1.1 Authority

This regulation is adopted pursuant to the authority in section 38-13-131, C.R.S. and is intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 et seq. (the “APA”), C.R.S. and the Unclaimed Property Act of 1987, as amended (the “Act”), Title 38, Article 13 et seq., C.R.S.

1.2 Scope and Purpose

It is the intent of the Colorado State Treasurer to enforce the unclaimed property statutes so that property presumed abandoned under those statutes is reported to and collected by the State of Colorado, and returned to its rightful owner through an efficient advertising and claims processing program. Transferring the unclaimed property and related information to the Colorado State Treasurer allows the property and information to be compiled in a single location for the convenience of the absent owner and makes it possible for the Colorado State Treasurer to better protect the interests of missing owners. The State of Colorado indemnifies the holder against claims by individuals or other states once the holder reports and delivers unclaimed property to the Colorado State Treasurer in accordance with the Unclaimed Property Act, as amended and enacted by the Colorado legislature July 1, 1987. This law shall also be observed by the Colorado State Treasurer when reporting and delivering property belonging to other states.

1.3 Applicability

The passage of amendments to the Unclaimed Property Act over the past ten years and changes in Treasury Department operating procedures necessitate changes to the Rules initially adopted following the Act’s passage in 1987. The Amendments to existing rules and the creation of new rules relate to the handling of unclaimed property owner records, the remittance of records to the Unclaimed Property program, and other administrative functions. The amendments ensure that the rules comply with State statutes and Treasury Department operating guidelines.

1.4 Definitions

The definition of any terms used herein specific to the Unclaimed Property Program are consistent with the definitions prescribed in 38-13-102 C.R.S.

1.5 Rules

1.5.2 Knowledge of Owner

A. A holder of unclaimed property may establish its knowledge of the existence or whereabouts of the owner of that property by recording any owner-generated activity relating to that property. The mailing of a statement, confirmation or other correspondence by a holder of unclaimed property to the last known address of the owner of that property and the non-return of such mail to the holder is insufficient to establish that the holder has knowledge
of the existence or whereabouts of the owner. A holder may cross-reference with another account in the same institution or business that has current owner generated activity. To cross-reference a dormant or inactive account with an active account the same names must appear in some form either on the account, signature card or contract.

B. A holder may establish a code for indicating “customer contact” or “owner-generated activity” for purposes of record-keeping. That code must be well documented.

1.5.7 Indemnification

A. Upon payment or delivery of property to the Administrator, the state assumes custody and responsibility for safekeeping of the property. A person who pays or delivers property in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim with respect to the property.

B. A holder who has paid or delivered property to the Administrator may make payment to a person who appears to be entitled to payment and upon filing proof of payment and proof that the payee was entitled to payment the Administrator shall promptly reimburse the holder for the payment without imposing any fee or charge.

C. If the holder pays or delivers property to the Administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its unclaimed property laws, the Administrator, upon written notice of claim, shall defend holder against the claim and indemnify the holder against liability on the claim.

1.5.11 Located Property

A. All agreements to pay compensation to recover or assist in the recovery of property reported under the Unclaimed Property Act are unenforceable within 24 months after date of payment or delivery to the Administrator.

1.5.13 Electronic Reporting

A. Holders shall report unclaimed property as prescribed in 38-13-110 C.R.S. in electronic format only. The format of such report shall be in the current NAUPA Standard Electronic File Format. Holders with less than twenty (20) property owner records may file the report on the Treasurer’s official Internet website, or in other electronic media as the Treasurer may prescribe. Holders with more than twenty (20) property owner records shall file the report on electronic media only. The Treasurer shall maintain on his or her official Internet website a list and accompanying description of the type(s) of acceptable electronic media.

B. Notwithstanding the filing of such electronic report, the Holder shall pay or deliver to the Treasurer all unclaimed property reported as required in 38-13-112 C.R.S.

1.5.14 Electronic Signatures

A. Any electronic signatures for Holder reporting or other unclaimed property business as the Treasurer may prescribe shall be consistent with the Uniform Electronic Transactions Act of 2002, 24-71.3 C.R.S.

1.5.15 Power of Attorney

A. A claim made pursuant to 38-13-117 C.R.S. by a person with a duly authorized Power of Attorney on behalf of the original owner may be processed as required by law at the
Treasurer’s discretion. If claim by a Power of Attorney is initiated, such action does not preclude the Treasurer from seeking verification from the original owner as prescribed in 38-13-117(1) C.R.S.

1.5.16 Aggregate Deduction

A. Aggregate reporting under 38-13-110(2)(c) C.R.S. shall consist of like properties each of which has an individual value of less than $25. No deduction shall be taken on aggregate entities on a report. The holder shall maintain a record of the itemized information for five (5) years. An itemized accounting at the time of report submission is required for any deduction to be applicable. A holder opting for a per item deduction as defined in 38-13-112(1)(b)(ii) C.R.S. must comply with the statute and follow the reporting instructions by deducting the amount from each item as defined in 38-13-102(7.5) C.R.S.

B. For properties reported under 38-13-110(2)(a) C.R.S., each person having like properties on a holder report for a single year shall be considered a single item for the purpose of the allowable deduction identified in 38-13-112(b)(1) C.R.S.

1.5.17 Continuity of Records

A. Where a holder acquires unclaimed property from another holder, such as in a merger, acquisition, reorganization, consolidation or transfer, that successor holder shall have a duty to maintain and continue the records of the prior holder concerning the unclaimed property, as prescribed in C.R.S. §38-13-110(2).

1.5.18 Remittance of Securities

A. For unclaimed property as identified in C.R.S. §38-13-107.5, the report made by the Holder as prescribed in C.R.S. §38-13-110 for such property must match the dollar value of the property as transferred to the Treasurer under C.R.S. §38-13-112.

1.5.19 Nature of Unclaimed Property

A. A holder must report under C.R.S. §38-13-110 the original nature of the property being reported, if known, and shall be reported according to the timeline specified for the original nature of the item. For example, if the underlying transaction is an unclaimed wage but the financial instrument is a cashier’s check, the reportable item is the wage, and not the cashier’s check.

Editor’s Notes

History