

INSTRUCTIONS FOR REIMBURSEMENT OF UNCLAIMED FUNDS

Any party who seeks the payment of unclaimed funds must file an Application for Payment of Unclaimed Funds. Completion of the Application for Repayment of Unclaimed Funds requires that the forms and proofs listed below must be duplicated and submitted to the U.S. Attorney's office at the required address (given in the detailed instructions).

In order to successfully request repayment, an application package should contain the following:

- a) **Pre-Packaged Forms** – Forms must be completely filled out in full, submitted with the required proofs and notarization. Although this form can be pre-filled on a computer, it must be submitted **with original ink signatures and original ink stamp notarization**. Any application submitted with conformed signature/notarization will be rejected. This group of forms include:
 1. Form 1340 (the *Application for Repayment of Unclaimed Funds*)
 2. Proposed Order Directing Payment
- b) **Proof(s) of Identity** – All the supplemental items which satisfy the necessary proofs of identity in the instructions.
- c) **Complete Tax Form** – the type of form used depends on the applicant or claimant requesting funds (i.e., whether an applicant is a business, is represented by someone, etc.)

Objection to the applicant's request has to be served upon the applicant, other appropriate parties, and filed with the court. If no objection is filed with the court within twenty-one days (21) days after the filing of the application, the application and its accompanying documents may be considered by the Court. A deficiency letter will be issued to the applicant if the application is found to be incomplete. **If all deficiencies are not cured within thirty (30) days of the mail date of said letter, the Court will cease processing the application.**

All documents submitted may not be redacted, altered, or illegible.

All original documentation should be mailed to the address below:

*Finance Department
U.S. Bankruptcy Court, SDNY
1 Bowling Green, Ste 615
New York, NY 10004-1408*

Questions should be directed to the Finance Department either in writing or by calling (212) 284-4091 or 4075, Monday through Friday, 9 AM to 5 PM. Should questions arise after hours, please leave a voicemail which includes contact name, phone number, case number, and a concise summary of the question.

PURSUANT TO §18 U.S.C. SEC. 152 AND 3571, ANY INDICATION OF FRAUD IN THE APPLICATION OR SUPPLEMENTAL MATERIALS WILL BE FORWARDED PROMPTLY TO THE UNITED STATES ATTORNEY FOR FURTHER ANALYSIS.

I. Application for Payment of Unclaimed Funds

The complete Application for Reimbursement of Unclaimed Funds should include, but is not necessarily limited to, the following:

1. **Form 1340 (Application for Payment of Unclaimed Funds)**. Make sure to fill out every line as completely as possible. Although this form can be pre-filled on a computer, it must be submitted with **original ink signatures** and **original ink stamp notarization**.
 - Applicant(s) cannot notarize their own affidavit, nor can they notarize a Power of Attorney on behalf of a claimant.
 - If the notarization of the application did not occur in New York state, a *County Clerk's Certificate of Good Standing for the Notary Public* must be attached to the application.
2. **Service to the U.S. Attorney**. Applicant must send a copy of the form and all supporting documentation to the United States Attorney, pursuant to 28 U.S.C. § 2042, at the following address:

LAWRENCE FOGELMAN
CHIEF, TAX AND BANKRUPTCY UNIT
UNITED STATES ATTORNEY'S OFFICE, SDNY
86 CHAMBERS ST.
NEW YORK, N.Y. 10007

