



DANA C. McWAY  
CLERK OF COURT

DIANA DURKEE AUGUST  
CHIEF DEPUTY CLERK

## UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF MISSOURI  
THOMAS F. EAGLETON U.S. COURTHOUSE  
111 SOUTH TENTH STREET, FOURTH FLOOR  
ST. LOUIS, MISSOURI 63102  
[www.moeb.uscourts.gov](http://www.moeb.uscourts.gov)

23-BK-I

(314) 244-4500  
MCVCIS (866) 222-8029, #1,6,1,7,3  
FAX (314) 244-4990  
PACER (800) 676-6856

June 8, 2023

H. Thomas Byron III, Secretary  
Committee on Rules of Practice and Procedure  
Administrative Office of the United States Courts  
One Columbus Circle, NE, Room 7-300  
Washington, D.C. 20544

RE: Form 1340 (Application for Payment of Unclaimed Funds)

Dear Mr. Byron:

The Unclaimed Funds Expert Panel of the Financial Managers Working Group submits the attached suggested revisions to the Form 1340 Application for Payment of Unclaimed Funds and accompanying instructions. The Expert Panel also proposes adding a sample certificate of service to the Form 1340 application package.

The Expert Panel is comprised of bankruptcy clerk's office representatives who routinely review and process Applications for Payment of Unclaimed Funds filed in their districts. Per statute, only the United States Attorney is required to be served with the application. See 28 U.S.C. § 2042. There is concern regarding the lack of notice provided to the owner of record and other previous owners of the claim when the application is based on succession (e.g., transfer, assignment, purchase, merger, acquisition, or successions by other means). One safeguard to deter/reduce fraudulent applications is to (1) require an applicant to identify any previous owners of the claim, and (2) to require service of the application on such previous owners or a statement addressing why service is not possible.

To the Form 1340, the Expert Panel suggests the following revisions:

- Adding an additional section called "Claimant Information" where the applicant identifies whether the claimant is the owner of record or a successor claimant;
- Requiring the applicant to identify any previous owners of the claim if the claimant is entitled to the funds based on succession;
- Clarifying that a transfer is a form of succession;
- Making a separate section for "Applicant Information," where the applicant identifies whether he/she is the claimant, claimant's representative, or a representative of the deceased claimant's estate;
- Clarifying under "Supporting Documentation" that documentation must be provided for each claimant;

- Adding a section called “Notice to Previous Owner(s) of Claim (if applicable)” where the applicant identifies whether he/she has sent a copy of the application to previous owner(s) of the claim or enclosed a statement addressing why notice on previous owner(s) is not possible;
- Combining the notarization section(s) so that there is more space for the notary public’s seal, and
- Inserting a notation that the notarial wording may need to be adjusted based on state requirements.

The Expert Panel also suggests the following revisions to the Form 1340’s accompanying instructions:

- Replacing AO 213 with AO 213P as a certification form for claimant to provide a tax identification number (AO 213P is more user friendly for this purpose);
- Adding a section addressing a “Certificate of Service” for an applicant to certify that: (1) a copy of the application and supporting documentation were sent to the Office of the United States Attorney, and (2) a copy of the application was sent to any previous owner(s) of the claim if the application is based on succession, or a statement was included addressing why service on previous owner(s) was not possible;
- Under “Post-Filing Process,” making it consistently clear that the proposed negative notice process requires an objection to be filed within 21 days after service of the application; and
- Adding a section to address “Fraudulent Activity” stating that: “Pursuant to 18 U.S.C. §§ 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.” Some courts are already including similar language.

Additionally, the Expert Panel developed a sample Certificate of Service to be included as part of the Form 1340 package.

Please contact me if you have any questions regarding these suggestions.

