

California State Controller's Office
Proposed Regulatory Action: Regulations Governing the Submission of Claims for
Unclaimed Property Held by the California State Controller
Addendum to Initial Statement of Reasons

PURPOSE AND NECESSITY

As required by California Code of Civil Procedure § 1580, following a 1999 public hearing, the State Controller's Office proposed Guidelines for Claiming Unclaimed Property (the "Claims Guidelines"). These Claims Guidelines were adopted and last updated in September 2003 and are available on the Controller's web site at: https://www.sco.ca.gov/Files-UPD/guide_upd_claiming.pdf

In addition, the Controller's web site contains a set of claims guidance and resources for owners of unclaimed property to assist them with claiming property in the custody of the Controller's office. Such resources include, but are not limited to, claim filing instructions and forms, video tutorials to assist owners with electronically claiming property, and instructions for contacting the Property Owner Advocate's Office.

However, on April 27, 2021, the Superior Court of the County of San Francisco, ruling in the case of *Yee. v. Clubcorp Holdings, Inc.*, Case No. CGC-19-576314 ("*Clubcorp*"), held that the California Administrative Procedures Act "applies to the Policies and Procedures." Order Re Demurrer to Petition for Writ of Mandate and Cross-Complaint (April 27, 2021), p. 6.

While not directly at issue, the logic of *Clubcorp* would be applicable to the Claims Guidelines. Currently, the above-described information and guidance made available by the Controller on the Controller's web site set forth the requirements and procedures for owners to submit claims regarding unclaimed property, as well as certain information for holders of unclaimed property. However, there is no formal regulatory framework for the unclaimed property claims process in place at this time.

In order to provide clarity and formal guidance for owners seeking to claim unclaimed property, the Controller proposes to herein adopt Regulations governing the procedures for claiming unclaimed property (the "Proposed Claims Regulations").

FACTUAL BASIS / RATIONALE

The factual basis and rationale for each section of the proposed regulations are as follows:

§ 1180.60. [Statement of Purpose and Authority to Establish Guidelines for Claiming Unclaimed Property](#)

This section provides the purpose and goals of the Proposed Regulation and recites the statutory basis for establishing guidelines for claiming unclaimed property and prescribing the requisite forms to be used by the claimants and holders.

§ 1180.61. Submission of Claims

This section describes the submission of claims maintained by the State Controller's Office. This section outlines the requirements for completing a claim form and references the recommended documentation for filing a claim as outlined in the incorporated filing instructions. This section is necessary to outline the bare minimum amount of information necessary for a claimant to file a claim form, while also requiring such a claimant to fill out the claim form with the full extent of the information they have available. Similarly, the requested information is to help Controller's Office staff verify the claimant's identity and the basis of their claimed entitlement.

§ 1180.62. Supporting Documentation

This section establishes that certain documentation submitted by the claimant in support of their claim. It is essential for the California State Controller's Office to verify the identity of the individual filing the claim and if the claimant is entitled to the claimed property. The documents outlined by the incorporated form are typically sufficient for these steps when taken in conjunction with the earlier mentioned personal identifying information in the claim form. Similarly, the Controller's Office does not seek to foreclose the possibility of other documentation being sufficient to prove an element of the claim, which is why the listed requested documents are not exhaustive.

§ 1180.62. Additional Supporting Documentation for Claiming the Property of Deceased Owners

This section describes the additional documentation requested when a claimant seeks to claim property of deceased owners. In these cases, it is essential for the California State Controller's Office to verify the identity of the individual filing the claim, their authority to act on behalf of the decedent they represent, and if the decedent was entitled to the claimed property. The documents outlined by the incorporated form are typically sufficient for these steps when taken in conjunction with the earlier mentioned personal identifying documentation. Similarly, the Controller's Office does not seek to foreclose the possibility of other documentation being sufficient to prove an element of the claim, which is why the listed requested documents are not exhaustive.

