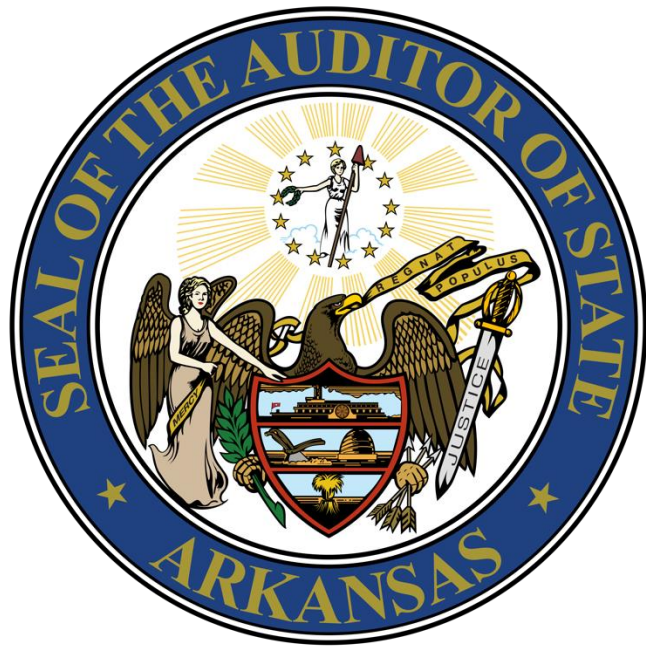


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2024 | **UNCLAIMED**
Property
Holder Seminar

SEPTEMBER 2024

LEGISLATIVE UPDATE

Overview

➤ General Overview of Arkansas Unclaimed Property Act (UPA)

- Ark. Code Ann. §§ 18-28-201 *et seq.*

➤ Legislative Update

➤ Case Law Update



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Overview of the UPA

What is unclaimed property?

- Intangible or tangible property that has been *abandoned or lost* by its rightful owner for a specified period of time (i.e., *the dormancy period*)



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Overview of the UPA

Examples of types of unclaimed property

- Savings and checking accounts
- Unpaid wages or commissions
- Stocks
- Bonds
- Utility deposits
- Cashier's checks
- Money orders
- Contents of safe deposit boxes
- Retirement accounts



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Overview of the UPA

Dormancy Period

- **Definition:** Statutorily set time period, where there has been no owner-initiated contact or activity, that must elapse before a state can consider property dormant or abandoned
- Calculated from a “trigger date”
- Examples of common dormancy triggers
 - Issue date (checks)
 - Date of last contact/activity
 - Maturity date
 - Date property becomes mandatorily distributable



Overview of the UPA

Dormancy Period

- **Purpose:** To provide time for an owner to come forward to claim his or her rightful property
- **In Arkansas,** varies by property type:
 - Most property types – 3 years
 - Payroll/wages – 1 year



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Overview of the UPA

Compliance Requirements

➤ Reporting

- Under the UPA, businesses are required to report and remit unclaimed property to the Arkansas Auditor of State annually
 - Most businesses – Before November 1st
 - Covers 12 months preceding 7/1 of that year
 - Life insurance companies – Before May 1st
 - Covers the preceding calendar year



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Overview of the UPA

Compliance Requirements

➤ Due Diligence

- Must send written notice to owners
 - Applies to all properties \$50 or more
 - Must be sent at a set time prior to filing annual report
 - Do not need to send to owners whose addresses the business knows to be incorrect (i.e., returned mail)



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Legislative Update

Changes to the UPA

1. Dormancy periods
2. Due diligence requirements
3. Changes affecting life insurance property



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Changes to Dormancy Periods

- Changes to the UPA in 2015 and 2017 modified dormancy periods for certain types of property:
 - Bonds
 - Savings Accounts & CDs
 - Demutualization Proceeds
 - Stocks



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Changes to Dormancy Periods

- **Bonds:** 5 years → 3 years
 - *Property Type:* “Debt of a businesses association or financial organization, other than a bearer bond or an original issue discount bond”
 - *Dormancy Trigger:* Dormancy still runs from the date of the most recent interest payment that has been unclaimed by the owner



Changes to Dormancy Periods

- **Savings Accounts & CDs: 5 years → 3 years**
 - *Property Type*: “A demand, savings, or time deposit, including a deposit that is automatically renewable”
 - *Dormancy Trigger*: Dormancy still runs from “the earlier of maturity or the date of last indication by the owner of interest in the property”



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Changes to Dormancy Periods

- **Demutualization Proceeds** (insurance companies): 5 years → 3 years
 - *Property Type*: “Property payable or distributable in the course of a demutualization of an insurance company”
 - *Dormancy Trigger*: Dormancy runs from the earlier of:
 - a. Date of last contact with owner; or
 - b. Date property became payable/distributable.



