

Regulatory Analysis Form		This space for use by IRRC
(1) Agency Treasury		IRRC Number: 2318
(2) LD. Number (Governor's Office Use) 64-3		
(3) Short Title Disposition of Abandoned and Unclaimed Property Act, 72 P.S. §1301.6et seq.		
(4) PA Code Cite 61 PA. Code §951.8	(5) Agency Contacts & Telephone Numbers Prim Contact: Geraldine Long, CPA 717-772-1480 Sec Contact: Derrek Cummings, Esq. 717-797-0197	
(6) Type of Rulemaking (check one) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor
(8) Briefly explain the regulation in clear and nontechnical language. Although holders of unclaimed property should maintain records to account for their liability, Treasury routinely encounters holders who maintain partial, or no records prior to an examination by Treasury. Therefore, it is necessary for Treasury to estimate this liability where holders cannot have their unclaimed property liability determined due to a lack of, or inadequate, record keeping.		
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. 72 P.S. §1301.26(b)		

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes, 72 P.S. §1301.26(b)

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The proposed rulemaking is necessary to encourage better record keeping regarding unclaimed property within the holder community to ensure that rightful owners are notified of their right to claim this property in the custody of holders.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The risk associated with nonregulation includes a failure to maintain adequate records at the holder site to determine compliance with the Disposition of Abandoned and Unclaimed Property Act.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Citizens of Pennsylvania, as well as rightful owners located outside the state.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

There is no perceived adverse effect of this regulation, rather it will aid the Holder Community with compliance to the Disposition of Abandoned and Unclaimed Property Act.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Holder Community.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Discussions on regulations were included with statewide Holder Seminars conducted since July 2002.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

No fiscal impact.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

None.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

None.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government			N/A			
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government			N/A			
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government			N/A			
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

Proposed regulations are expected to produce gains, however, these gains are not possible to project.

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(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
		N/A		

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

There are no adverse effects associated with the regulation, only anticipated benefits.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

The nonregulated alternative would be self regulation by Holders. This alternative has been proven inadequate in the past.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No other regulations considered since mandated by 72 P.S. §1301.1 et seq.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No federal regulations apply.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation is very similar, and in some instances identical to other states. It will not put Pennsylvania at a disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No meetings required or scheduled.

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(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The proposed rulemaking should not require any legal requirements, or create any additional accounting, reporting or other paperwork not currently being performed by Treasury during its examinations of holders.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provision created.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The proposed rulemaking will be effective upon publication of final form rulemaking in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

Monitored on regular basis and updated as needed.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

#2318

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

BY: _____
(DEPUTY ATTORNEY GENERAL)

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Treasury Department
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 64-3

DATE OF ADOPTION: _____

BY: Barbara Hafer

TITLE: State Treasurer
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY: Robert J. Schwartz
Robert J. Schwartz
Chief Counsel
25 Nov. 2003
DATE OF APPROVAL

~~XXXXXXXXXXXXXXXXXXXX~~
(Chief Counsel, Independent Agency)
(Strike inapplicable title)

Check if applicable. No Attorney General approval or objection within 30 days after submission.

Treasury Department
Bureau of Unclaimed Property
61 PA Code Ch 951 §951.8
Estimation Calculations
Final Order Adopting Regulation

FINAL-FORM RULEMAKING

[61 PA. CODE CH. 951]

Estimation Calculations for Determining Unclaimed Property Liability

[__ Pa.B. ____]

BY THIS ORDER, the Pennsylvania Treasury Department (Treasury) adds Section 951.8 (pertaining to estimation calculations) to read as set forth in Annex A. This rulemaking sets forth the estimation procedures to be used by Treasury where a holder of unclaimed property has insufficient records to determine its actual amount of liability.

Effective Date

The rulemaking will be effective immediately upon publication of final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

Pursuant to Section 1301.26(b) of the Disposition of Abandoned and Unclaimed Property Act (Act), 72 P.S. §§ 1301.1 *et seq.*, Treasury is required to promulgate regulations regarding estimation calculations applicable where a holder of unclaimed property has insufficient records to conduct an examination as authorized under Section 1301.23(a) of the Act.

Background and Purpose

Although holders of unclaimed property should maintain records to account for their liability, Treasury routinely encounters holders who maintain partial or no records prior to an examination by Treasury. Therefore, it is necessary for Treasury to estimate this liability where holders cannot have their unclaimed property liability determined due to a lack of, or inadequate, record keeping.

Description of Proposed Amendments

The rulemaking adds Section 951.8 to authorize Treasury to apply estimation calculations where records are insufficient to conduct an examination as authorized under Section 1301.23 of the Act.

