

Part 2

Standards for Determining When Property Is Abandoned or Unclaimed

67-4a-201 Abandoned and unclaimed property -- General rules.

- (1)
 - (a) Property is considered to be "abandoned" or "unclaimed" when:
 - (i) the property is held, issued, or owing by a holder;
 - (ii) the identity, status, or present location of the apparent owner is unknown; and
 - (iii) the property cannot be paid, distributed, or given to the apparent owner after the stated dormancy period for that type of unclaimed property established in this chapter.
 - (b) Property may not be considered to be "abandoned" or "unclaimed" when:
 - (i) the character or degree of ownership interest of the apparent owner in the property is unsettled or in dispute; and
 - (ii) the holder is notified of this fact.
- (2)
 - (a) For purposes of this section, property is payable or distributable even if the owner has failed to demand the property or to present any instrument or document required to receive payment.
 - (b) Except as otherwise provided by this chapter, net intangible property is considered abandoned if it is not claimed by the owner within three years after it became payable or distributable.

Amended by Chapter 18, 2007 General Session

67-4a-202 Traveler's checks and money orders.

- (1) Except as provided in Subsection (4), any sum payable on a traveler's check that has been outstanding for more than 15 years after its issuance is considered abandoned unless the owner, within the 15 years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.
- (2) Except as provided in Subsection (4), any sum payable on a money order that has been outstanding for more than seven years after its issuance is considered abandoned unless the owner, within the seven years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.
- (3) A holder may not deduct from the amount of a traveler's check or money order any charge imposed because of the failure to present the instrument for payment unless:
 - (a) there is a valid and enforceable written contract between the issuer and the owner of the instrument that authorizes the issuer to impose a charge; and
 - (b) the issuer regularly imposes those charges and does not regularly reverse or otherwise cancel them.
- (4) The state may not claim custody of a sum payable on a traveler's check or money order described in Subsections (1) and (2) as unclaimed property unless:
 - (a) the records of the issuer show that the traveler's check or money order was purchased in Utah;
 - (b) the issuer has its principal place of business in Utah and the records of the issuer do not show the state in which the traveler's check or money order was purchased; or

- (c) the issuer has its principal place of business in Utah, the records of the issuer show the state in which the traveler's check or money order was purchased, and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.
- (5) Notwithstanding any other provision of this chapter, Subsection (4) applies to sums payable on traveler's checks or money orders considered abandoned on or after May 2, 1994.

Enacted by Chapter 198, 1995 General Session

67-4a-203 Checks, drafts, and similar instruments issued or certified by banking and financial organizations.

- (1) Any sum payable on a bank draft that has been outstanding for more than three years after it was payable or after its issuance, if payable on demand, is considered abandoned unless the owner, within three years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization.
- (2) A holder may not deduct from the amount of a bank draft any charge imposed because of the failure to present the instrument for payment unless:
 - (a) there is a valid and enforceable written contract between the issuer and the owner of the instrument that authorizes the issuer to impose a charge; and
 - (b) the issuer regularly imposes those charges and does not regularly reverse or otherwise cancel them.

Amended by Chapter 18, 2007 General Session

67-4a-204 Deposits in a financial institution and funds in financial organizations.

- (1) Each deposit in a financial institution and any ownership purchase funds held by a banking or financial organization are considered abandoned after three years if the location of the owner is unknown, unless:
 - (a) the owner, within the three years, has:
 - (i) in the case of a deposit in a financial institution, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;
 - (ii) communicated in writing with the banking or financial organization concerning the property; and
 - (iii) otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;
 - (b)
 - (i) the owner, within three years, has owned other property to which Subsection (1)(a)(i), (ii), or (iii) applies; and
 - (ii) the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be considered abandoned at the address to which communications regarding the other property regularly are sent; or
 - (c)
 - (i) the owner, within three years, has had another relationship with the banking or financial organization concerning which the owner has communicated in writing with the banking or financial organization; and

- (ii) the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be considered abandoned at the address to which communications regarding the other relationship regularly are sent.
- (2) A holder may not impose any charge due to dormancy or inactivity or cease payment of interest on any property described in Subsection (1) unless:
 - (a) the holder is specifically exempted by federal law; or
 - (b)
 - (i) there is a valid and enforceable written contract between the issuer and the owner of the instrument that authorizes the issuer to impose a charge; and
 - (ii) the issuer regularly imposes those charges and does not regularly reverse or otherwise cancel them.
- (3)
 - (a) Except as provided in Subsection (3)(b), any property described in Subsection (1) that is automatically renewable is considered matured for purposes of Subsection (1) when its initial time period expires.
 - (b) If the owner consents to any renewal at or about the time of renewal by communicating in writing with the banking or financial organization or otherwise indicating consent as evidenced by a memorandum or other record on file prepared by an employee of the organization, the property is considered matured for purposes of Subsection (1) when the last time period for which consent was given expires.
 - (c) If, at the time provided for delivery in Section 67-4a-302, a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the time when no penalty or forfeiture would result.

