case hearing. ¶

~~(7) If the Holder files a contested case hearing and both the Holder and the Treasurer have agreed to enter into a collaborative resolution process, the Treasurer will not refer the contested case to the Office of Administrative Hearings for up to 45 days. ¶~~

~~(8) If the request for contested case hearing has been referred to the Office of Administrative Hearing, the Administrative Law Judge will postpone the hearing for not more than 45 days when both the Holder and the Treasurer agree to enter into a collaborative resolution process. ¶~~

~~(9) If the dispute is resolved through a collaborative process, the agreement must be in writing and signed by both the Holder and the Treasurer. Once the agreement is signed by both parties, the request for contested case hearing will be dismissed with prejudice.~~

Statutory/Other Authority: ORS 178.050, ORS 98.422

Statutes/Other Implemented: ORS 183.502

AMEND: 170-145-0055

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

CHANGES TO RULE:

170-145-0055

Requesting a Contested Case Hearing

~~(1) A Holder~~Person who disagrees with a ~~decision, examinations findings, or penalties issued by the Treasurer under these rules~~ may file any proposed decision issued by the Treasurer under this chapter 170, division 145 may request for a contested case hearing.¶

(2) The request must: be:¶

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

(b) ~~Be in~~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 Holder~~The Person must file the request for contested case hearing either by:¶

(a) Emailing the request to holder@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 137-003-0520. ~~The administrative law judge may only issue a Proposed 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.~~

Statutory/Other Authority: ORS 178.050, ORS 98.422

Statutes/Other Implemented: ORS 98.402, ORS 98.412

AMEND: 170-145-0100

RULE SUMMARY: Minor editorial and some clarifying changes.

CHANGES TO RULE:

170-145-0100

Voluntary Disclosure Program

(1) The Voluntary Disclosure Program allows a Holder to come into compliance with the reporting and delivery of Property presumed abandoned under ORS 98.302 to 98.436 and these rules without penalty under ORS 98.992 during the period the Holder participates.¶

(2) To participate in the Voluntary Compliance Program, a Holder must meet the following criteria. The Holder:¶

(a) Has identified that it did not report or underreported Property that was Reportable and deliverable in a prior year;¶

(b) Is not subject to a current eExamination under these rules; and¶

(c) Has not participated in the Voluntary Compliance Program or the Self-audit Program within the past ten years. The Treasurer may waive this requirement if the Property type is new or associated with a merger or acquisition of a new company.¶

(3) If the Holder qualifies to participate in the Voluntary Disclosure Program, the Holder must:¶

(a) Enter into a Voluntary Disclosure Agreement with the Treasurer.¶

(b) Conduct a complete examination of the Holder's, the Holder's subsidiaries or other related entities books and records for the six years immediately prior to participation;¶

(c) Report and deliver Property ~~that are~~ as required under ORS 98.302 to 98.436;¶

(d) Disclose the following for each subsidiary or related entity:¶

(A) The Employer Identification or Tax Identification Number issued by the Internal Revenue Service;¶

(B) The state of domicile;¶

(C) The state of incorporation; and¶

(D) The Holder's corporate structure.¶

(e) Disclose, in writing, all business positions, methodologies, and estimation techniques, if applicable, used to determine Reportable Property;¶

(f) Disclose the Due Diligence performed to locate Owners under the eExamination period;¶

(g) ~~To~~ Verify the content and accuracy of the records examined to the Treasurer, including the reason for each missing or unavailable record; and¶

(h) File an electronic report in the form and format required by the ~~directo~~ Treasurer under OAR 170-145-0020 within 180 days after the Holder enters the Voluntary Disclosure Program.¶

(4) When the Holder completes the Voluntary Disclosure Program, the Holder ~~become~~ remains subject to a penalty for failing to report, pay, or delivery Property under ORS 98.302 to 98.436 for periods other than those covered by the Voluntary Disclosure Program.¶

(5) The Treasurer at any time may conduct an eExamination of the Holder's records under ORS 98.412.

Statutory/Other Authority: ORS 178.050, ORS 98.302 to 98.436, ORS 98.992

Statutes/Other Implemented: ORS 98.302 to 98.436, ORS 98.992