

ARIZONA DEPARTMENT OF REVENUE

1600 WEST MONROE - PHOENIX, ARIZONA 85007-2650

JANE DEE HULL
GOVERNOR



MARK W. KILLIAN
DIRECTOR

ARIZONA UNCLAIMED PROPERTY PROCEDURE UNP 01-1

Procedure for Assessment of Penalties, Interest,
and Examination Costs for Unclaimed Property

(This procedure supersedes UNP 97-1)

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) Title 44, Chapter 3 (A.R.S. §§ 44-301 through 44-338) is the Revised Arizona Unclaimed Property Act effective January 1, 2001. The act provides, in general, that certain tangible and intangible personal property which is held, issued, or owing in the ordinary course of the holder's business, which has been, unclaimed by the owner for certain specified periods of time is presumed abandoned. The holder of such property is required to report and pay or deliver the property to the Department of Revenue.

A.R.S. § 44-322(A) provides that the department may require any person who has not filed an unclaimed property report or any person who the department believes has filed an inaccurate, incomplete, or false report to file a report stating whether or not the person is holding any unclaimed property.

A.R.S. § 44-322(B) provides that the department may examine the records of any person to determine whether the person has complied with the provisions of the act.

A.R.S. § 44-322(E) provides that the department may assess examination costs when an examination of records results in the disclosure of reportable and deliverable property.

A.R.S. § 44-326(A) provides that a person who fails to timely pay or deliver unclaimed property to the department may be required to pay interest at a rate of one and one-half per cent per month or fraction of a month on the property, or value of the property, from the date the property should have been paid or delivered.

A.R.S. § 44-326(B)(1) provides that a person who wilfully fails to render any report or perform other duties required under the unclaimed property act shall pay a civil penalty

OTHER LOCATIONS: Tucson Government Mall – 400 W. CONGRESS - TUCSON
East Valley – 3191 N. WASHINGTON STREET - CHANDLER
North Valley – 2902 W. AGUA FRIA FREEWAY - PHOENIX

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of one hundred dollars for each day the report is withheld or the duty is not performed, but not more than five thousand dollars.

A.R.S. § 44-326(B)(2) provides that a person who wilfully fails to pay or deliver unclaimed property to the department shall pay a civil penalty equal to twenty-five percent of the value of the property that should have been paid or delivered.

A.R.S. § 44-329(A) provides for the payment or delivery of abandoned property not covered by the prior act that is covered by the revised act.

A.R.S. § 44-329(B) provides that the revised act does not relieve a holder from any duty to report, pay or deliver property that arose under the prior act.

DISCUSSION:

The Revised Arizona Unclaimed Property Act prescribes specific periods of time when unclaimed property is presumed abandoned and is required to be reported and paid or delivered to the department. The act also provides that the department may examine the records of any person to determine whether the person has complied with the provisions of the act. The department may require any person who has not filed an unclaimed property report to file a report stating whether or not the person is holding any unclaimed property.

The act provides civil penalties for the wilful failure to report or perform other required duties and for the wilful failure to timely pay or deliver unclaimed property to the department.

When property is not paid or delivered at the prescribed time, a holder may be required to pay interest at the rate of one and one-half per cent per month or fraction of a month on the property, or value of the property, from the date the property should have been paid or delivered. Additionally, if an examination of records results in the disclosure of property reportable and deliverable, the department may assess the cost of the examination against the holder at the rate of one hundred dollars per day per examiner. Such examination costs may not, however, exceed the value of the property found to be reportable and deliverable. The assessment of interest for failure to timely pay or deliver unclaimed property to the department and the assessment of examination costs is at the department's discretion.

The transitional provisions of the Revised Arizona Unclaimed Property Act provide that property subject to the prior act is still reportable and a holder is subject to penalties and interest if the property has not been properly reported.

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PROCEDURE:

Civil Penalties

The department will assess the civil penalty for failure to report or perform other duties required by the act and the civil penalty for failure to timely pay or deliver unclaimed property to the department when the department determines that such violations were wilful.

Interest and Examination Costs

Generally, the department will assess a holder of unclaimed property interest and examination costs when the department determines the following as the result of a compliance examination:

1. The holder has property subject to the Arizona Uniform Unclaimed Property Act or the Revised Arizona Unclaimed Property Act which has not timely been reported and paid or delivered to the department; and
2. The holder has knowledge of the existence and application of the Arizona Unclaimed Property Act or the Revised Arizona Unclaimed Property Act.

The department will consider the following in determining whether a holder has knowledge of the existence and application of the acts.

1. The holder has previously been subject to an unclaimed property compliance examination by the department or by an agent of the department.
2. The holder has previously received a request from the department to file an unclaimed property report stating whether or not the holder was holding any unclaimed property.
3. The holder has previously filed unclaimed property reports.
4. The holder has previously received a written communication from the department concerning the application of the acts.

The foregoing is intended to provide a general criteria for assessment of interest and examination costs for failure to timely pay or deliver unclaimed property to the

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department. This criteria is not intended to limit exercise of the department's discretion to assess interest and examination costs in other situations when the extent and gravity of the violation warrant.

Mark W. Killian, Director

Date

Explanatory Notice

The purpose of this procedure is to provide procedural guidance to the general public and to department personnel. This procedure is a written statement issued by the department to assist in the implementation of laws, administrative rules, and rulings by delineating procedures to be followed in order to achieve compliance with the law. Relevant statute, case law, or administrative rules, as well as a subsequent procedure, may modify or negate any or all of the provisions of any tax procedure. See GTP 96-1 for more detailed information regarding documents issued by the Department of Revenue.