

Handbook for Utility Companies

OFFICE OF THE NEW YORK STATE COMPTROLLER

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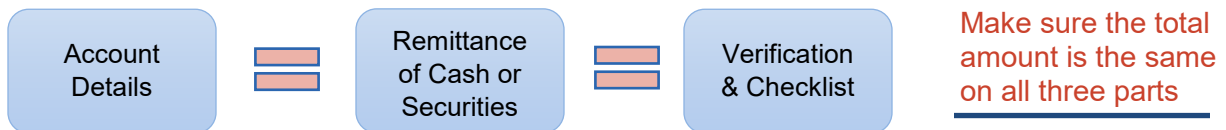
March 2020

Unclaimed Property Relating to Utility Companies – Reference Sheet

| Schedule of Events for Article IV and Section 1311 | |
|--|--|
| July 1 | Cut-off Date – if funds have become dormant in the year prior to this date, they should be included in this report cycle |
| July 10 | First Class Mailing Completed |
| August 10 | Certified Mailing Completed |
| August 31 | Publication Notice Due |
| September 10 | Proof of Publication Due |
| October 10 | Final Report and Remittance Due |

How to Report (due 10/10) - Include the following when reporting:

1. Account details of the funds you are transferring in an approved format
2. Remittance of cash or securities
3. Verification and Checklist (Form AC2709 or Electronic VCL)



More details including forms and contact information can be found at: <http://osc.state.ny.us/ouf/reporters/index.htm>

| Applicable Property Types | | |
|---------------------------|---|-----------------|
| Property Type | Property Type Description | Dormancy Period |
| 5A | Utility service deposit | 2 years |
| 5B | Advance payments for utility services not furnished | 2 years |
| 5C | Refunds due on overcharges by utility companies | 2 years |
| 8X | Late filing interest | |

Unclaimed Property Relating to Utility Companies

The following information corresponds to Article IV and §1311 of New York Abandoned Property Law (APL). For more information, refer to Article IV and §1311 of the statute.

This document includes the following sections:

[Unclaimed Property](#)

[Statutory Considerations in Addition to Article IV and §1311](#)

[Schedule of Events for Article IV and §1311](#)

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Unclaimed Property

Unclaimed property subject to Article IV of the Abandoned Property Law (APL) includes:

- Deposits made to secure payment for utility services.
- Amounts paid in anticipation of utility services being provided, which, in fact, are not provided.
- Refunds of any excess charges.

§1311 provides coverage for erroneously collected tax or assessment monies for which the consumer was not liable. Unlike Article IV, which has a two-year dormancy period, §1311 has a one-year dormancy period.

Statutory Considerations in Addition to Article IV and Section 1311 – Unclaimed Property Relating to Utility Companies

Corporate Property Types

Article V and Section 1315 of the APL

In addition to Article IV and §1311, utility companies are subject to the statutory requirements of Article V and §1315 of the New York APL, meaning that a separate Report is required to be filed on or before March 10. This report would include items such as wage checks and vendor checks. For more information, refer to Article V and §1315 of the statute and to the Office of Unclaimed Fund's (OUF) General Corporations document.

Due Diligence

§1422 of the APL requires that, at least 90 days prior to submitting its final report, the holder send a notice by first class mail to each owner whose name is expected to appear on the report unless the address for the owner is unknown or the holder can demonstrate that the address it maintains for the owner is not the owner's current address. In addition, at least 60 days prior to submitting its final report, the holder must send a notice by certified mail (return receipt requested) to each owner whose name is expected to appear on that report with abandoned property valued in excess of \$1,000 unless contact with the owner has been established; the first class mailing was returned as undeliverable or the mailing address is outside the United States.

Holders Not Authorized to Conduct Business in New York State

§1312 of the New York APL extends statutory coverage to any utility company that:

- Is chartered or organized in another state and not authorized to do business in New York.
- Holds unclaimed property payable to a person whose last known address is within New York.

