WAC 458-65A-10005 Examinations of records. (1) **Introduction.**

(a) A holder of unclaimed property must report and deliver that unclaimed property to the department of revenue as provided in chapter 63.30 RCW, the Revised Uniform Unclaimed Property Act.

(b) The department, as the administrator of unclaimed property under the act, is permitted to conduct examinations of records to determine a holder or putative holder's compliance with the act.

(c) This rule establishes standards and procedures applicable to these examinations, including examinations conducted by third parties on behalf of the department. RCW 63.30.590.

(d) Part I of this rule relates to general examination standards including holder requirements, underlying authorizations, the use of estimation, periods of limitation, records disclosure, and holder remedies.

(e) Part II of this rule outlines the specific examination procedures, which consist of three phases:

(i) Opening conference and gathering of preliminary information;

(ii) Identification of a holder's unclaimed property; and

(iii) Conclusion of the examination.

(f) The following definitions apply to the corresponding terms used throughout this rule:

(i) "Act" means chapter 63.30 RCW, the Washington Revised Uniform Unclaimed Property Act.

(ii) "Examination," for the purposes of this rule, means an audited review of holder records conducted pursuant to the act.

(iii) "Examiner" means the person who conducts examinations of holder records on behalf of the department and may include the department, department employees, and third-party examiners.

(iv) "Holder" means a person obligated to hold for the account of, or to deliver or pay to, the owner, property that is subject to the act. For purposes of this rule, the term "holder" may encompass either a "holder" or a "putative holder." "Holder" also includes a holder's agent in possession of property or records, where relevant.

(v) "Putative holder" means a person believed by the department to be a holder, until the person pays or delivers to the department unclaimed property subject to the act, or the department or a court makes a final determination that the person is or is not a holder.

(vi) "Record" means information inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(vii) "Third-party examiner" means a person, other than the department or a department employee, who conducts an examination on behalf of the department pursuant to RCW 63.30.650.

(viii) "Unclaimed property" is property:

(A) Presumed to be abandoned after the time periods set forth in RCW 63.30.040 through 63.30.120; and

(B) In the custody of a holder who has been unable to contact the owner or obtain an owner's indication of interest in the property after making any good faith efforts such as providing notice under RCW 63.30.280 and 63.30.290.

PART I. GENERAL STANDARDS

(2) **Holder requirements.** A holder of unclaimed property must submit a report to the department for any unclaimed property to be delivered to the custody of the department. The report must be filed electronically pursuant to instructions from an examiner, the department, or provided on the department's website. The holder must retain rela-

ted records for a period of six years after the report was filed or was due to be filed. RCW 63.30.220 and 63.30.250. The records must contain:

(a) The information that the holder is required to include in the report under RCW 63.30.230 and the department's rules;

(b) The date, place, and nature of the circumstances that gave rise to the property right;

(c) The amount or value of the property;

(d) The last address of the apparent owner, if known to the holder; and

(e) If the holder sells, issues, or provides to others for sale or issue in this state traveler's checks, money orders, or similar instruments, other than third-party bank checks, on which the holder is directly liable, a record of the instruments while they remain outstanding indicating the state and date of issue. RCW 63.30.250.

(3) **Examinations authorized.** The department may conduct examinations as follows:

(a) Examine records in possession of either a holder or a holder's agent, if such records are reasonably necessary to determine that person's compliance with the act.

(b) Issue an administrative subpoena requiring the holder or holder's agent to make the requested records available.

(c) Bring an action seeking judicial enforcement of the subpoena. RCW 63.30.580.

(4) **Third-party examinations authorized.**

(a) The department may contract with a third-party examiner to conduct an examination under the act. RCW 63.30.650.

(b) If the third-party examiner is an individual, they may not be related to any department employee.

(c) If the third-party examiner is a business, it may not be owned by the department, a department employee, or by an individual related to a department employee.

(d) Contracts for third-party examiners:

(i) Must be awarded pursuant to chapter 39.26 RCW;

(ii) May provide for compensation on a fixed fee, hourly fee, or contingent fee;

(iii) May not provide for a contingency fee exceeding 10 percent of the value of the property paid or delivered as a result of examination;

(iv) May, upon request, be reviewed by the person subject to examination; and

(v) Are subject to public disclosure under chapter 42.56 RCW.

(5) **Insufficient records.**

(a) If a holder subject to an examination does not retain and provide sufficient records for an examiner to determine the value of the unclaimed property under examination, the department or its third-party examiners may determine the value of such property using a reasonable method of estimation based on all information available. RCW 63.30.620.

