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**IDAPA 35
TITLE 01
Chapter 11**

35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES

000. LEGAL AUTHORITY.

In accordance with Sections 63-513 and 14-539, Idaho Code, the Tax Commission shall promulgate rules implementing the provisions of the Idaho Unclaimed Property Act. (7-1-93)

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 35, Title 01, Chapter 11, "Idaho Unclaimed Property Administrative Rules." These rules shall be construed to reach the full jurisdictional extent of the state of Idaho's authority to take custody of any unclaimed property pursuant to Section 14-503(3)(b), Idaho Code. (7-1-93)

002. (RESERVED).

003. ADMINISTRATIVE APPEALS.

This chapter does allow administrative relief of the provisions outlined herein under Section 63-3049, Idaho Code. (7-1-93)

004. PUBLIC RECORDS.

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 1, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-3075 or 9-340, Idaho Code. (7-1-93)

005. UNCLAIMED EXPENSES AND CHECKS.

Intangible property required to be reported and delivered to the state includes outstanding or unclaimed expense and vendor checks, payroll checks, claim checks or drafts or other miscellaneous checks and drafts. The term "check" also includes items referred to as "warrants." (8-24-94)

01. Confirmation. A confirmation letter by the payee which claims that the amount is due and owing to the payee should be accompanied by a facsimile instrument issued by the holder in payment of the amount due and owing before the account will be considered not abandoned. (8-24-94)

02. Clearance. A confirmation letter by the payee which states that the amount is not due and owing to the payee because the debt was satisfied will be deemed as lost in the clearing cycle and consequently payable to an unknown owner or holder in due course unless the holder of the property can produce a stop payment order or verify that the entry was an accounting error. It is the obligation of the holder to provide the Tax Commission with proof that the amount owed the payee was, in fact, paid and that the instrument used to pay the account has cleared all banks. Items that are found to be payable to an unknown owner in due course will be recorded as such on the unclaimed property role instead of for the benefit of the original payee. (8-24-94)

006. -- 009. (RESERVED).

010. DEFINITIONS.

01. Credit Memo. Credit Memo shall include all types of refunds and credit balances unless specified elsewhere in Idaho Code, Title 14, Chapter 5. (7-1-93)

02. Owner. Owner includes a depositor in case of a deposit; a beneficiary or insured in case of a trust, an insurance policy or an annuity policy; the purchaser in case of travelers checks and money orders; a creditor, claimant, or payee in case of other instruments; and any other person having a legal or equitable interest in property subject to the Unclaimed Property Act. (7-1-93)

011. PROPERTY PRESUMED ABANDONED GENERAL RULE.

An owner's interest may be converted only with the owner's consent or by operation of law. (7-1-93)

01. Books of Holder. Property presumed abandoned includes items that have been converted to income, reversed back to the account upon which the check or draft was drawn or any other method used to convert the unclaimed property to an asset of the holder. The books and records of the holder shall provide presumptive evidence of the existence of such intangible property. Evidence which may rebut any presumption arising from the books and records of the holder may include stop payment orders or items that can be verified as accounting errors or which establish that the original check or draft was issued in error or reissued to the original payee. (8-24-94)

02. Holding Period Determined by Type of Liability. The allowable holding period shall be determined by the type of liability, or property payable, not the method of payment. For example, an uncleared cashier's check that paid wages would be reportable after one year. (8-24-94)

012. GENERAL RULES FOR TAKING CUSTODY OF UNCLAIMED PROPERTY.

01. In General. Any holder located in Idaho may report and remit property reportable to a reciprocity state to the Commission instead of filing with the reciprocity state. The unclaimed property laws of the state where the property is reportable govern the holding period and what is reportable. (7-1-93)

02. Reciprocity Agreements. Property payable to another state may be paid to that state or delivered to the Commission pursuant to Section 14-503(3)(b), Idaho Code. If the property is not paid to the other state, the property must be reported and delivered to the Commission, which will transfer the property in accordance with its reciprocity agreements. (7-1-93)