Such reporting organizations are subject to the same statutory reporting requirements as organizations doing business in New York. However, the publication requirement does not apply.

Unidentified and Unapplied Payments

Unidentified and unapplied payments received by a utility company are reportable under §1315, which has a three-year dormancy period, as a credit balance under property type 5E of the Verification and Checklist.

Schedule of Events for Article IV and Section 1311 – Unclaimed Property Relating to Utility Companies

July 1

For reporting purposes, a utility company's year runs from July 2 through the following July 1. July 1 is the cut-off or ending date for the reporting period. Use it when identifying abandoned accounts/items.

July 2 through August 1

During this period, review your records and collect data related to any account/item that may be dormant and subject to reporting.

If you have an account/item subject to reporting:

- Compile the data in one of our reporting formats, so that you may submit it as your final report.

If you do not find any items subject to reporting:

- Keep a record of your review.
- Do not send preliminary or negative (zero balance) reports.

July 10

By this date:

- Send a notice by first class mail to each person or entity whose name appears on your report of abandoned property and request a signed written statement from the owner that acknowledges the property's existence. This requirement does not apply to those accounts that meet the exclusionary provisions of §1422.
- Advise and educate internal staff about the due diligence notices for effective processing when the rightful owner contacts your organization.
- Reactivate all accounts of owners who respond to the notice or otherwise establish contact. Do not include these accounts on your report.

August 10

By this date:

- If an owner has not responded to the first class mailing, or if the first class mailing was not returned as undeliverable, and the value of all unclaimed property held for the owner exceeds \$1,000, you are required to send a second notification via certified mail, return receipt requested, if the address for the owner is within the United States.
 - You may charge the cost of the certified mailing against the property's value.
- Reactivate all accounts of owners who respond to the mailing. Do not include these accounts on your report.
 - Note: we consider a return receipt to be customer contact if the receipt bears the signature of the account owner. Verify return receipt signatures against the other signature records you may have for an owner.

August 31

By this date:

- Publish a notice that abandoned property will be remitted to the State Comptroller. You may not deduct publication costs from the value of the accounts being reported.

Article IV does not require publishing individual names, but instead requires publishing a general statement providing notice of the existence of abandoned property in a specific county.

September 10

By this date:

- File proof of publication. Include an invoice, a copy of the advertisement and an affidavit.

July 2 through September 30

During this period:

- Complete report removals based on any contact with owners.

October 1 through October 10

During this period:

- Finalize the report.
- Arrange for payment.
- Submit the report, payment, and a new Verification and Checklist by the close of business on October 10.

Important Issues – Unclaimed Property Relating to Utility Companies

Excess Taxes

The law requires you to report refunds of excess taxes.

Interest

Utility deposits accrue interest at a rate established by the Public Service Commission.

Due Diligence – Unclaimed Property Relating to Utility Companies

Utility companies are required to conduct due diligence in the form of mailings and publication. The costs for completing certified mailing due diligence may be charged individually to the abandoned accounts involved in the due diligence effort. However, the costs for completing the publication and first class mailing requirements cannot be offset. You may not take a bulk deduction against the report's total value. A positive customer response to any due diligence attempt negates the need for further due diligence actions on an account.

Exercise due caution in an attempt to contact entitled owners who reside in politically sensitive countries as defined by the U.S. Department of Treasury's Office of Foreign Assets Control. Certified mailing requirements do not apply to residents of foreign countries. Address any questions pertaining to this subject to our Director of Audits.

Publication

Publish a notice that abandoned property will be remitted to the State Comptroller. Do not include names, addresses, or amounts.

Publish:

- On or before September 1.
- Once in two newspapers published in the county where such deposits, payments or payments to be refunded were made. If there are fewer than two newspapers published in any such county, publish in an adjacent county.
- In an English language newspaper, and any other newspaper that will substantially serve to inform the public of such abandoned property.

File proof by affidavit of publication with the State Comptroller on or before September 10.