Sincerely,



Dana C. McWay  
Chair, Unclaimed Funds Expert Panel

cc: Expert Panel Members

**Fill in this information to identify the case:**

Debtor 1 \_\_\_\_\_  
First Name Middle Name Last Name

Debtor 2 \_\_\_\_\_  
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the \_\_\_\_\_ of \_\_\_\_\_  
(State)

Case number: \_\_\_\_\_

**Form 1340 (12/1923)**

**APPLICATION FOR PAYMENT OF UNCLAIMED FUNDS**

Amount:	
Claimant's Name:	
Claimant's Current Mailing Address, Telephone Number, and Email Address:	

**2. Applicant~~Claimant~~ Information**

Applicant<sup>2</sup> represents ~~that Claimant is entitled to receive the unclaimed funds because (check the statements that apply);~~ the following:

- ~~Applicant is the~~The Claimant ~~and~~ is the Owner of Record<sup>3</sup> entitled to the unclaimed funds appearing on the records of the court.
- ~~Applicant is the~~The Claimant ~~and~~ is entitled to the unclaimed funds by transfer, assignment, purchase, merger, acquisition, or succession or by other means. Below are the name(s) of the Owner of Record and any other previous owner(s) of the claim:

**3. Applicant Information**

Applicant represents the following:

- Applicant is the Claimant.
- Applicant is Claimant's representative (e.g., attorney or unclaimed funds locator). \_\_\_\_\_
- Applicant is a representative of the deceased Claimant's estate.

**34. Supporting Documentation**

- Applicant has read the court's instructions for filing an Application for Unclaimed Funds and is providing the required supporting documentation with this application. for each claimant.

<sup>1</sup> The Claimant is the party entitled to the unclaimed funds.  
<sup>2</sup> The Applicant is the party filing the application. The Applicant and Claimant may be the same.  
<sup>3</sup> The Owner of Record is the original payee.

**5. Notice to United States Attorney**

Applicant has sent a copy of this application and supporting documentation to the United States Attorney, pursuant to 28 U.S.C. § 2042, at the following address:

Office of the United States Attorney  
District of \_\_\_\_\_  
[Court enters address here]

**6. Notice to Previous Owner(s) of Claim (if applicable)**

Applicant has sent a copy of the application to any previous owner(s) of the claim at their current address or enclosed a statement addressing why notice on previous owner(s) is not possible. (This requirement is applicable if the application is based on transfer, assignment, purchase, merger, acquisition, or succession by other means.)

**57. Applicant Declaration**

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Printed Name of Applicant

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

**57. Co-Applicant Declaration (if applicable)**

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Co-Applicant (if applicable)

\_\_\_\_\_  
Printed Name of Co-Applicant (if applicable)

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

**68. Notarization (Required for all Applicants)**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

This Application for Unclaimed Funds, dated \_\_\_\_\_ was subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_  
\_\_\_\_\_ who signed above and is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name is (are) subscribed to the within instrument.  
WITNESS my hand and official seal.

*[Notarial wording to be adjusted based on state requirements]*

(SEAL) Notary Public \_\_\_\_\_

My commission expires: \_\_\_\_\_

Form 1340 (Application for Payment of Unclaimed Funds) is a Director's Bankruptcy Form. Director's Bankruptcy Forms are issued under Bankruptcy Rule 9009 by the Director of the Administrative Office of the United States Courts.

Form 1340 is a template used by courts in developing their own localized form to assist parties in seeking the payment of unclaimed funds held by bankruptcy courts. This template version of the form should not be filed with the court. Instead, a member of public seeking payment of unclaimed funds from a bankruptcy case should check the website of the court where the case was filed and use a localized version of the form (or other applications process) from that court's website. More information about unclaimed funds in bankruptcy cases, including a link to an unclaimed funds locator subscribed to by most bankruptcy courts, can be found by searching for "unclaimed funds" on [uscourts.gov](http://uscourts.gov).

## Instructions for Filing Application for Payment of Unclaimed Funds

*These template instructions can be modified by a bankruptcy court as needed.<sup>1</sup>*

Unclaimed funds are held by the court for an individual or entity who is entitled to the money but who has failed to claim ownership of it. The United States Courts, as custodians of such funds, have established policies and procedures for holding, safeguarding, and accounting for the funds.

### I. Searching Unclaimed Funds

To search unclaimed funds, use the [Unclaimed Funds Locator](https://ucf.uscourts.gov/) at <https://ucf.uscourts.gov/>. Select \_\_\_\_\_ (name of court) from the dropdown list and enter the applicable search criteria. If you need access to a computer to perform the search, you may use the court's public computer terminal(s) located at \_\_\_\_\_. Additionally, you may contact the Clerk's office at xxx-xxx-xxxx to verify unclaimed funds balances.

