

RULES AND REGULATIONS

Title 61—REVENUE

TREASURY DEPARTMENT

[61 PA. CODE CH. 951]

Estimation Calculations for Determining Unclaimed Property Liability

The Treasury Department (Treasury) adds § 951.8 (relating to estimation calculations) to read as set forth in Annex A. This final-form rulemaking sets forth the estimation procedures to be used by the Treasury where a holder of unclaimed property has insufficient records to determine its actual amount of liability.

Effective Date

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

Statutory Authority

Under section 1301.26(b) of The Fiscal Code (act) (72 P. S. § 1301.26(b)), the Treasury is required to promulgate regulations regarding estimation calculations applicable when a holder of unclaimed property has insufficient records to conduct an examination as authorized under section 1301.23(a) of the act (72 P. S. § 1301.23(a)).

Background and Purpose

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

Description of Final-Form Rulemaking

The final-form rulemaking adds § 951.8 to authorize the Treasury to apply estimation calculations when records are insufficient to conduct an examination as authorized under section 1301.23 of the act.

The final-form rulemaking is necessary to encourage better recordkeeping 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 final-form rulemaking is limited in its application and would not be authorized when records are available to conduct an examination by the Treasury.

Fiscal Impact and Paperwork Requirement

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

Sunset Date

The 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 Regulatory Review Act (71 P. S. § 745.5(a)), on February 6, 2003, the Treasury submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 5893 (November 30, 2002), to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Standing Committees on Appropriations and Finance for review and comment.

Under section 5(c) of the Regulatory Review Act, 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 this final-form rulemaking, the Treasury has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 8, 2003, and approved the final-form rulemaking.

Findings

The Treasury finds that:

(1) Public notice of the intention to adopt this final-form rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 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) The Treasury received a recommendation from IRRC to rephrase its proposed rulemaking to improve clarity. The Treasury has made the recommended changes to the final-form rulemaking as set forth in Annex A.

(4) The Treasury has not received any other comments, objections or recommendations pertaining to the final-form rulemaking.

(5) The final-form rulemaking is necessary and appropriate for the administration of the act.

Order

The Treasury, acting under authorizing statute, orders that:

(a) The regulations of the Treasury, 61 Pa. Code Chapter 951, are amended by adding § 951.8 to read as set forth in Annex A.

(b) The Treasury shall 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 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

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 33 Pa.B. 2561 (May 24, 2003).)

Fiscal Note: Fiscal Note 64-3 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 61. REVENUE

PART VIII. TREASURY DEPARTMENT

**CHAPTER 951. ABANDONED AND UNCLAIMED
PROPERTY**

§ 951.8 Estimation calculations.

(a) 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(a)) is required to comply with requests by the State Treasurer or an authorized third party to make records available for examination.

(b) When a holder's records do not exist or when 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 will be applied in accordance with standards of the American Institute of Certified Public Accounts (AICPA) and the United States General Accounting Office (USGAO).

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