(b) A reasonable method may include extrapolation and use of statistical sampling when appropriate and necessary.

(6) **Reasonable method of estimation.** In cases where the department or its third-party examiner use estimation, including extrapolation or statistical sampling to conduct an examination, those methods and procedures will be conducted consistent with generally accepted auditing standards applicable to the conduct of unclaimed property examinations and designed to lead to an estimation based on all availa-

ble information that reasonably approximates the amount of unclaimed property that should have been reported to the state. The department or its third-party examiner shall permit the holder a reasonable opportunity to comment on or suggest estimation methods and procedures; however, the ultimate decision to employ a particular technique is at the sole discretion of the department.

(7) **Persons who submit required reports.** If a holder has retained records as required by RCW 63.30.250 and submitted reports to the department as required by RCW 63.30.220, the department or third-party examiner:

(a) Must include a review of the holder's records as part of the examination;

(b) May not use an estimate as the basis for the examination, unless the holder expressly consents to the use of estimation, or fails to make sufficient records available for examination; and

(c) Will consider evidence presented in good faith by the holder. RCW 63.30.590.

(8) **Holders who do not submit required reports.** If a holder does not submit reports to the department as required by RCW 63.30.220, or the department believes they may have filed an inaccurate, incomplete, or false report, the department may require the holder to file a verified report prior to or after any examination proceeding. RCW 63.30.570.

(9) **Statute of limitations.**

(a) If a holder files a report meeting the requirements of RCW 63.30.220 and 63.30.230, the department, absent a showing of fraud, may not issue a determination of liability under RCW 63.30.680 more than six years after the holder filed the report. The parties may agree in a record to extend this period.

(b) The department may not issue a determination of liability under RCW 63.30.680 or otherwise commence an action, proceeding, or examination with respect to a reporting obligation or other duty of a holder under the act more than 10 years after the duty arose, including circumstances where the holder:

(i) Fails to file a report with the department;

(ii) Files an incomplete report with the department; or

(iii) Files a fraudulent report with the department.

(10) **Records obtained.**

(a) Pursuant to RCW 63.30.600, records, including work papers, obtained during the course of an examination:

(i) May be used in an action to collect property or otherwise enforce the act;

(ii) May be used to conduct a joint examination with another government entity; and

(iii) Are subject to the confidentiality and disclosure provisions set forth under RCW 63.30.600.

(b) A holder under examination may require that each person having access to its records execute and deliver a confidentiality agreement pursuant to RCW 63.30.840.

(11) **Holder remedies.**

(a) If a holder believes the examiner has made an unreasonable or unauthorized request, or is not proceeding expeditiously to complete the examination, the holder may request that the department intervene and take appropriate remedial action. The request must be made in the form of a written notice to the department's unclaimed property unit. RCW 63.30.640.

(b) Appropriate measures may include:

(i) Canceling or modifying requests made by the examiner;

(ii) Imposing a time limit for completion of the examination; or

(iii) Reassigning the examination to a different examiner.

(c) The person under examination may also request, in a written notice to the department's unclaimed property unit, for a conference to review any intervention request made under this subsection. If a request for conference is made, the department must hold a conference within 30 days after receiving the request. The department will provide a written report of the conference to the person within 30 days from the date the conference ends.

(d) Written notices to the department's unclaimed property unit may be made by submitting either:

(i) A paper request addressed to Department of Revenue, Unclaimed Property, ATTN: Unclaimed Property Audit Manager, P.O. Box 47477, Olympia, WA 98124-1053; or

(ii) An email request sent to WAUCPHolders@dor.wa.gov.

PART II. EXAMINATION PROCEDURES

(12) **Phase I: Opening conference and preliminary information.**

(a) The examiner will begin the examination by arranging for an opening conference to be held between the examiner and the holder. During the opening conference, the examiner will provide the holder with information and materials relevant to the examination process, including the following:

(i) The time period to be covered by the examination;

(ii) The general methods to be employed, including any anticipated sampling and estimation, if applicable; and

(iii) The names and contact information of department employees designated for department communications regarding the examination.

(b) The examiner will provide instructions for the holder to remit any unclaimed property identified during the examination that must be turned over to the department. In cases involving the contents obtained from safe deposit boxes, the holder will deliver such contents directly to the department, as directed by the department.

(13) **Phase II: Identification of holder's unclaimed property.**

(a) The examiner may request any holder records the examiner deems relevant to the examination. The holder must provide the requested records within 30 days of the date on the examiner's written request, unless the examiner agrees to a longer period.