*Note to court: If your court is not using the Unclaimed Funds Locator, please specify how your court is making unclaimed funds data accessible to the public.*

### II. Filing Requirements for Payment of Unclaimed Funds

#### a. Application for Payment of Unclaimed Funds

Any party who seeks the payment of unclaimed funds must file an Application for Payment of Unclaimed Funds in substantial conformance with the court's standard application form and serve a copy of the application on the United States Attorney for the \_\_\_\_\_ District of \_\_\_\_\_. For purposes of this procedure, the "Applicant" is the party filing the application, and the "Claimant" is the party entitled to the unclaimed funds. The Applicant and Claimant may be the same.

#### b. Supporting Documentation

##### 1. Payee Information

Funds are payable to the Claimant. In conjunction with the Application for Payment of Unclaimed Funds, Claimant's tax identification number (TIN) must be provided to the court on a certification form signed by the Claimant to whom funds are being distributed.

##### A. Domestic Claimant

A Claimant who is a U.S. person<sup>2</sup> must use either the ~~AO 213~~ [AO 213P](https://www.irs.gov/) or W-9 certification form (accessible by searching on the Internal Revenue Service (IRS) website at: <https://www.irs.gov/>).

---

<sup>1</sup> The notes to courts appearing in italics are for internal use only and are intended to be removed in a court's final version of the instructions.

<sup>2</sup> "U.S. person" includes: an individual who is a U.S. citizen or U.S. resident alien; 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); or a domestic trust (as defined in 26 C.F.R. 301.7701-7).

If a Claimant wants payment via Electronic Funds Transfer (EFT), then the ~~AO213~~-[AO 213P](#) form must be used.

## **B. Foreign Claimant**

A foreign Claimant must use a W-8 certification form (accessible by searching on the IRS website at: <https://www.irs.gov/>) accompanied by the [AO-215](#) form.

If you have problems completing a form, please contact the Clerk's office at xxx-xxx-xxxx.

*Note to court: While making funds payable to the Claimant is included as the default language, specify above how funds are payable in your court, if different (e.g., payable jointly to the owner of record and funds locator if authorized by a power of attorney).*

## **2. Additional Supporting Documentation**

Requirements for additional supporting documentation vary depending on the type of Claimant and whether the Claimant is represented. Please read the instructions below to identify what must accompany your Application for Payment of Unclaimed Funds.

Sufficient documentation must be provided to the court to establish the Claimant's identity and entitlement to the funds. Proof of identify must be provided in unredacted form with a current address. If there are joint Claimants, then supporting documentation must be provided for both Claimants.

### **A. Owner of Record**

The Owner of Record is the original payee entitled to the funds appearing on the records of the court. If the Claimant is the Owner of Record, the following additional documentation is required:

#### **i. Owner of Record - Individual**

- a. Proof of identity of the Owner of Record (e.g., unredacted copy of driver's license, other state-issued identification card, or U.S. passport that includes current address); and
- b. A notarized signature of the Owner of Record (incorporated in application).

#### **ii. Owner of Record - Business or Government Entity**

- a. Application must be signed by an authorized representative for and on behalf of the business or government entity;
- b. A notarized statement of the signing representative's authority; and
- c. Proof of identity of the signing representative (e.g., unredacted copy of driver's license, other state-issued identification card, or U.S. passport that includes current address).

If the Owner of Record's name has changed since the funds have been deposited with the

court, then proof of the name change must be provided.

**B. Successor Claimant**

A successor Claimant may be entitled to the unclaimed funds as a result of transfer, assignment, purchase, merger, acquisition, or succession or by other means. If the Claimant is a successor to the original Owner of Record, the following documentation is required:

**i. Successor Claimant - Individual**

- a. Proof of identity of the successor Claimant (*e.g.*, unredacted copy of driver's license, other state-issued identification card, or U.S. passport that includes current address);
- b. A notarized signature of the successor Claimant (incorporated in application); and
- c. Documentation sufficient to establish chain of ownership or the transfer of claim from the original Owner of Record.

**ii. Successor Claimant – Business or Government Entity**

- a. Application must be signed by an authorized representative for and on behalf of the successor entity;
- b. A notarized statement of the signing representative's authority;
- c. A notarized power of attorney signed by an authorized representative of the successor entity;
- d. Proof of identity of the signing representative (*e.g.*, unredacted copy of driver's license, other state-issued identification card, or U.S. passport that includes current address); and
- e. Documentation sufficient to establish chain of ownership or the transfer of claim from the original Owner of Record.

