



TOWN OF FAIRFAX

STAFF REPORT

June 4, 2014

TO: Mayor and Town Council

FROM: Michael Vivrette, Finance Director ^{GV}

SUBJECT: Adoption of Resolution 14-__ adopting an Escheatment Policy for Unclaimed Property

RECOMMENDATION

Adopt the attached resolution referenced above.

DISCUSSION

Each year the Town accumulates a small number of outstanding checks that remain unclaimed, even though attempts are made to contact the payees and reissue the checks.

Normally these unclaimed funds consist of checks issued through Accounts Payable or Payroll. State law allows for uncashed checks which are more than one year old and less than \$15.00, or greater than \$15.00 and more than three years old, to become the property of the Town following publication on its website or in the local newspaper.

Staff proposes that the Town Council adopt a formal policy regarding the proper handling of unclaimed money that follows the requirements of Government Code Section 50050-50056. Adoption of this policy will set up a procedure to escheat these funds to the Town after proper notice has been satisfied. The attached resolution and policy were developed and approved by the Town Attorney.

ATTACHMENT

Resolution Adopting an Escheatment Policy for the Town of Fairfax

RESOLUTION 14-

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
APPROVING AN ESCHEATMENT POLICY FOR UNCLAIMED MONEY**

WHEREAS, from time to time checks issued by the Town will remain uncashed despite efforts made by Town staff to make contact with the payees and reissue the checks; and

WHEREAS, Sections 50050-50056 of the Government Code of the State of California provide procedures for escheating uncashed checks to the local agency if over one year old and less than \$15.00, or over three years old and more than \$15.00, following publication on the Town website or in the local newspaper; and

WHEREAS, the Town Council desires to adopt a Policy for the handling of uncashed checks in accordance with Sections 50050-50056 of the Government Code of the State of California,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Town Council of the Town of Fairfax, that the Escheatment Policy for Unclaimed Money incorporated herein as Exhibit A is hereby adopted.

The foregoing Resolution was duly passed and adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on the 4th day of June 2014, by the following vote, to wit:

AYES:
NOES:
ABSENT:

DAVID WEINSOFF, Mayor

Attest:

Michele Gardner, Town Clerk

EXHIBIT A

ESCHEATMENT POLICY FOR UNCLAIMED PROPERTY

This Policy is established to provide for the escheatment of unclaimed money, including unclaimed checks, to the Town of Fairfax, consistent with the provisions of Government Code Sections 50050 through 50056. In the event of any conflict between the provisions of the Government Code and the provisions of this Policy, the provisions of the Government Code shall prevail.

- A. Money that is not the property of the Town of Fairfax that remains unclaimed for a period of more than three (3) years shall become the property of the Town of Fairfax forty-five (45) days after publication of the notice described in Paragraph "C" below. (Government Code Sections 50050 and 50051)
- B. At any time following the expiration of the three (3) year period described in Paragraph "A" above, the Finance Director of the Town of Fairfax may cause a notice to be published once a week for two successive weeks in a newspaper of general circulation published in the Town of Fairfax. (Government Code Section 50050)
- C. The notice shall include the following information:
 - a. The individual or business name as shown on the issued check.
 - b. The amount of the issued check or cash.
 - c. The fund in which it is held.
 - d. A statement announcing that the money shall become the property of the Town of Fairfax on the date that is forty-five (45) days after the first publication of the notice. (Government code Section 50051)
- D. A party of interest may file a claim at any time until the date on which the money becomes the property of the Town as provided in Paragraph "A" above. The claim form must include the following information:
 - a. The claimant's name, address, telephone number, and Social Security Number, or Federal Employer Identification Number.
 - b. Proof of identity such as a copy of a driver's license, social security card or birth certificate.
 - c. Amount of the claim.
 - d. The grounds on which the claim is founded. (Government Code Section 50052)
- E. Upon receipt of the information and documents described in Paragraph "D" above prior to the date the unclaimed money becomes the property of the Town, the Finance Director may release the money (by issuance of a new check, for example) to the depositor, or heir, beneficiary, or duly appointed representative. (Government Code Section 50052.5)

- F. Upon rejection of a claim by the Finance Director, a claimant may file a verified complaint seeking to recover all, or a designated part, of the money in Marin County Superior Court. A model template for the claim rejection form is attached as Exhibit III. The complaint and summons must be served on the Finance Director within thirty (30) days of claimant receiving notice that the claim was rejected. The Finance Director shall withhold the release of the portion of unclaimed money for which a court action has been filed until a decision is rendered by the court. (Government Code Section 50052)
- G. Unless otherwise required by law (e.g., where the claimant has served the Finance Director with a timely complaint as described in Paragraph "F" above), upon unclaimed money becoming the property of the Town of Fairfax, to the extent such money is held in a special fund, the Town Council may transfer it by resolution to the General Fund. (Government Code Section 50053)
- H. Any individual item of less than fifteen (\$15.00) dollars or any amount, if the depositor's name is unknown, which remains unclaimed for a period of one (1) year may be transferred to the General Fund by the Town Council without the necessity of public notification in a newspaper. (Government Code Section 50055)
- I. The responsibilities of the Finance Director may be delegated by the Finance Director to the department that maintains the supporting records of the unclaimed money based on the initial receipt or deposit of that money or both. (Government Code Section 50056)

TOWN OF FAIRFAX
UNCLAIMED MONEY – CLAIM FORM

Return completed form and photocopy of identification to:
Town of Fairfax
Finance Department
142 Bolinas Rd
Fairfax, CA 94930

Pursuant to California Government Code Section 50052, I wish to file a claim for a previously unclaimed check in the amount of \$_____. The grounds on which I file this claim are:

Vendor or Individual Name (Printed)

Taxpayer I.D. or Social Security No.

Vendor or Individual Name (Signature)

Telephone Number

Address

City / State / Zip Code

For Finance Department Only

Proof of Identity Verified: Check One:

____ Driver's License

____ Social Security Card

____ Birth Certificate

Verified by: _____

Date: _____

Claim: _____ Approved

_____ Rejected

Reason for Rejection:

Reviewed by: _____

Date: _____