Changes to Dormancy Periods

- **Stocks:** 5 years → 7 years
 - *Property Type:* “Stock or other equity interest in a business association or financial organization”
 - *Dormancy Trigger:* Dormancy runs from the earlier of:
 - a. Date of most recent dividend, stock split, or other distribution unclaimed by owner;
 - b. Date of *second* mailing of a statement of account or other communication returned as undeliverable (or after holder discontinued mailings to owner); or
 - c. Date payee is presumed lost under new SEC rule 17Ad-17.



Changes to Dormancy Periods

Most Important Dormancy Change

- **Catchall:** 5 years → 3 years
 - If the UPA does not otherwise specify a dormancy period for a particular type of property, the catchall applies.
 - *Property Type:* “All other property [not specifically covered by the UPA]”
 - *Dormancy Trigger:* Dormancy runs from the earlier of:
 - a. Date the owner has a right to demand the property; or
 - b. Date the obligation to pay or distribute the property arises.



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Changes to Dormancy Periods

- **Examples of property types unaffected by dormancy period revisions:**
 - Traveler's checks (15 years)
 - Money orders (7 years)
 - Store gift cards (3 years)
 - Life insurance and annuity proceeds (3 years)
 - Payroll/wages (1 year)
 - Utility deposits (1 year)
 - IRA accounts (3 years)



Overview of the UPA

Source: https://auditor.ar.gov/wp-content/uploads/2023_UCP-Reporting-Booklet_.pdf

Misc. Checks & Intangible Personal Property		
Yrs	Code	Description
1	MS01	Wages, Payroll, Salary
1	MS02	Commissions
3	MS03	Workers Compensation Benefits
3	MS04	Payments For Goods & Services
3	MS05	Customer Overpayments
3	MS06	Unidentified Remittances
3	MS07	Unrefunded Overcharges
3	MS08	Accounts Payable
3	MS09	Credit Balance -- Accounts Receivable
3	MS10	Discounts Due
3	MS11	Refunds Due
3	MS12	Unredeemed Gift Certificates
3	MS13	Unclaimed Loan Collateral
3	MS14	Pension & Profit Sharing
1	MS15	Dissolution or Liquidation
3	MS16	Miscellaneous Outstanding Checks
3	MS17	Miscellaneous Intangible Property
3	MS18	Suspense Liabilities
3	MS99	Aggregate Misc Property (Under \$50)



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Overview of the UPA

Source: https://auditor.ar.gov/wp-content/uploads/2023_UCP-Reporting-Booklet_.pdf

Account Balances Due			Insurance		
Yrs	Code	Description	Yrs	Code	Description
3	AC01	Checking Accounts	3	IN01	Individual Policy Benefits or Claim Payments
3	AC02	Savings Accounts	3	IN02	Group Policy Benefits or Claim Payments
3	AC03	Mature CD or Save Cert	3	IN03	Proceeds Due Beneficiaries
3	AC04	Christmas Club Funds	3	IN04	Proceeds from Matured Policies, Endowments or Annuities
3	AC05	Money on deposit to secure fund	3	IN05	Premium Refunds
3	AC06	Security Deposit	3	IN06	Unidentified Remittances
3	AC07	Unidentified Deposit	3	IN07	Other Amounts Due Under Policy Terms
3	AC08	Suspense Accounts	3	IN08	Agent Credit Balances
3	AC99	Aggregate Account Balances (Under \$50)	3	IN99	Aggregate Insurance Property (Under \$50)



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Overview of the UPA

Source: https://auditor.ar.gov/wp-content/uploads/2023_UCP-Reporting-Booklet_.pdf

Uncashed Checks			Securities		
Yrs	Code	Description	Yrs	Code	Description
3	CK01	Cashier's Checks	3	SC01	Dividends
3	CK02	Certified Checks	3	SC02	Interest (Bond Coupons)
3	CK03	Registered Checks	3	SC03	Principal Payments
3	CK04	Treasurer's Checks	3	SC04	Equity Payments
3	CK05	Drafts	3	SC05	Profits
3	CK06	Warrants	3	SC06	Funds Paid to Purchase Shares
7	CK07	Money Orders	3	SC07	Funds for Stocks & Bonds
15	CK08	Traveler's Checks	7	SC08	Shares of Stock (Returned by Post Office)
3	CK09	Foreign Exchange Checks	3	SC09	Cash for Fraction Shares
3	CK10	Expense Checks	7	SC10	Unexchanged Stock of Successor Corp
3	CK11	Pension Checks	7	SC11	Other Cert of Ownership
3	CK12	Credit Checks or Memos	7	SC12	Underlying Shares or other Outstanding Certificates
3	CK13	Vendor Checks	3	SC13	Funds for Liquidation / Redemption of Un-surrendered Stck/Bnd
3	CK14	Checks Written off to Income	3	SC14	Debentures
3	CK15	Other Outstanding Official Checks	7	SC15	U S Govt Securities
3	CK16	CD Interest Checks	7	SC16	Mutual Fund Shares
3	CK99	Aggregate Uncashed Checks (Under \$50)	7	SC17	Warrant (Rights)
			3	SC18	Mature Bond Principal
		Mineral Proceeds & Mineral Interest	7	SC19	Converted Dividend Reinvestment Plan Shares
Yrs	Code	Description	3	SC20	Credit Balances
3	MI01	Net Revenue Interest	3	SC21	Bearer Bond Interest
3	MI02	Royalties	3	SC22	Bearer Bond Principal
3	MI03	Overriding Royalties	3	SC99	Aggregate Security Related Cash (Under \$50)



