

Have you Completed your Due Diligence?

What happens when you have a dormant account that needs to be submitted as Unclaimed Property? How do you ensure you've completed your 'Due Diligence' to ensure a lost property owner?

Due diligence is an important part of Indiana's Unclaimed Property law. The Indiana Attorney General's Office (OAG) expects to receive property for the benefit of lost owners. But how do they become lost? It can be through a variety of ways: an address change, the property is misplaced, records of accounts are destroyed, people pass away without adequate records of assets, etc.

With the ultimate goal of reuniting as many Hoosiers as possible with the money that rightfully belongs to them, the OAG has taken an aggressive approach to raising citizens' awareness of unclaimed property. But it is also important that businesses recognize their obligation under law to report, as well as their responsibility to the customers that they served at one time.

Our office is increasing and expanding audit procedures to enforce Indiana's Unclaimed Property law. Under Amnesty, businesses have an opportunity to comply before enhanced auditing begins, and that includes doing DUE DILIGENCE.

Amnesty will expire on November 1, 2010. To be eligible for this one-time opportunity, a business must first complete and submit an Amnesty Agreement form, conduct due diligence on the property, and submit all relevant unclaimed property reports and remittances pursuant to the agreement by November 1, 2010.

Property must be reported and turned over to the state after a dormancy period. The general guideline period for most property types - with the main exception of payroll, which is one year, and court properties, which is five years - is three years.

Indiana statute IC 32-34-1-26 requires that due diligence be performed on all unclaimed property of \$50 or more.

- All holders are legally bound to perform due diligence.
- Due diligence must be performed no more than one hundred twenty (120) days, or no less than sixty (60) days, prior to the filing of the report.
- Mail notifications must be sent to property owners by first class mail or better at their last known address.

Due diligence checklist

If you have performed all of the tasks described below, you have fulfilled your due diligence responsibility as a holder:

- Examine records to find all unclaimed property.
- Determine the owner of the property.
- Use other internal resources to locate owners. For example, if you work for a bank/financial institution and find an inactive account for Jane Smith, before you designate that account as unclaimed, please ensure that your institution does not have an active account for Jane Smith.

For a complete due diligence checklist and letter visit
www.IndianaUnclaimed.com/Reporting

The penalties for failing to file a report are \$100 per day the report is late, up to \$5,000. A holder who intentionally fails to pay or deliver property is subject to an additional civil penalty of 10% of the value of the property that must be paid or delivered. A holder that willfully refuses to pay after written notice commits a Class B misdemeanor.

Not all business have unclaimed property but they still have an obligation to report – even if it’s a zero (no property) report. Businesses must recognize that it is its annual obligation to report. Businesses should have the desire to have transparency to the customers they do business with that they (the customers) don’t have accounts they may have forgotten about.

A holder is eligible for the Amnesty program if:

- They are not currently under examination by the Office of the Indiana Attorney General (OAG), or anyone acting on behalf of the office, or
- They have not been notified by the OAG (or anyone acting on behalf of the office) of its intent to conduct an unclaimed property examination of the holders’ books and record.

To learn if you are eligible to participate in amnesty, and/or to enroll in the Holder Amnesty Program, please visit www.IndianaUnclaimed.com/Reporting or call 317.883.4520 or 1.800.447.5598.

And remember, due diligence is a responsibility to your customers and required before submitting unclaimed property to the state.

Our website includes helpful information regarding requirements to report, a frequently asked questions forum, and instructions on how to report unclaimed property.