

FLORIDA INCREASING UNCLAIMED PROPERTY COMPLIANCE EFFORTS





Florida's Department of Financial Services (DFS) is increasing unclaimed property compliance efforts through sending outreach letters to companies that conduct business in the state but have not filed reports or are suspected of underreporting escheat liabilities with the DFS. Many organizations conducting business in Florida are receiving such outreach letters from the DFS, encouraging them to review their records for any unclaimed funds that may be subject to reporting.

WHAT IS UNCLAIMED PROPERTY?

Unclaimed, or abandoned, property consists of tangible and intangible items that a business owes to its employees, customers, vendors, creditors or shareholders — everything from uncashed checks, voided checks, securities and unused/unredeemed gift certificates to accounts receivable credits, deposits and refunds, and rebates.

All 50 states, the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands have laws that require companies to report and remit various property types that have been unclaimed or dormant for a period of time. Frequent legislative changes and the administrative burden make it difficult for many companies to successfully implement a compliance process and maintain ongoing compliance. States are enforcing unclaimed property laws more strictly, with audits that can go back 15 years or more now prevalent for all industries and businesses of every size.

FLORIDA UNCLAIMED PROPERTY SPECIFICS

According to the [2020-21 Florida Annual Comprehensive Financial Report](#), the DFS collected \$680 million in unclaimed funds in the last fiscal year. Each year, the DFS uses unclaimed funds, in the first instance, to pay claims and offset DFS's operational costs. Last year, \$343 million was paid out to claimants with a one-in-five chance that a Florida resident has unclaimed funds held by the state. Below is a summary of important aspects of Florida's Unclaimed Property Law (UPL).¹

Interest and Penalties

DESCRIPTION	AMOUNT/RATE (%)	CLASS TYPE	WAIVABLE?
Willfully failing to render any required report	\$500/day up to a maximum of \$5,000 and 25% of the value of the property ²	Penalty	Yes
Willfully refusing to pay or deliver abandoned property	\$500/day up to a maximum of \$5,000 and 25% of the value of the property ³	Penalty	Yes
Failing to report or pay or deliver unclaimed property within the time prescribed by the UPL	12% per year from the date the property should have been delivered ⁴	Penalty	Yes
Late filing penalty or failure to include information required	\$10/day up to \$500 ⁵	Penalty	Yes

Additional penalties may apply for willfully filing false reports or making false verification under the provisions of the penal law.

Contingency Fee Auditors

The DFS conducts its own audits and also uses third-party contingent-fee auditors. As of December 2022, the DFS contracts with nine different third-party contingent-fee auditors. The DFS also uses contract auditors to assist with self-audits and the voluntary disclosure agreement program.⁶

Voluntary Compliance

The DFS has a voluntary disclosure program for first-time reporting organizations. One of the key benefits of this program is the waiver of penalties and interest.⁷ Generally, a holder is ineligible for voluntary compliance once the DFS or one of its contract auditors contacts the holder regarding an audit. The DFS provides three months for holders to identify and report unclaimed property. See [Voluntary Disclosure Program | Florida Treasure Hunt](#) for additional information on eligibility and filing requirements.

¹ Florida Disposition of Unclaimed Property Act, § 717.001 et seq. Fla. Stat.

² § 717.134(1) Fla. Stat.

³ § 717.134(2) Fla. Stat.

⁴ § 717.134(4) Fla. Stat.

⁵ § 717.117(3) Fla. Stat.

⁶ Florida Accountability Contract Tracking System - [Main Search \(fldfs.com\)](#)

⁷ Rule 69G-20.050(1)(b), Florida Administrative Code

Lookback Period & Dormancy Provisions

Florida law requires holders to retain records for five years after the property becomes reportable.⁸ Florida's lookback period is based on the 10-year statute of limitations for the DFS to commence an action or proceeding against a holder.⁹ Accordingly, the review period is generally 15 years (10 years + five-year dormancy) for both audits and voluntary disclosures.¹⁰ Dormancy periods for the most common business property types can be found in the table below:

PROPERTY TYPE	DORMANCY PERIOD	SOURCE
Payroll/Wages	1 Year	FL Title XL, 717.115
A/P Checks	5 Years	FL Title XL, 717.102(1)
Accounts Receivable Credits	5 Years	FL Title XL, 717.102 (1)
Gift Cards	Exempt	FL Title XL, 717.1045
Credit Balances	5 Years	FL Title XL, 717.1045
Securities	3 Years	FL Title XL, 717.1101 (1) (a)
Other (Catch-All)	5 Years	FL Title XL, 717.102(1)

De Minimis Transactions

Florida provides a de minimis exemption for property valued at \$10 or less. This exemption is allowed for credit balances, customer overpayments, security deposits and refunds.¹¹ Furthermore, holders with less than \$10 total to report can file a zero-balance report.¹²

Florida Compliance Filings Requirements

Florida's final report and payment is due on April 30 for property reportable as of Dec. 31 of the previous year.¹³

Due Diligence

Florida requires all holders to send due diligence mailings and attempt to contact the rightful owner of the property prior to the property being reported to the state. Due diligence must be performed at least 60 days and not more than 120 days prior to the date the report is due for property valued at \$50 or more.¹⁴ Notably, due diligence is not required if the holder does not have an address or the address is inaccurate.

Aggregate Filings

Florida allows aggregate filing for property valued at \$50 or less.¹⁵

Negative Reporting

Florida requires holders to file a negative report confirming that they have reviewed their accounting for unclaimed property but did not identify any for a given report year.¹⁶

Please visit the [Unclaimed Funds](#) website for further information relating to unclaimed property in Florida.

8 § 717.1311 Fla. Stat.
9 § 717.129(2) Fla. Stat.
10 See sample Voluntary Disclosure Agreement § 4(a)(4) available at [Voluntary Disclosure Program | Florida Treasure Hunt](#).
11 § 717.117(1)(h) Fla. Stat.
12 § 717.117(1)(f) Fla. Stat.
13 § 717.117(3) Fla. Stat.
14 § 717.117(4) Fla. Stat.
15 § 717.117(1)(d) Fla. Stat.
16 Rule 69G-20.034 (2), Florida Administrative Code

FINANCIAL INSTITUTIONS

Accounts are considered unclaimed when there is no owner contact, or no owner generated activity, for a period of time. There are unique and challenging state reporting requirements that apply to financial institutions.

Generally, Florida considers most property types unclaimed when they have been dormant for five years. However, Florida's dormancy period for stock or other equity is three years.¹⁷ Accounts would generally not be considered unclaimed if the owner has another active account.¹⁸

There are also nuances regarding delivering property to the state. Florida provides the option of sending a check or electronic payment to remit cash. For security-related property, Florida requires email notification to the state's custodian at least 48 hours prior to the transfer of securities.¹⁹

BDO Insight

- ▶ **Feasibility review** – Consider conducting a truncated review of unclaimed property obligations that follows traditional testing methodologies. These reviews arm businesses with a low-to-high range of potential escheat exposures by property type and legal entity. Often, the results of these reviews are used to book ASC 450 accounting reserves and lead to more proactive remediation measures (such as voluntary disclosures, policies and procedures, compliance, etc.).
- ▶ **Policies and procedures** – The absence of unclaimed property policies and procedures in place is the easiest way for a company to fall out of compliance with state escheatment laws and regulations. With the successful implementation of full global mapping procedures or streamlined unclaimed property policies and procedures, organizations can drive strong escheat compliance reporting.
- ▶ **Compliance** – All organizations should establish a robust annual filing process, including due diligence efforts to mitigate penalties, interest and audit risks.
- ▶ **Other states** – If an organization hasn't been meeting its multistate filing obligations, it should consider voluntary disclosure or amnesty filings with other jurisdictions to mitigate the risk of an audit.

¹⁷ § 717.1101(1)(a) Fla. Stat.

¹⁸ § 717.106 (e) Fla. Stat.

¹⁹ [Reporting-Instructions-Manual.pdf \(myfloridacfo.com\)](#)



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