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Changes to Due Diligence Requirements

Due Diligence Revisions (New as of 2017)

➤ **Timing**

- Holder must send written notice to the owner not more than 180 days or less than 90 days before filing the annual unclaimed property report.
 - Old requirement: Not more than 120 days or less than 60 days before

➤ **Securities (SEC Rule 17Ad-17)**

- Due diligence notice must be sent *by letter* for:
 - Securities
 - Tangible property in a safe deposit box



Changes Affecting Life Insurance Property

Unclaimed Life Insurance Benefits Act

Ark. Code Ann. §§ 23-81-901 *et seq.*

- **New in 2015**
- **Overview:** Requires life insurance companies to search for insureds on the Social Security Death Master File (“DMF”)
 - DMF – Database of death information published by the Social Security Administration
 - Not part of UPA, but will affect how life insurance companies identify and process unclaimed property



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Changes Affecting Life Insurance Property

Unclaimed Life Insurance Benefits Act

Ark. Code Ann. §§ 23-81-901 *et seq.*

➤ Relationship to Unclaimed Property Requirements

- If cannot find beneficiary or owner, must escheat to State upon the expiration of the statutory time period for escheat
- Need not escheat interest that would otherwise be owing to a beneficiary as a result of delayed payment under insurance law
- Violations may be subject to the Trade Practices Act



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Case Law Update – Priority Rules

- ***Texas v. New Jersey***, 379 U.S. 674 (1965) – Set priority rules for escheatment
 1. State of owner's address
 2. If unknown, state where issuing company is incorporated



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Case Law Update – Priority Rules

MoneyGram Litigation – *Arkansas et al. v. Delaware & Delaware v. Pennsylvania et al.* (consolidated in the Supreme Court: *Delaware v. Pennsylvania, et. al.*, 143 S. Ct. 696 (2023))

- **Issue** – Arkansas, Pennsylvania and 27 other states challenging Delaware’s view on the priority rules as it relates to MoneyGram’s official checks.
 - U.S. Supreme Court asked to decide whether certain prepaid written instruments issued by MoneyGram were subject to the Federal Disposition Act, 12 U.S.C. Section 2503 (“FDA”), jurisdictional rules
 - FDA provides that any sum payable on a “money order, traveler’s check, or other **similar written instrument**” is reportable to the state in which the instrument was purchased if the bank’s books and records show such information. If the bank’s books and records do not show the state of purchase of a covered instrument, then the instrument is reportable to the state in which the bank has its principal place of business.
- **Requested Relief** – Ask the court to either:
 1. Rule that abandoned MoneyGram checks fall within the scope of a 1974 federal statute (escheat to state where purchased, not holder’s state of incorporation)
 - Disposition of Abandoned Money Orders and Traveler’s Checks Act, 12 U.S.C. sec. 2501 et seq.
 2. Overturn *Texas v. New Jersey* (which under the priority rules would escheat to state of incorporation)



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MoneyGram Continued

- The Court found that the disputed instruments were similar to money orders “in function and operation” and therefore subject to the FDA (i.e., reportable to the state of purchase)
 - States entitled to amounts escheated to Delaware under the second priority rule
- The Court declined to decide whether the FDA applies to cashier’s checks. The states are left to apply a two-part test established by the Court’s opinion.
 1. Is a cashier’s check a prepaid written instrument used to transmit money to a named payee?
 2. Could applying the priority rules of *Texas v. New Jersey* cause cashier’s checks to be reported disproportionately to a bank’s state of incorporation due to recordkeeping gaps (i.e. lack of owner address information)?
- Conclusion for Cashier’s Checks: **It depends**