Amended by Chapter 18, 2007 General Session

67-4a-205 Funds owing under life insurance policies.

- (1) Funds held or owing under any life or endowment insurance policy or annuity contract that has terminated or matured as defined in Subsection (3)(a) or (3)(b) are considered abandoned if unclaimed for more than three years.
- (2) The insurance company shall presume that the last-known address of the person entitled to the funds is the same as the last-known address of the insured or annuitant according to the records of the company if:
 - (a) a person other than the insured or annuitant is entitled to the funds and an address of the person is not known to the company; or
 - (b) it is not definite and certain from the records of the company who is entitled to the funds.
- (3) For purposes of this section, 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 is matured and the proceeds are due and payable if the company:
 - (a) knows that the insured or annuitant has died; or
 - (b) determines that:
 - (i) the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;
 - (ii) the policy was in force at the time the insured attained, or would have attained, the limiting age specified under Subsection (3)(b)(i); and
 - (iii) according to the records of the company, neither the insured nor any other person appearing to have an interest in the policy has, within the last two years:
 - (A) assigned, readjusted, or paid premiums on the policy;

- (B) subjected the policy to a loan;
 - (C) corresponded in writing with the company concerning the policy; or
 - (D) otherwise indicated an interest in the policy as evidenced by a memorandum or other record on file prepared by an employee of the company.
- (4) For purposes of this section, the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from being matured or terminated under Subsection (1) if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds of the policy before the depletion of the cash surrender value of the policy by the application of those provisions.

Amended by Chapter 18, 2007 General Session

67-4a-206 Deposits held by utilities.

A deposit, including any interest on it, made by a subscriber with a utility to secure payment and any sum paid in advance for utility services to be furnished, less any lawful deductions, that remains unclaimed by the owner for more than one year after termination of the services for which the deposit or advance payment was made is considered abandoned.

Enacted by Chapter 198, 1995 General Session

67-4a-207 Refunds and payments resulting from judicial or administrative proceedings.

- (1) The sum to be paid as a refund, under an order or decision of a court or administrative agency or by agreement, that remains outstanding for more than one year after it became payable is considered abandoned unless the apparent owner has communicated in writing with the holder concerning that sum within the preceding six months.
- (2) Any sum payable or intangible property distributable in the course of a voluntary or involuntary dissolution or liquidation that remains unclaimed for one year after the date of the final distribution or liquidation is considered abandoned unless the apparent owner has communicated in writing with the holder concerning that sum or distribution within the preceding six months.
- (3) Intangible property payable or distributable to a member of or participant in a class action that remains unclaimed for more than one year after the time for the final payment or distribution is considered abandoned, unless the apparent owner has communicated in writing with the holder concerning the property within the preceding six months.
- (4) Intangible property payable or distributable as the result of litigation or settlement of a dispute before a judicial or administrative body that remains unclaimed for more than one year after the time for the final payment or distribution is considered abandoned unless the apparent owner has communicated in writing concerning the property within the preceding six months.

Enacted by Chapter 198, 1995 General Session

67-4a-208 Stock and other intangible interests in business associations.

- (1) Any stock, shareholding, or other intangible ownership interest in a business association that is evidenced by records available to the association is considered abandoned if:
 - (a) the interest in the association is owned by a person who for more than three years has failed to:
 - (i) claim a dividend, distribution, or other sum payable as a result of the interest; or

- (ii) communicate with the association regarding the interest or a dividend, distribution, or other sum payable as the result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association; and
- (b) the association does not know the location of the owner at the end of the three-year period.
- (2) The return of official shareholder notifications or communications by the postal service as undeliverable is evidence that the association does not know the location of the owner.
- (3) This section applies to:
 - (a) the underlying stock, shareholdings, or other intangible ownership interests of an owner;
 - (b) any stock, shareholdings, or other intangible ownership interest of an owner when the business association is in possession of the certificate or other evidence of ownership; and
 - (c) the stock, shareholdings, or other intangible ownership interests of dividend and nondividend paying business associations whether or not the interest is represented by a certificate.
- (4) At the time an interest is considered abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously considered abandoned, is considered abandoned.
- (5)
 - (a) This section does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless:
 - (i) the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not communicated in any manner described in this section within three years; or
 - (ii) three years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the postal service as undeliverable, and the owner has not within those three years communicated in any manner described in this section.
 - (b) The three-year period from the return of official shareholder notifications or communications begins at the earlier of the return of the second of those notifications or communications or the time the holder discontinues mailings to the shareholder.

Amended by Chapter 18, 2007 General Session

67-4a-209 Property held by agents and fiduciaries.