The notice shall state that:

- A report of unclaimed property has been compiled and will be sent to the State Comptroller and that a copy thereof is on file and open to public inspection at the principal office or place of business in any city, village, or county where such abandoned property is payable.
- Such held properties will be paid to proven entitled parties by (reporter's name) through September 30.
- On or before October 10, any remaining unclaimed properties will be forwarded to the State Comptroller.

You may not deduct publication costs from the value of the accounts being reported.

Mailing Requirements

First Class and Certified Mailings

§1422 of the APL requires that all organizations do the following:

- At least 90 days prior to their final report/remittance date, send a notice by first class mail to each owner whose name is expected to appear on that report unless;
 - The owner address is unknown,
 - The holder can demonstrate that the address it maintains for the owner is not the owner's current address, or
 - Note – if you use an address validation service and find a new address for the owner, you may send the notice to the new address but you should not change the original address on your report.
 - The items to be reported are valued at \$20 or less and are being reported in the aggregate, in which case the owner's name will not appear on the report, therefore mailing a notice is not required.

And

- At least 60 days prior to their final report/remittance date, send a notice by certified mail, return receipt requested, to each owner whose name is expected to appear on that report with abandoned property valued in excess of \$1,000 unless;
 - Owner contact has been established,
 - The first class mailing was returned as undeliverable, or
 - The last known address is outside of the United States.

Costs

You may deduct the mailing costs for certified mail. Deduct such charges from each item for which you are mailing the notice. You may not make a bulk deduction against the final remittance.

Multiple Items

Where feasible, if you are reporting more than one item for the same owner, one letter should address all of the items you are reporting.

Multiple Owners

For cases in which multiple owners of an item have different addresses, you must send a notice to each owner. You may deduct the additional costs of mailing a certified notice to more than one address.

Wages – Article V

Article V stipulates that owners of unclaimed wages be notified at the last known address of record via first class mail. Notifications must be sent in the calendar year prior to the year in which you are required to deliver the property to the State Comptroller. You may not deduct the cost of sending notifications from the value of the abandoned property.

Remittance

Submit your remittance at the time you file a report. The remittance should be equal to the sum of the values of the accounts being reported to the Office of the State Comptroller. Pay your remittance by electronic transfer or check.

Electronic Funds Transfer

Electronic funds transfer is available to make payment of the amount due for your report of abandoned property. Instructions, including the account and routing number information, are linked in the Forms area of the [website](#).

Checks

Make checks payable to Comptroller, State of New York. You should mail it to the following address:

New York State Office of the State Comptroller
Office of Unclaimed Funds
Remittance Control, 2nd Floor
110 State Street
Albany, NY 12236

Include the letters 'OUF' and the Date/Time stamp in the memo and advice areas of your check if you sent your report account details using one of our electronic reporting methods. This will help us apply your funds correctly.

In accordance with OUF's internal control procedures, you should send all payments to the above address. At no time should you send any remittances to our New York City office.

Publication Sample – Unclaimed Property Relating to Utility Companies

NOTICE OF UNCLAIMED PROPERTY HELD BY (name of utility, city of utility)

NOTICE IS HEREBY GIVEN pursuant to Section 402 of the Abandoned Property Law of the State of New York that

- a) a report of unclaimed amounts of money or other property held or owing by the above named corporation has been made to the Comptroller of the State of New York, and that a list of names of the persons appearing from the records of such corporation to be entitled thereto is on file and open to public inspection at its principal office or place of business in (name of city, village, or county) where any such property is payable;
- b) such deposits, payments, and refunds, together with interest due thereon and less lawful deductions, will be paid by it on or before the succeeding thirtieth day of September to persons establishing to its satisfaction their right to receive the same; and
- c) in the succeeding month of October, and on or before the tenth day thereof, such unclaimed deposits, payments, and refunds, together with interest due thereon and less lawful deductions, still remaining will be paid to the Comptroller of the State of New York and that it shall thereupon cease to be liable therefore.

(Name of Utility)

(Address of Utility)