3. **Proposed Order Directing Payment**, which should contain:
 - The full legal name of the Applicant(s) or Claimant(s), or, if necessary, the Claimant *in care of* the full legal name(s) of the person(s) acting on their behalf.
 - The full and correct amount of disbursal.
4. **Written Explanation** detailing why the claimant did not present the original disbursement for payment. Explanation of why the funds were not claimed and/or accepted by claimant during the Trustee's original disbursal(s) of funds to creditors **will not replace** proof of identity or any of the other documents submitted as part of the completed application.
5. **Power of Attorney** declarations submitted must have accompanying verification of current active status for **each separate** Power of Attorney submitted. Applicant(s) cannot notarize their own Power of Attorney.
6. **Tax Form** – The form to be used is largely dependent upon whether or not the applicant or claimant classifies as a “domestic claimant” or a “foreign claimant.” Claimants qualify as *Domestic* when they fall under the category of a “U.S. person” as defined below:
 - (a) an individual who is a U.S. citizen or U.S. resident alien;
 - (b) a partnership, corporation, company or association created or organized in the U.S. or under the laws of the U.S.; an estate (other than a foreign estate);
 - (c) or a domestic trust (as defined in 26 C.F.R. 301.7701-7).
 - *Domestic Claimant(s)* must use either the AO 213 or W-9 certification forms as part of their identity proofs. Should the Domestic Claimant(s) request an Electronic Funds Transfer as the form of payment, they **must use** the AO 213. Forms AO 213 and W-9 are accessible by searching on the [IRS website](#).

- *Foreign Claimant(s)* (whose parameters do not meet the criteria of “U.S. person,” as so defined above) **must use** a W-8 certification form in conjunction with the AO-215 form as part of their identity proofs. These forms are accessible by searching on the IRS website.
 - Regardless of form used, ***all tax forms should contain:***
 - (a) the full legal name of the claimant and (if necessary) the full legal name(s) of the person(s) acting on their behalf,
 - (b) and/or the correct and current address of the claimant and/or the persons acting on their behalf.
 - (c) the correct and current address to which funds will be disbursed,
7. **Proof of Identity**. All applications must contain sufficient documentation to establish the identity of the claimant as well as the authority of the applicant to make the claim, thus verifying entitlement to the funds. All applicants must provide a copy of applicant’s official government photo ID (i.e., current driver’s license/U.S. Passport) as well as social security number. Further sections will describe what proofs are applicable for each category of applicant.

If *Individual Claimant or Applicant*, **GO TO SECTION II**.

If *Business Entity (i.e., Corporation, Partnership, and/or Successor)*, **GO TO SECTION III**.

If *Funds Locator, Attorney, or Agents/Representatives acting on behalf of a Claimant*, **GO TO SECTION IV**.

II. Additional Requirements for Individual Petitioners

Individuals seeking unclaimed funds are to *additionally* satisfy the ensuing requirements:

1. If the Owner of Record's name is no longer as it was listed on the Trustee's Report of Unclaimed Dividends, attach records attesting to both the name change and proof of original name.
2. Attach documentation of original creditor address as reflected on Court record (verifiable by documents such as old utility bills, signed tax returns, and/or cancelled checks).

III. Additional Requirements for Corporations or Other Business Entities

The Federal Tax Identification Number (TIN) must be provided. If available, the corporate seal should also be affixed to the application.

The name(s) of previous/present owner(s) of the claimed funds must be documented.

If the name of the applicant party is different from the name of the original creditor due to change of corporate name, assignment, merger, dissolution, etc., documentation is required to substantiate the applicant's alleged interest in the unclaimed funds. Acceptable proofs of documentation include but are not limited to copies of the certificate of merger, purchase agreements, assignments, stipulation of ownership rights, etc.

The applicant must attach documentation which establishes he or she is authorized to submit said application.

1. If applicant is a corporation, partnership, or other entity named as creditor in the Trustee's Report of Unclaimed Dividends, an Affidavit of Secretary or Officer's Certificate is required to demonstrate that that person(s) applying has the authority to do so on behalf of the business entity.
2. The Power of Attorney and the Officer's Certificate or Affidavit of Secretary may not be authorized by the same individual.

All successor business entities/corporations must provide documentation establishing an unbroken chain of ownership from the original business claimant to the successor under the conditions established above.

E. If applicant is or filing on behalf of an **active** corporation/limited liability company, also include:

1. A current list of officers, directors, and/or members
2. A certified copy of the Articles of Incorporation/Organization
3. The imprint of the corporate seal, or notarized statement that corporate seal is not available
4. A business card reflecting both the business entity and the officer or representative's name *and* title, attached to company letterhead stationery.