Other Unclaimed Property Acts

- The disposition of unclaimed property is governed by state law
- **Uniform Unclaimed Property Acts drafted by the Uniform Law Commission**
 - 1954 Uniform Disposition of Unclaimed Property Act, revised 1966
 - 1981 Uniform Unclaimed Property Act
 - 1995 Uniform Unclaimed Property Act (Arkansas has a version of this Act)
- 2016 Revised Uniform Unclaimed Property Act



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2016 Revised Uniform Unclaimed Property Act (RUUPA)

- Currently enacted by 13 states
- Addresses some forms of new property (virtual currency, payroll cards)
- Affirmatively states that property is reportable absent owner demand
- Adopts 1981 Act straight 10 year statute of limitation



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Takeaways



Learn the Rules



Establish Policies & Procedures to Implement the Rules



Check for Updates to the Rules

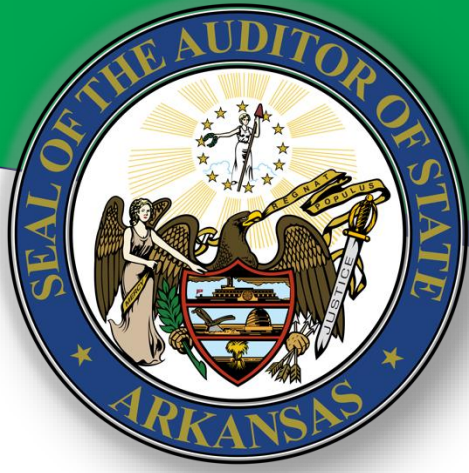


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Questions?



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Property
Holder Seminar

SEPTEMBER 2024

Claim Property & Panel

Do you have Unclaimed Property to claim?

- Check by going to claimitar.gov
- Watch the 3-minute video for a short tutorial on how to submit your claim!
- Call 1-800-CLAIMIT if you need assistance in submitting your claim.

THE GREAT
Arkansas
TREASURE HUNT



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Panel Questions

- 1. What more can holders and administrators do to ensure that holders provide all of the account identifier information needed to increase the probability that the administrator can maximum the return of property?



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Panel Questions

- 2. How should cashier's checks be reported to the State of Arkansas?



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Panel Questions

- 3. Is virtual currency required to be remitted? If yes, what are the steps and dormancy period?



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Panel Questions

- 4. How should property held in qualified retirement plans be reported to the State of Arkansas?



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Panel Questions

- 5. How should time deposits (i.e., account balances, CDs, minor accounts) be reported to the State of Arkansas?



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Panel Questions

- 6. Please explain how disbursements from mineral interests should be reported, specifically for deceased owners.



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Panel Questions

- 7. Can you please walk us through the process of auctioning contents from a safe deposit box?



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Panel Questions

- 8. Are negative reports required in Arkansas?



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Panel Questions

- 9. How do I remit payment to the State of Arkansas?



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Why?

In short, so that your money can still be yours.....

“The purpose of unclaimed property laws is to protect the public by ensuring money and property owed to them is returned to them, rather than remaining permanently with financial institutions, business associations, governments, and other entities.” -National Association of Unclaimed Property Administrators

“State unclaimed property laws are informed by consumer protection policies, given that they are designed to prevent property owners from loss of their property interests or to reunite owners with such property; further, these laws require the holder to remit such assets to the proper state if contact with the property owner is lost.”...” Companies need to understand the strong consumer protection interests that inform state audit programs and other enforcement efforts, including expanding enforcement authority and mechanisms.” -
Alston & Bird (Unclaimed Property Advisory, March 2, 2021)



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It's simple to us. You matter!!

Your testimonies matter to us!

A security officer was reunited with \$100, some from a paycheck he never cashed. "I got a little somethin' somethin'. I'm gonna go fishing with it!" –Good Morning America

"Thank you so very much for all you have done for the sons of [mother] and specifically for me. Without your help this would not have been possible.. You have gone above and beyond. You are absolutely awesome. Thank you again." – email from claimant

"[Your agent] went above and beyond the call of duty to aid my husband in claiming some property from a life insurance policy. She was prompt in answering our questions and extremely thorough in her research. We appreciate everything [she] did for us regarding this matter. Please ensure she receives the recognition deserved for a job well done." –email from claimant

The WHY to us is what it means for you or your loved ones to get back money belonging to you!



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Panel Questions

- 10. Is there a website(s) that provides reporting instructions?



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Questions?



Holder Reporting & Compliance

501-682-6000

holders@auditor.ar.gov

Transferring Shares

holders@auditor.ar.gov (for approval)

ArkansasCustody@kelmarassoc.com (custodial assistance)

Online Payment

Information Network of Arkansas

501-683-1361

help@ina.ar.gov

Submitting a Claim (Holder Reimbursement)

1-800-CLAIM-IT

claimit@auditor.ar.gov



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Contact Information



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