013. SERVICE CHARGES AND INTEREST.

01. Service Charges. Funds which are reportable to the administrator are required by the act to be transmitted to the administrator. Deductions for service charges incurred after the report date are contrary to the statute requiring delivery of all reportable amounts. Holders deducting such charges will be subject to proceedings to collect the deficiency and any applicable penalty and interest. (7-1-93)

02. Interest. Interest accruing on reportable amounts is payable in addition to the reportable amounts, unless the holder and owner have a contract, meeting the criteria of the act and providing for cessation of interest. Funds which are received as non-interest bearing as a result of such contracts will be non-interest bearing when claimed by the owner. (7-1-93)

03. Burden of Proof. The burden of proof of proper notice is on the holder. The holder shall maintain a record of any notice of charges imposed or interest cessation. (7-1-93)

04. Holding Period. Communication from an owner of a dormant savings account stating his desire to maintain the account will restart the allowable holding period. The notice must be from the owner or the owner's duly authorized agent, provided that the agent is not also the holder. (7-1-93)

014. 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 proceeds resulting from the sale of the property permitted by other law, which remains unclaimed by the owner for the period allowed in Section 14-516, Idaho Code, is presumed abandoned. Safekeeping repositories include boxes, lockers, and safes made available by hospitals, hotels, and transportation companies. (7-1-93)

015. REPORT OF ABANDONED PROPERTY.

The report, or an attachment to the report, shall show the interest rate as of the report date on all interest bearing items. (7-1-93)

016. FILING A CLAIM WITH ADMINISTRATOR.

Interest on interest bearing items will accrue from March 31, 1980, or date received, whichever is later, for a maximum of ten (10) years. No interest will be paid on items that are reported as interest bearing, unless the holder reports the rate of interest. (7-1-93)

01. Payment of Claims - Claims Process. (8-24-94)
- a. Warrants will be authorized and payment made: (8-24-94)
- i. In the name of, and mailed to, the established owner; or (8-24-94)
- ii. To the court appointed estate administrator, administratrix, executor, executrix, or personal representative; or (8-24-94)
- iii. To the court appointed guardian; or (8-24-94)
- iv. In accordance with a court decree of distribution; or (8-24-94)
- v. To an heir for distribution to other heirs; if any. (8-24-94)
- b. Owner, Cashier's Checks: (8-24-94)
- i. The owner of a cashier's check is presumed to be the payee unless the remitter has in his possession the cashier's check. (8-24-94)
- ii. A payee is presumed to have received payment for a cashier's check or other instrument, and the payee must establish that the check was not cashed and that the owner is not, in fact, a holder in due course. (8-24-94)
- c. It shall be the responsibility of the payee to disburse any funds or property in accordance with any existing contract or agreement. (8-24-94)
- d. When one (1) claimant, who has proven that he has an interest in the unclaimed property, has been paid the full amount of unclaimed property held by the Tax Commission, there is no requirement that the Tax Commission pay other subsequent claimants. The Commission is not required to locate all heirs of owners of unclaimed property. (8-24-94)
- e. If there are two (2) or more owners of unclaimed property, or the reported account is in the name of the tenants in common, or the holder report does not specify the percentage or share of co-owners, the Tax Commission shall pay each owner an equal share of the account. (8-24-94)
- f. Before payment of a claim for lost stock or bond certificates, a surety bond may be required of the owner/claimant which bond shall indemnify the Tax Commission against claims by third parties. (8-24-94)

017. ADDITIONS AND PENALTIES.

Penalties and interest may be applied on all delinquent amounts reported or resulting from an audit. These additions and penalties are applicable, even though the delinquent account may be remitted directly from the holder to the owner. In the appropriate circumstances, the Commission may waive penalties imposed. (7-1-93)

018. AGREEMENT TO LOCATE REPORTED PROPERTY.

An approved claim for an account that the state has held less than twenty-four (24) months shall be remitted directly to the owner. (7-1-93)

019. -- 999. (RESERVED).