The rulemaking is necessary to encourage better record keeping regarding unclaimed property within the holder community to ensure that rightful owners are notified of their right to claim this property in the custody of holders.

The rulemaking is limited in its application and would not be authorized where records are available to conduct an examination by Treasury.

Fiscal Impact and Paperwork Requirement

The rulemaking has no fiscal impact on the Commonwealth or its political subdivisions. Furthermore, the proposed rulemaking is not anticipated to require any legal requirements or create any additional accounting, reporting or other paperwork not currently being performed by Treasury during its examinations of holders.

Sunset Date

Treasury continuously monitors the cost effectiveness of its regulations and, therefore, no sunset date has been assigned.

Regulatory Review

Under Section 5(a) of the RRA, 71 P.S. §§ 745.1 et seq., on February 6, 2003, Treasury submitted a copy of the notice of proposed rulemaking, published at 32 Pa. 5893, to the IRRC and the Chairpersons of the House and Senate Standing Committees on Appropriations and Finance (Committees) for review and comment.

Under Section 5(c) of the RRA, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing these final-form regulations, Treasury has considered all comments from IRRC, the Committees and the public.

Under Section 5.11(j.2) of the RRA, on _____, these final-form regulations were deemed approved by the Committees. Under Section 5.1(e) of the RRA, IRRC met on _____ and approved the final-form regulations.

Findings

The Treasury Department finds that:

- (1) Public notice of the intention to adopt final-form regulations was given under Section 201 and 202 of the Act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations promulgated in 1 Pa. Code §§ 7.1 and 7.2
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) Treasury received a recommendation from IRRC to rephrase its proposed regulations to improve clarity. Treasury has made the recommended changes to the final-form regulations as set forth in Annex A.

(4) Treasury has not received any other comments, objections or recommendations pertaining to these regulations.

(5) The regulation is necessary and appropriate for the administration of the Act.

Order

The Treasury Department, acting under authorizing statute, orders that:

(a) The regulations of the Treasury Department are amended by adding 61 Pa. Code Chapter 951.8 to read as set forth in Annex A.

(b) The Treasury Department will submit this order and Annex A to the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Treasury Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) The Order shall take effect immediately following final publication in the Pennsylvania Bulletin.

BARBARA HAFER
State Treasurer

Annex A

TITLE 61. REVENUE

PART VIII. TREASURY DEPARTMENT

CHAPTER 951. ABANDONED AND UNCLAIMED PROPERTY

§ 951.8 Estimation calculations.

A holder subject to an examination of records as provided for in section 1301.23(a) of The Fiscal Code (71 P.S. § 1301.23) is required to comply with requests by the State Treasurer or an authorized third party to make records available for examination.

~~Where no holder's records exist~~ A HOLDER'S RECORDS DO NOT EXIST or where a holder's records are insufficient for examination, the State Treasurer may apply sampling and estimation procedures to determine a holder's liability. Sampling and estimation procedures shall be applied in accordance with standards of the American Institute of Certified Public Accounts (AICPA) and the United State General Accounting Office (USGAO).



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE TREASURER
HARRISBURG, PA 17120-0018

BARBARA HAFER
TREASURER

March 25, 2003

Mary S. Wyatte, Esquire
Chief Counsel
Independent Regulatory Review Commission
Harristown 2, 14th Floor
333 Market Street
Harrisburg, PA 17101

Dear Ms. Wyatte:

Enclosed are the Pennsylvania Treasury Department's (Treasury) final-form regulation and other required materials for review.

On March 10, 2003, the Independent Regulatory Review Commission (IRRC) sent recommendations to Treasury pertaining to its proposed regulation. Treasury has made the proposed changes suggested by IRRC and, accordingly, is submitting the regulation for final approval.

Thank you for your attention to this matter. Should you have any questions or need to discuss this matter further, please contact me at (717) 787-2740.

Respectfully yours,

A handwritten signature in cursive script that reads "Robert J. Schwartz".

Robert J. Schwartz
Chief Counsel

RJS:aln

Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 64-3
SUBJECT: Estimation Calculations for Determining Unclaimed Property Liability
AGENCY: Treasury Department

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
<u>3/26</u>	<u>Lisa Wilson</u>	HOUSE COMMITTEE ON APPROPRIATIONS
<u>3/26</u>	<u>David Spitzer</u>	
<u>3/24</u>	<u>Jim Huys</u>	SENATE COMMITTEE ON FINANCE
<u>3/26</u>	<u>Janice Hess</u>	
<u>3/26</u>	<u>St. Belmont</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
_____	_____	LEGISLATIVE REFERENCE BUREAU (for Proposed only)