



Compliance with the Michigan Uniform Unclaimed Property Act

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Executive Summary

All Michigan businesses should be familiar with the basic requirements of the Michigan Uniform Unclaimed Property Act. The Act provides a mechanism for businesses and individuals to report and reclaim unclaimed property. The Act is especially important for telecommunication providers, as they frequently accept and remit payments to customers. Unclaimed refunds, deposits, and other funds owned by customers will generally fall within the scope of the Act.

Unclaimed (sometimes referred to as abandoned) property is any property owned by another and left in an entity's possession for a certain period of time, called the dormancy period. One of the most common types of unclaimed property are uncashed checks. This includes customer overpayments and utility refunds, which have a dormancy period of three years. Some types of property have a shorter dormancy period, such as utility deposits, which have a dormancy period of one year from the termination of service. All property for which the dormancy period has expired by March 31 of each year is considered unclaimed. The property-holding entity *must* first attempt to reach the property owner of the unclaimed property. If the owner cannot be located, the property-holder must report and turn over the unclaimed property to the Michigan Department of Treasury by the first business day in July. At that point, the business has no further obligations in regard to the unclaimed property.

A basic understanding of the Act is vital because the Michigan Department of Treasury has the power to audit entities' compliance with the Act. Failure to comply with the Act could lead to large fines based on the value of the unreported property. While not technically required by law, the Department has made clear its desire for all entities to file yearly "zero" reports. A "zero" report is one that states the entity has no unclaimed property in its possession. Filing a "zero" report is one way to reduce audit risk because it evidences to the Department that the entity is actively monitoring any unclaimed property that it may possess.

Also, businesses can and should check whether they are owed unclaimed property and, if so, claim it through the Department's website: <https://unclaimedproperty.michigan.gov/>

Compliance with the Michigan Unclaimed Property Act

In 1995, our Legislature adopted the Michigan Uniform Unclaimed Property Act (“Act”) to provide for the reporting and reclaiming of unclaimed property. The Act requires Michigan entities to report and tender any unclaimed property in their possession to the Department of Treasury (the “Department”). It also gave the Department the power to audit entities for unreported property and created a system for individuals to locate their property, which is now done through the Department’s website, <https://unclaimedproperty.michigan.gov/>

What is Unclaimed Property

Unclaimed property is any property owned by another and left in a business’s possession for a period of time. To fall under the jurisdiction of the Act, the property must be owned by someone whose last known address is in Michigan or whose address is unknown. Generally, property valued at \$25.00 or less does not need to be reported. Some exceptions to this rule include wages, which do not have to be reported unless they are greater than \$50.00; amounts due between two or more active businesses, which do not have to be reported unless they are checks; and dividends or stock-related property, which have to be reported regardless of value.

Property becomes unclaimed after the “dormancy” period has passed. While dormancy periods are typically three years, they vary from one to fifteen years depending on the type of property. Accordingly, Michigan businesses should closely monitor the types of property they hold on behalf of others and must not assume that the dormancy periods are the same. The Department issues a number of manuals that businesses can use to determine the applicable dormancy period. Generally, property held in the ordinary course of business has a dormancy period of three years. This includes utility refunds and customer overpayments. This means that if a utility refund remains uncashed for three years, it is unclaimed and must be reported and tendered to the Department by reporting deadlines outlined below. There are a number of exceptions, however, including utility deposits, which have a dormancy period of one year from the termination of service. MCL 567.229. Because the dormancy period for utility deposits is a statutory exception to the three-year default, one can assume that the Department will monitor its compliance closer than other types of property.

Compliance and Reporting Deadlines

The Act requires that unclaimed property holders first send written notice to the property owner at their last known address informing them that the property will be turned over to the state. This notice must be sent at least 60 days, but not more than one year before the filing of the report with the state. A notice has to be sent only if (1) the property owner’s address appears to be accurate, (2) the property value is over \$50, and (3) the statute of limitations does not bar the owner’s claim to the property. Questions on whether notice is required should be discussed with an attorney; however, sending notice of unclaimed property to all owners is a best practice. Records of all reports and supporting records, including notice letters, must be kept for ten years.

The Department of Treasury can, and does, audit businesses for compliance with the Act.

The reporting and remitting deadline is the first business day in July of each year. All unclaimed property that has met its dormancy period before on or before March 31 of each year must be reported and remitted to the state by the July deadline. The Department recommends that businesses adhere to the following timeline:

1. March 31 – Identify all reportable unclaimed property.
2. April 15 – Mail notice letters to property owners (Note that in all cases, notice must be sent at least 60 days before the property is to be remitted to the state, which is the first business day in July).
3. May 15 – Determine property owners that have not responded to notice letters.
4. June 1 – Begin preparing the annual unclaimed property reports.
5. First Business Day in July – Submit all identified reports and remit all unclaimed property.

Enforcement of the Act

Under the Act, the Department has the authority to examine the books and records of businesses, including their subsidiaries and their affiliates, to determine compliance with the Act for the past ten years. Businesses can take steps to reduce their audit risk. The Department has recently been advocating for Michigan entities to make “zero” or “negative” yearly reports. A “zero” report is when the business reports that it has no unclaimed property. In early 2016, the Department released a new set of rules and standards for its auditing procedures. According to those rules, the Department may consider an entity’s lack of reporting history, including “zero” reports, when determining whether to conduct an audit. This means that failure to file a report, say for the last ten years, could lead to an audit even when the business had no unclaimed property to report.

Around this time, the Department began “strongly encouraging” all Michigan entities to file “zero” reports in 2017. In 2018, the Department released a statement that all Michigan entities were required to file “zero” reports and that entities that failed to file a “zero” report would be in violation of the Act. The Department, however, quietly eliminated this requirement mere weeks before the reporting deadline in 2018. Now the Michigan Department of Treasury website “strongly encourages” yearly “zero” reports.

The penalty for violating the Act is generally the payment of interest on the value of the property at 1% above the adjusted prime rate from the time the property should have been delivered to the State. A willful violation of the Act leads to much harsher penalties, including fines ranging from \$100 to \$5,000 per day for failure to file a report and a fine of 25% of the property value for failure to remit the property to the Department. If a business has previously failed to report unclaimed property, it may request to file the report and remit the property without

interest or penalty by filing a Michigan Unclaimed Property Voluntary Disclosure Agreement with the department.

Identifying and Claiming Unclaimed Property

The Department's website may also be used to claim unclaimed property. By performing a simple search using an individual or business name, all unclaimed property reported to the Department will be disclosed, including the name of the property remitter and a brief description of the property. Claims for unclaimed property are made directly through the Department's website by completing a relatively short form. It is generally a good idea to check the Department's website for assets on a yearly basis, perhaps as a step in the business's compliance procedures. The Department will auction certain types of tangible property that are not promptly claimed, such as vehicles, jewelry, and other collectables, and hold the proceeds for the owner.