

Instructions for Filing Application for Payment of Unclaimed Funds

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 deposited with the Bankruptcy Court for the Western District of New York from December of 2009 through the present date, use the Unclaimed Funds Locator at <https://ucf.uscourts.gov/>. Select NYWB-Western District of New York from the drop-down list located in the Court box and then enter known search criteria (i.e., creditor and/or debtor names, case #). If you need access to a computer to perform the search, you may use the court's public computer terminal located in the Clerk's Office Public Lobby of the **Robert H. Jackson U.S. Courthouse, 2 Niagara Square, Buffalo, NY 14202**. Additionally, you may contact the Clerk's office at (716) 362-3200 to verify unclaimed funds balances that may exist prior to December of 2009. A search fee of \$34.00 may be assessed for the Court to perform extensive searches for unclaimed fund deposits on your behalf, and a fee of \$70.00 will be assessed for the Court to retrieve archived files, if necessary. For a successful record search, it is helpful if you know the claimant's name, case number and approximately when the funds were deposited with the Court.

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 Western District of New York. 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 rightful Claimant. In instances where the Applicant is a funds locator, the Court will only make one disbursement; payment will be issued solely to the rightful claimant but mailed "care of" a funds locator, and the Court will not make a separate disbursement to the funds locator to split out any fee or commission. If a proper Transfer of Claim accompanies the Application, the funds will be payable to the Transferee as listed on the Transfer of Claim.

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.

Effective July 22, 2024, the Court will only disburse unclaimed funds by issuance of a Treasury check.

A. Domestic Claimant

A Claimant who is a U.S. person¹ must use the W-9 certification form (accessible by searching on the Internal Revenue Service (IRS) website at: <https://www.irs.gov/>).

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/>).

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.

¹ "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)

B. Successor Claimant

A successor Claimant may be entitled to the unclaimed funds as a result of assignment, purchase, merger, acquisition, 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.

When an Application for payment of unclaimed funds is based on succession (transfer, assignment, purchase, merger, acquisition, or succession by other means), the Applicant must provide the Court with a **Certificate of Service** (template found in Section III of Instructions) showing that the Application for Payment of Unclaimed Funds was sent to previous owner(s) of the claim at their current address or include a statement why service on previous owner(s) is not possible or necessary.

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. Filing the Application

The application, supporting documentation, and certificate of service must be mailed to the court at the following address (electronic filing of documents related to the request for unclaimed funds is not accepted):

U.S. Bankruptcy Court, Western District of New York
Attn.: Financial Department
Robert H. Jackson U.S. Courthouse
2 Niagara Square
Buffalo, NY 14202

d. Post-Filing Process

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 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.

III. Links

- 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)
- Certificate of Service template