



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** December 12, 2017

From: Kofi Antobam, Director of Finance **Item No:** 8
Finance Department

Subject: ADOPT RESOLUTION NO. 2017-37, A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, APPROVING AN ESCHEAT POLICY FOR UNCLAIMED FUNDS

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

That Town Council adopts Resolution No. 2017-37 approving an Escheat Policy regarding the handling of unclaimed checks.

BACKGROUND:

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

Normally these unclaimed funds consist of checks issued through Accounts Payable. 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 in the local newspaper and/or its website.

The Town needs to adopt a formal policy regarding the proper handling of unclaimed funds that follows the requirements of Government Code Sections 50050-50056. If approved this policy will set up a procedure to escheat these funds to the Town after the required notice has been satisfied.

FISCAL IMPACT:

There is no fiscal impact resulting from adoption of the Policy itself. Implementation of the Policy may result in an unknown amount of additional revenues from unclaimed checks. The increased revenues will be offset by publication expenses.

ATTACHMENTS:

1. Resolution Approving an Escheat Policy for the Town of Apple Valley
2. Exhibit A - Town of Apple Valley Escheat Policy for Unclaimed Funds
3. Exhibits I – III

RESOLUTION NO. 2017-37

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA APPROVING AN ESCHEAT POLICY FOR UNCLAIMED FUNDS

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 re-issue 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 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 RESOLVED, by the Town Council of the Town of Apple Valley, that the Escheat Policy for Unclaimed Funds incorporated herein as Exhibit A is hereby approved by the Town Council.

APPROVED and **ADOPTED** by the Town Council of the Town of Apple Valley this 12th day of December 2017.

Mayor

ATTEST:

La Vonda M. Pearson, Town Clerk

EXHIBIT A

**TOWN OF APPLE VALLEY ESCHEAT POLICY
FOR UNCLAIMED MONEY**

This Policy is established to provide for the escheatment of unclaimed money, including unclaimed checks, to the Town of Apple Valley, 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.

I. Summary of State Law

- A. Money that is not the property of the Town of Apple Valley that remains unclaimed for a period of more than three (3) years shall become the property of the Town of Apple Valley 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 Treasurer/Finance Director of the Town of Apple Valley 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 Apple Valley. (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 Apple Valley 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. See Exhibit II (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 Treasurer/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 Treasurer/Finance Director, a claimant may file a verified complaint seeking to recover all, or a designated part, of the money in San Bernardino 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 Treasurer/Finance Director within thirty (30) days of claimant receiving notice that the claim was rejected. The Treasurer/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 Treasurer/Finance Director with a timely complaint as described in Paragraph "P" above), upon unclaimed money becoming the property of the Town of Apple Valley, 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 Treasurer/Finance Director may be delegated by the Treasurer/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)

II. Disbursement and Funds Transfer

The Treasurer/Finance Director of the Town of Apple Valley will review the Claim Forms and approve or reject the claim.

- A. The Treasurer/Finance Director may release the unclaimed money to the depositor of the unclaimed money, their heir, beneficiary, or duly appointed representative, except as otherwise noted in this policy if:
 - 1. Claim is filed prior to the date the money becomes the property of the Town of Apple Valley.
 - 2. Proof substantiating the claim is conveyed in writing, including all items detailed in item "D" of Section I of this policy.
 - 3. After proper documentation is secured, the Treasurer/Finance Director will authorize the accounts payable staff to issue a new check based upon the approved Claims Form.
- B. Upon rejection of said depositor's claim by the Treasurer/Finance Director (see Exhibit III), the depositor may file a verified complaint seeking to recover all, or a designated part, of the money in a court within San Bernardino County. The Treasurer/Finance Director shall be served a copy of the complaint and summons which must be served within thirty (30) days of receiving notice that the claim was rejected. The Treasurer/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.

- C. Upon the close of business on the forty-fifth (45) day after publication of the first notice, the unclaimed checks become the property of the Town of Apple Valley General Fund. The Town Council may transfer them to the Funds upon which the original checks were drawn.
- D. Unclaimed checks of less than fifteen (\$15) dollars that are more than twelve (12) months old will be transferred to the General Fund by the Town Council.

III. Accounting Transactions

- A. For unclaimed checks, amounts will be transferred to the General Fund unless the Town Council approves transfer to the fund upon which they were drawn. In such case the cost of publication will be paid by this fund.
- B. At the time the funds are claimed, once supporting information is verified and approved by the Town Treasurer/Finance Director, Finance will then issue a replacement check.

EXHIBIT I – Sample of Public Notice

Town of Apple Valley Unclaimed Funds

Pursuant to Government Code 50050, the Town of Apple Valley publishes this notice to inform residents of funds in trust for a variety of municipal services and activities. Checks were processed and mailed out and as of today remain unclaimed. The funds will become the property of the Town of Apple Valley after the designated date if left unclaimed.

For public review, a list of unclaimed funds will be held at the Town Clerk's Office at the Town of Apple Valley, 14955 Dale Evans Pkwy, Apple Valley, CA 92307 until Thursday, March 1, 20XX. The list is also available on the Town's website at www.applevalley.org. If your name appears on the list and you wish to claim such funds, please submit a claim form which can be obtained from the Finance Department or on the Town's website at www.applevalley.org.

If you have any questions, please contact Jacob De La Cruz at 760-240-7000 x7702

Exhibit II – Claim Form

**TOWN OF APPLE VALLEY
UNCLAIMED MONEY - CLAIM FORM**

Return completed form and photocopy of identification to:
Town of Apple Valley
Finance Department
14955 Dale Evans Parkway
Apple Valley, CA 92307

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: _____

Exhibit III – Claim Rejection Form

**TOWN OF APPLE VALLEY
UNCLAIMED MONEY – REJECTION CLAIM FORM**

The Town of Apple Valley has rejected the unclaimed money claim of:

Vendor or Individual Name: _____

Taxpayer I.D. or Social Security Number: _____

Address: _____

City/State/Zip Code: _____

Original check date: _____

Original Check Amount: \$ _____

The grounds on which this claim has been rejected are:

Under California Government Code Section 50052, you have the right to file a verified complaint seeking to recover all, or a designated part, of the money in a court of competent jurisdiction within San Bernardino County. A copy of the complaint and the summons issued thereon must be served within thirty (30) days of receiving this notice of rejection. Upon being served, the Treasurer/Finance Director will withhold the disputed amount from being released until a decision is rendered by the court.

Town Treasurer/Finance Director