(b) If a holder is required to include personal information, as defined under RCW 63.30.810, the information must be provided by a secure means and all confidential information must be maintained in accordance with RCW 63.30.860. "Personal information" means:

(i) Information that identifies or reasonably can be used to identify an individual (or any beneficiary of such individual), such as first and last name in combination with the individual's Social Security number or other government-issued number or identifier; date of birth; home or physical address; email address or other online contact information or internet provider address; financial account number or credit or debit card number; biometric data, health or medical data, or insurance information; passwords or other credentials that permit access to an online or other account;

(ii) Personally identifiable financial or insurance information, including nonpublic personal information defined by applicable federal law; and

(iii) Any combination of data that, if accessed, disclosed, modified, or destroyed without authorization of the owner of the data or

if lost or misused, would require notice or reporting under chapter 19.255 RCW and federal privacy and data security law, whether or not the department or the department's agent is subject to the law.

(c) Once sufficient records have been obtained from the holder, the examiner will proceed with its analysis and any determination of holder liability. The examiner will prepare an initial audit report summarizing its findings and will provide the report to the holder.

(d) If the holder disagrees with the amount the examiner has determined to be due in the initial report:

(i) The examiner will work in good faith with the holder to review additional information that the holder believes could affect the examiner's findings;

(ii) It is the holder's responsibility to provide supporting evidence relating to any discrepancies;

(iii) The examiner will allow a period of time not to exceed 90 days, unless an extension is granted by the examiner for the holder to submit additional information and supporting evidence; and

(iv) If, after 30 days following an examiner's review of any additional information and evidence, the holder and examiner still fail to agree on an amount due, the examiner will proceed with finalizing its audit report.

(14) **Phase III: Conclusion of examination.**

(a) At the conclusion of the examination, the examiner will prepare a final audit report containing the examiner's findings. The examiner or the department will provide a complete and unredacted copy of the final report to the holder.

(b) The final report will include:

(i) The findings of the examiner conducting the examination, as well as a description of the work that was performed and the property reviewed; and

(ii) Calculations of the value of any unclaimed property due, and a description of the methodology of any estimation, extrapolation, or statistical sampling used to determine such value. RCW 63.30.630.

(c) The examiner's final report will be prepared in a manner prescribed by the department. Any examination records will be subject to the confidentiality and disclosure requirements set forth in RCW 63.30.600.

(d) If the holder has property in its possession that must be reported and remitted, the department will issue a determination identifying the amounts due or property deliverable to the department and include the determination with the report. Amounts due may include any interest and penalties applicable under RCW 63.30.690.

(e) The holder must electronically file the final report pursuant to the instructions from either the examiner or the department, or both, and deliver any amounts or property identified in a department determination within 30 days of the date of the final audit report.

(f) The holder may request an informal conference with the department to review the department's determination pursuant to RCW 63.30.710. The following provisions apply to informal conferences:

(i) The holder's request must be in the form of a written notice to the department's unclaimed property unit (see subsection (11)(d) of this rule) and be made within 30 days after the holder's receipt of the determination;

(ii) If a timely request is made, the department must, within 20 days, arrange for a conference to be held;

(iii) The conference must provide the holder an opportunity to informally discuss the examination with the department and the examiner who conducted the examination;

(iv) No later than 20 days after the conference ends, the department will issue a written decision on the matters discussed at the conference. The decision will identify any changes to the determination and other actions, if any, proposed by the department;

(v) A request for an informal conference under this subsection does not toll the 30-day period in subsection (14)(e) of this rule, and a conference under this subsection is not an administrative remedy or a contested case subject to the Administrative Procedure Act in chapter 34.05 RCW;

(vi) If the department issues a revised determination as a result of the informal conference, the department may, but is not required to, provide a second informal conference if requested by the holder as provided in this rule. A request for a second informal conference will be granted only in exceptional circumstances; and

(vii) Additionally, the department may, in its sole discretion, hold an informal conference without a request from the holder at any time before the holder initiates administrative review under RCW 63.30.730 or files an action under RCW 63.30.740.

(g) A holder may seek administrative review of a determination issued by the department. RCW 63.30.730.

(h) A holder who has paid or delivered property to the department, except one who has failed to keep and preserve records as required by the act, may appeal to the Thurston County superior court the provisions of RCW 63.30.740 govern such appeals.

[Statutory Authority: RCW 82.01.060(2), 82.32.300, 63.30.030, and 63.30.590. WSR 25-08-016, s 458-65A-10005, filed 3/24/25, effective 4/24/25.]