

COURT OPERATIONS UNIT
Escheating Unidentified and Unclaimed Monies

Has your court ever received a payment that couldn't be matched to a name or case number in the case management system? Or has the court ever sent out a check that was never cashed? Although these situations may rarely occur in your court, you need to know the proper procedures for handling these types of monies. Both types of monies are considered to be unclaimed funds and must be remitted, or escheated, to the county (justice courts) or city/town (municipal courts) treasurer according to statute.

Courts may be in receipt of two different types of unclaimed monies:

- Unidentified monies: any payments received by the court that cannot be matched to a case number or name. Any unidentified monies should be receipted into a “dummy” case number within one business day of receipt. In AZTEC courts, the money should be receipted into a “BN” category case. In addition, the court should make copies of any documentation that was received with the payment and retain the copies in an “unidentified monies” file.
- Unclaimed funds: any checks written by the court that have not been cashed. This could include bond refunds, restitution payments, or overpayment refunds.
 - Any unclaimed restitution payments should be identified as such when reported to the local treasurer, to ensure that these monies are deposited into the correct fund by the Department of Revenue.

When is money considered to be ‘unclaimed’?

The court should calculate how long to retain money based upon the type of funds that have been received, as follows:

- The timeframe for retaining unclaimed overpayment refunds and restitution payments is calculated from the date the check was issued;
- The timeframe for retaining unidentified monies is calculated from the date the monies were received by the court; and
- The timeframe for retaining unclaimed bond refunds is calculated from the date that the court entered the order to refund or exonerate the bond.

Different statutes govern processing of escheated funds by different types of courts. It is recommended that the courts contact their local treasurer to find out the local policy for escheating monies.

Justice Courts

Arizona Revised Statute § 22-116 mandates that on or before April 1 each year, justice courts compile a list of all unclaimed funds held by the court for more than two years and remit those funds to the county treasurer. The list that is submitted to the county treasurer should include the following:

- The name of the rightful owner of the money (if available – this may not be possible in the event of unidentified monies);
- The date the money was received by the court;
- The amount of the payment;

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- A case number if possible (not required by statute but may assist a person who makes a claim with the treasurer).

The county treasurer is required to hold the funds in a “suspense account” for one year, during which time, the money may be returned to the party to whom it is owed, if a request is made. After the year has expired, the funds are deposited to the general fund of the county.

Superior and Municipal Courts

Arizona Revised Statutes §§ 44-302 (10) & (11), 44-307 and 44-308 mandate that by November 1st of each year, superior and municipal courts are required to remit unclaimed funds to the Department of Revenue. Before escheating to the state, the court should hold the funds for two years after they become distributable. Prior to 120 days before escheating the money to the state, the court should send a written notice to the owner of the funds. It is recommended that municipal courts work with their city or town to find out if the city or town has an established policy or procedure for remitting unclaimed funds.

Exceptions are monies held by Superior Court for spousal maintenance and child support which are retained by the court, as is the interest earned on trust accounts if the clerk of superior court has established a “victim location fund” under ARS § 12-287.

References and Resources:

ARS §§ 22-116, 41-2407, 44-302, 44-307, 44-308, 44-313.

Arizona Department of Revenue website at: <http://azunclaimed.gov/holders/index.html>

Unclaimed Property Reporting Manual:

<http://www.azunclaimed.gov/holders/PDF/publications/Publication%20651.pdf>