- (1) All intangible property, and any income or increment derived from it, that is held in a fiduciary capacity for the benefit of another person is considered abandoned unless the owner has, within three years after it has become payable or distributable:
 - (a) increased or decreased the principal;
 - (b) accepted payment of principal or income;
 - (c) communicated concerning the property; or
 - (d) otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.
- (2)
 - (a) As used in this section, "distribution date" means the earliest of:
 - (i) the actual date of distribution or attempted distribution;
 - (ii) the date contracted for distribution in the plan or trust agreement governing the account or plan; or
 - (iii) the date specified in the internal revenue law of the United States by which distribution must begin in order to avoid a tax penalty.

- (b) All intangible property and any income or increment derived from it that is held in an individual retirement account, a retirement plan for self-employed individuals, or similar account or plan established under the internal revenue laws of the United States that has not been paid or distributed for more than 90 days after the distribution date is considered abandoned unless the owner or beneficiary has, within three preceding years:
 - (i) made additional payments or transfers of property to the account or plan;
 - (ii) been paid or received a distribution;
 - (iii) communicated concerning the property; or
 - (iv) otherwise indicated an interest as evidenced by a memorandum or other record on file with the account or plan fiduciary.
- (3) For the purpose of this section, a person who holds property as an agent for a business association is considered to hold the property in a fiduciary capacity for that business association alone, unless the agreement between him and the business association provides otherwise.
- (4) For the purposes of this section, a person who is considered to hold property in a fiduciary capacity for a business association alone is the holder of the property only for the interest of the business association in the property, and the business association is the holder of the property for the interest of any other person in the property.

Amended by Chapter 18, 2007 General Session

67-4a-210 Property held by courts and public agencies.

- (1) Any intangible property held by the executive, legislative, or judicial branch of the United States government, or a state or a county or municipal subdivision of a state, or any of their authorities, agencies, instrumentalities, administrations, services, or other organizations that remains unclaimed for more than one year after it became payable or distributable is considered abandoned.
- (2) Property held, issued, or owing by the court is payable or distributable if:
 - (a) the court has notified all persons whose names appear on the records of the court as having an unadjudicated claim to the property that the property is being held subject to the claim; and
 - (b) no claim is made, or property remains after all claims are resolved.
- (3) A claim filed under Section 67-4a-501 for property reported by the court to the administrator under this Section may be referred to the court for adjudication of the claim.

Amended by Chapter 156, 2005 General Session

67-4a-211 Gift certificates -- Credit memos -- Gift cards.

Notwithstanding that one or more of the following remain unreconsidered, it may not be considered abandoned for purposes of this chapter:

- (1) a gift certificate;
- (2) a gift card; or
- (3) a credit memo.

Amended by Chapter 343, 2009 General Session

67-4a-212 Wages.

Unpaid wages, bonuses, and commissions, including wages represented by unrepresented payroll checks, owing in the ordinary course of the holder's business that remain unclaimed by the owner for more than one year after becoming payable are considered abandoned.

Enacted by Chapter 198, 1995 General Session

67-4a-213 Contents of safe deposit box or other safekeeping repository.

All tangible and intangible property held in a safe deposit box or any other safekeeping repository in this state in the ordinary course of the holder's business and all proceeds resulting from the sale of the property permitted by other law that remain unclaimed by the owner for more than five years after the lease or rental period on the box or other repository has expired are considered abandoned.

Enacted by Chapter 198, 1995 General Session

67-4a-214 Mineral proceeds.

- (1)
 - (a) Any sum payable as mineral proceeds that has remained unclaimed by the owner for more than three years after it became payable or distributable is considered abandoned.
 - (b) The owner's underlying right to receive those mineral proceeds is considered abandoned when any sum payable as mineral proceeds has remained unclaimed by the owner for more than three years.
- (2) At the time an owner's underlying right to receive mineral proceeds is considered abandoned, any mineral proceeds then owing to the owner and any proceeds accruing after that time are considered abandoned.
- (3) The sum considered abandoned is subject to the custody of this state as unclaimed property if:
 - (a) the last-known address of the apparent owner, as shown on the records of the holder, is in Utah;
 - (b) the records of the holder do not identify the last-known address and it is established that the last-known address of the apparent owner is in Utah;
 - (c) the records of the holder do not reflect the last-known address, and the holder is domiciled in or is a government or governmental subdivision or agency of Utah; or
 - (d) the mineral interest is located in Utah and:
 - (i) the last-known address of the apparent owner, as shown on the records of the holder, is in a state that does not provide by law for the escheat or custodial taking of the property or is in a state in which the state's escheat or unclaimed property law is not applicable to the property; or
 - (ii) the last-known address of the apparent owner is unknown and the holder is domiciled in a state that does not provide by law for the escheat or custodial taking of the property or a state in which the state escheat or unclaimed property law is not applicable to the property.
- (4) A holder may not deduct from mineral proceeds any charge due to dormancy unless there is an enforceable written contract between the holder and the owner of the mineral proceeds under which the holder may impose a charge.

Amended by Chapter 18, 2007 General Session