**iii. Deceased Claimant's Estate**

- a. Proof of identity of the estate representative (*e.g.*, unredacted copy of driver's license, other state-issued identification card, or U.S. passport that includes current address);
- b. Certified copies of probate documents or other documents authorizing the representative to act on behalf of the decedent or decedent's estate in accordance with applicable state law (*e.g.*, small estate affidavit); and
- c. Documentation sufficient to establish the deceased Claimant's identity and entitlement to the funds.

*Note to court: Your court may choose to tailor these instructions based on the laws in your state.*

**C. Claimant Representative**

If the Applicant is Claimant's attorney or other representative, the following documentation is required:

- i. Proof of identity of the representative (*e.g.*, unredacted copy of driver's license,



- other state-issued identification card, or U.S. passport that includes current address);
- ii. A notarized power of attorney signed by the Claimant (or Claimant’s authorized representative) on whose behalf the representative is acting; and
  - iii. Documentation sufficient to establish the Claimant’s identity and entitlement to the funds, as set forth above.

**c. Proposed Order**

Applicant must provide the court a proposed order in substantial conformance with the court’s standard Order Granting Application for Payment of Unclaimed Funds.

*Note to court: This is an option for a court that requires a proposed order in conjunction with an application.*

**d. Certificate of Service**

Applicant must provide the court a certificate of service stating:

1. a copy of the application and supporting documentation were sent to the Office of the United States Attorney for the \_\_\_\_\_ District of \_\_\_\_\_ ; and
2. a copy of the application was sent to any previous owner(s) of the claim at their current address if the application is based on succession (i.e., transfer, assignment, purchase, merger, acquisition, or succession by other means). Note: If previous owner(s) of a claim cannot be served, Applicant must include a statement addressing why that is not possible.

*Note to court: This is an option for a court that requires a certificate of service. A sample certificate of service is provided as part of the Form 1340 package, instructing the Applicant to enter the current addresses for the required recipients and identify the manner of delivery.*

**e. Filing the Application**

The application, supporting documentation, certificate of service, and proposed order must be mailed to the court at the following address:

U.S. Bankruptcy Court  
\_\_\_\_\_ District of \_\_\_\_\_  
[Court enters address here]

*Note to court: Please identify any alternative means for filing (e.g., electronic filing with documents containing personal identifiers restricted from public access).*

**f. Post-Filing Process**

*Insert your court’s procedure for processing an application here.*

*Suggested Practice:* Any party objecting to the Claimant’s request in the application shall, within twenty-one (21) days after service thereof, serve upon the Applicant and other appropriate parties and file with the court an objection to the application. If no objection is filed with the court

within twenty-one (21) days after ~~service~~the filing of the application, the application and accompanying documents may be considered by the court without hearing. If the application is deficient, the Clerk's office may contact the Applicant for additional proof of identity or entitlement to the funds.

*Note to court: The 21-day objection period is not required by statute or rule; however, various courts have implemented this negative notice practice by local procedure.*

**g. Fraudulent Activity**

Pursuant to 18 U.S.C. §§ 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.

**III. Links**

~~AO 213~~ AO-213P

W-9 (accessible by searching on the IRS website at: <https://www.irs.gov/>)

W-8 (accessible by searching on the IRS website at: [https://www.irs.gov](https://www.irs.gov/))

AO 215

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF \_\_\_\_\_

-----X

In Re:

Case No.

Chapter

Debtor(s).

-----X

**CERTIFICATE OF SERVICE**

I certify that a copy of the Application for Payment of Unclaimed Funds and the required supporting documentation were sent by: \_\_\_\_\_  
(Specify Method of Delivery, e.g., USPS First-Class Mail postage prepaid)  
to the following:

Office of the United States Attorney  
\_\_\_\_\_ District of \_\_\_\_\_  
[Enter current address]

I certify that a copy of the Application for Payment of Unclaimed Funds was sent by:  
\_\_\_\_\_  
(Specify Method of Delivery, e.g., USPS First-Class Mail postage prepaid)

to Previous Owner(s) of Claim (if applicable):

[Enter name and current address for each previous owner served, or provide statement with your application addressing why service is not possible.]

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_