F. If applicant is or filing on behalf of an **inactive** corporation/limited liability company, also include:

- A final list of officers and directors
- A certified copy of the Articles of Incorporation/Organization
- A certified copy of the Articles of Dissolution (or similar document)
- Date and list of final distribution of assets

G. If applicant is or filing on behalf of a sole proprietorship, also include:

- A copy of the photo identification of the sole proprietor which bears the sole proprietor's signature (i.e., driver's license or passport).
- A document showing the business address of the sole proprietor at the time of the bankruptcy case (i.e., a copy of a business invoice, sales tax permit, business license, etc.)

H. If applicant is or filing on behalf of a partnership, also include:

1. A certified copy of the Articles of Incorporation/Organization.
2. Written documentation from all partners authorizing the representative to claim the funds on their behalf.

**IV. Additional Requirements for “Fund(s) Locators,” Attorneys,
and Agents/Representatives Acting on Behalf of a Claimant**

- A. Provide proof of the claimant’s entitlement to funds.
- B. Provide official, unredacted government photo ID for the original claimant.
- C. Provide an official, unredacted government photo ID for the “fund(s) locator,” attorney, or agent/representative acting on behalf of the claimant.
- D. An original notarized and dated Power of Attorney containing both the signature of the original claimant and the authorized representative is required to document the authority of the “fund(s) locator,” attorney, or agent/representative to apply on behalf of the claimant.
 - 1. Applicant cannot act as Notary Public either for themselves or for the original claimant.
 - 2. If “funds locator,” attorney, or agent/representative is acting on behalf of a business entity claimant, an Affidavit of Secretary or Officer’s Certificate is also required to demonstrate the power of authority for the person who is authorizing said “funds locator,” attorney, or agent/representative.
 - 3. The power of attorney and the Officer’s Certificate or Affidavit of Secretary may not be signed by the same individual.
- E. “Fund(s) locator,” attorney, or agent/representative must declare under penalty of perjury that sufficient inquiry has been made in order to determine that the funds have not been previously paid, no other applications for payment of said funds are pending, and not party other than the claimant is entitled to submit a request for disbursement of funds.
- F. If the original claimant is deceased, the “fund(s) locator,” attorney, or agent/representative is obligated to provide certified copies of all probate documents, including a certified copy of the death certificate and Letter of Administration which substantiate the claimant’s right to act on behalf of the decedent’s estate.
- G. The Court will make disbursements of unclaimed funds payable only in the name of the rightful owner of record, or jointly to the owner of record and attorney, “funds locator,” and agent/representative **only** if authorized by the Power of Attorney. Disbursals shall not be split by the Court in order to parcel payments for any reason (i.e., to pay fees separately to a “fund(s) locator,” attorney, or agent/representative).

V. **Further Requirements for Joint Creditors and/or on Behalf of a Deceased Party**

- A. All joint creditors: if funds were deposited with both partners named, **both** parties must complete individual Affidavits for Reimbursement of Unclaimed Dividends **and** satisfy the conditions of Section II.
- B. If the joint creditors are spouses:
1. If a spousal partner requests payment in their name only, without inclusion of the other partner in the request for payment, the applicant must attach a notarized affidavit stating why the funds should be released to only one spouse and not to both.
- C. If applying for reimbursement of unclaimed funds on behalf of a deceased party, the applicant must include:
1. Documents stating the applicant's right to act on behalf of the decedent's estate, as per the following:
 - a.) If Petitioner is an Assignee: Must provide unredacted chain of succession/assignment from original claimant as proof of entitlement to funds. The alleged claim should be highlighted or otherwise explicitly indicated.
 - b.) If Petitioner is a Representative: Must provide certified, unredacted copies of all probate documents to substantiate the representative right to act on behalf of the decedent's estate.
 - c.) If Petitioner is Executor/Executrix: Must provide an unredacted Appointment of Executorship form.
 2. Provide unredacted proof of identity for the original claimant as well as documents proving the original claimant's right to claim.
 3. Proof of identity for the applicant must also be provided. Follow the requirements as stated in Section II.
 4. An unredacted, certified copy of the death certificate, probated will, or certified Letter of Administration.