§ 1180.63. Additional Supporting Documentation for Claims on Behalf of a Business Entity

This section describes the documentation requested when a claimant seeks to claim property on behalf of a business entity. In these cases, it is essential for the California State Controller's Office to verify the identity of the individual filing the claim, their authority to act on behalf of the business they represent, and if the business is entitled to the claimed property. The documents outlined by the incorporated form are typically sufficient for these steps when taken in conjunction with the earlier mentioned personal identifying documentation. Similarly, the Controller's Office does not seek to foreclose the possibility of other documentation being sufficient to prove an element of the claim, which is why the listed requested documents are not exhaustive.

§ 1305. Incomplete Claim Package

The incomplete claim package regulation was removed because this process is largely an extension of the claim rejection policy, and adds unnecessary steps to the existing process.

§ 1180.64. Claims Consideration

This section details the claims consideration process of State Controller's Office and the process after the determination that a claimant is unable to prove a claim. The 180-day deadline is necessary to keep this regulation consistent with California Code of Civil Procedure Section 1541, which also has a 180-day timeline. Similarly, the written response is necessary because it explains why a property was not payable to the claimant, so they can determine their next course of action.

§ 1180.65. Asset Recovery Agreements

This section describes the requirements for the processing of claims filed under asset recovery agreements. California Code of Civil Procedure Section 1582 dictates the requirement that an asset recovery agreement must meet in order to be enforceable under California law. This section is necessary to clarify when a party must submit such an agreement for the review of State Controller's Office staff. Attorneys may submit an affidavit confirming compliance with this section because attorneys may be working with a client on numerous matters, several of which, the client does not want exposed through contract review of Controller's Office staff.

DOCUMENTS REFERENCED AND RELIED UPON

Unclaimed Property Claim Affirmation Form Ref. (06/05/2024)

Claim Filing Instructions and Requested Documentation (4/6/2022)

Deceased Owner Heir Claim Filing Instructions and Requested Documentation (5/5/2022)

Business Claim Filing Instructions and Requested Documentation (1/11/2018)

Yee v. Clubcorp Holdings Inc. Order re Demurrer to Petition for Writ of Mandate and Cross-Complaint Case No. CGS-19-576314

ECONOMIC IMPACT STATEMENT

Creation or Elimination of Jobs within the State of California

It is not anticipated that these regulations will create or eliminate jobs within the State of California. These regulations do not create a new process for claiming unclaimed property held by the Controller or reporting escheatable property to the Controller. Rather, the Proposed Claims Regulations only clarify and largely reenact the previous Claims Guidelines.

Creation of New or Elimination of Existing Businesses within the State of California

It is not anticipated that these regulations will create or eliminate existing businesses within the State of California. These regulations do not create a new process for claiming unclaimed property held by the Controller or reporting escheatable property to the Controller. Rather, the Proposed Claims Regulations only clarify and largely reenact the previous Claims Guidelines.

Expansion of Businesses or Elimination of Existing Businesses within the State of California

It is not anticipated that these regulations will expand businesses or eliminate existing businesses within the State of California. These regulations do not create a new process for claiming unclaimed property held by the Controller or reporting escheatable property to the Controller.

Rather, the Proposed Claims Regulations only clarify and largely reenact the previous Claims Guidelines.

Benefits of the Regulations

The State Controller's Office has, since at least 2003, adhered to the procedures and requirements set forth in the Claims Guidelines. The Controller's Office and the Unclaimed Property Division have the mission of (a) reuniting lost and abandoned property with its rightful owner, and (b) safeguarding lost and abandoned property from being used by holders for their private gain. To enhance the efforts of the Controller's Office in reuniting Californians with their lost and abandoned property, the Controller wrote the Property Owner Bill of Rights (rev. November 4, 2016) and created the role of Property Owner Advocate's Office to assist individuals, businesses, and local governments who have been unable to resolve their property claims in a timely manner.

Continued use of the claims procedures for unclaimed property, as proposed in the Proposed Claims Regulations, will allow the Controller to continue to safeguard lost or forgotten property for California residents and reunite owners with their unclaimed property.

REASONABLE ALTERNATIVES

The only alternative considered was to leave existing regulations and guidelines available online unchanged, potentially risking allegations and legal action on the grounds that the Claims Guidelines were invalid on the grounds that they were not properly adopted as regulations pursuant to the rulemaking procedures. Clarity and enforceability of the Claims Guidelines indicated that adopting the Proposed Claims Regulations was preferable.