

Interpretive Guideline #14 Missing Members

Issued: November 2015 / Revised June, 2016

This guideline is designed to provide an explanation of the process for moving missing members' benefits to Unclaimed Property under the [Unclaimed Personal Property and Vested Property Act](#) as permitted by the related provisions of the [Employment Pension Plans Act](#) (Act) and the [Employment Pension Plans Regulation](#) (Regulation). This guideline summarizes the legislative requirements that apply to the subject matter, and includes (as applicable) additional details to outline the Superintendent of Pensions (the Superintendent) expectations and requirements where such authority has been provided by the Act and Regulation. Finally, the guideline outlines best practices and policies that the Superintendent expects from provincially regulated pension plans.

The Act and Regulation should be used to determine specific legislative requirements. Any legal authority of this Guideline rests in the areas in which the legislation delegates authority to the Superintendent to accept a proposal or action.

Legislative References

Part 8, Division 9 (Sections 101 through 109) of the Act and Part 7, Division 7 (sections 93 and 94) of the Regulation outline the circumstances under which funds may be transferred from a pension plan to an account under the *Unclaimed Personal Property and Vested Property Act* (Unclaimed Property)

When can Benefits for Missing Members be Transferred

Ongoing Plan

One of the significant expenses for some pension plans is the maintenance and management of non-locked-in accounts for members who have terminated membership in the plan and have not moved their benefit out of the plan.

The pension plan may require the member to move the money out. However, if no information is received from the member as to where to move the money, this presents a problem for the plan in closing out the account.

Where the plan is holding a non-locked-in amount either for a member or another individual with benefit entitlements and that person cannot be found, the Act permits the administrator to transfer the benefits for that person to the fund held with Unclaimed Property, subject to the administrator meeting the requirements under the Act and Regulation.

Funds, whether locked-in or non-locked-in, may also be transferred to Unclaimed Property from an ongoing plan when the member turns age 71 and the member cannot be found. Under the *Income Tax Act* (Canada) the plan must start to pay benefits by the end of the year the member reaches age 71. Where the member cannot be located to commence pension payments, the commuted value of the pension may be transferred to Unclaimed Property.

Plan Termination

When there is a full pension plan termination, assets must be disbursed unless the participating employer has received consent from the Superintendent to suspend the plan. Normally benefits are paid directly to members and annuities are purchased for pensioners.

In some cases, the administrator may be unable to locate some members entitled to receive benefits from the plan.

To facilitate the disbursement of assets to these members, the Act permits the administrator to transfer the benefits for these members to Unclaimed Property, subject to the administrator meeting the requirements under the Act and Regulation.

Search for Members

To determine if a member meets the criteria to be declared missing, the administrator must:

- hire a firm that is experienced in conducting skip traces and location services, and is licensed under the *Collection and Debt Repayment Practices Regulation* (AR 194/99) under the *Fair Trading Act* to search for the member; and
- search the registration of death under the *Vital Statistics Act* if the missing person's last known residence was in Alberta.

Please note that if the skip tracer has done the search under Vital Statistics and certifies this in their report, the administrator is not required to do that search again.

Application to the Superintendent

Once the required searches have been done, the administrator must apply to the Superintendent for consent to transfer the missing member's benefit to Unclaimed Property.

The application must include:

- the name of the missing person;
- if the missing person is a surviving pension partner or a designated beneficiary of a deceased member,
 - the name of the deceased member, and
 - the relationship of the missing person to the member;
- if the missing person is a former pension partner of a member,
 - the name of the member, and
 - the relationship of the missing person to the member;
- if the missing person is a member,
 - the date when the member's employment initially commenced,
 - the date when the member joined the plan, and
 - the date, as applicable, when the member:
 - (a) terminated membership in the plan;
 - (b) died; or
 - (c) reached his or her pension commencement date;
- if applicable, the date that the plan terminated;
- if applicable, the date when the statement of settlement options [section 94(3)(a)(i) of the Regulation] was issued;
- the commuted value of the benefit the missing person is entitled to under

- the plan;
- the written confirmation and supporting documents referred to in section 93 of the Regulation to satisfy the Superintendent that the person is a missing person;
- to the extent the information is available in respect of the missing person, the missing person's:
 - last known address;
 - last known telephone number or other contact information;
 - social insurance number; and
 - date of birth

If the application is being made for more than one missing person, each person must be listed separately and the appropriate information provided for each individual.

Amount That May be Transferred

Minimum Transfer Amount

If the amount in the member's account is less than the minimum amount required for transfer under Unclaimed Property which is \$250 in 2016, then it may not be transferred to Unclaimed Property.

Where the amount is under the minimum, the plan administrator must continue to hold a record of the member and the amount.

Where the plan is terminated, the funds may be transferred to the former employer of the missing member, or in the case of a collectively bargained multi-employer plan to the union sponsoring the plan, and that party must keep a record of the transfer and be prepared to pay the amount to the missing member should that individual return to claim the benefit.

Maximum Transfer Amount

While the plan is ongoing, the benefit may not be transferred to Unclaimed Property if the commuted value of the benefit is more than 20 per cent of YMPE in the year in which the transfer is to be made unless the individual who is missing is a member who is turning 71 in that year, in which case there is no maximum.

On plan termination there is no maximum transfer amount.

Timing of the Application

Ongoing or Terminating Plan

There are some steps that the plan administrator must take before the application to transfer may be done. These are:

1. Send a termination statement to the member. If this is the initial termination statement, the plan must send it to the member within 30 days of termination. If the member had terminated some time ago and the plan wants to transfer benefits out, a new termination statement must be sent. This statement should advise the member that if no response is received the money will be transferred to Unclaimed Property.
2. The member has 90 days to make a decision and provide their documents to the plan. At the end of this 90 day period or sooner, if the

statement is returned by Canada Post, the plan administrator should contact Employment Pensions to indicate that they are starting the process.

3. The plan administrator then hires a skip tracer and contacts an Alberta Registry office, or has the skip tracer contact an Alberta Registry office, looking for a death search letter. If the skip tracer cannot find the person and there is no death search letter issued and the plan administrator has received these reports, they can make the application to transfer the funds to Unclaimed Property, which should contain the information listed above.

This application to transfer funds to Unclaimed Property while the plan is ongoing may be made no earlier than as listed above or 90 days before December 31 of the year in which the member turns 71 years of age.

Approval process

Once the Superintendent has received an application for transfer and confirmed that it meets legislated requirements, the Superintendent will provide the administrator with written consent to make the transfer and no further search requirements will be imposed. The administrator may then apply to Unclaimed Property to make the transfer. The administrator must comply with the Unclaimed Property reporting requirements when transferring assets.

Transfer to Unclaimed Personal Property and Vested Property

To transfer the member's benefit to Unclaimed Property, the administrator of the plan must make application to Unclaimed Property. A copy of the Superintendent's consent to the transfer should be sent with the application. For details on this process, please visit <http://unclaimedproperty.alberta.ca>.

Information for Property holders

http://finance.alberta.ca/business/unclaimed_property/info_property_holders.html

Submit Property and Money that belongs to someone else

<https://unclaimedproperty.alberta.ca/submit-lost-property.html>

Please contact the Unclaimed Property Unit at:

EMAIL: unclaimed.property@gov.ab.ca

MAIL

Tax and Revenue Administration
Alberta Treasury Board and Finance
9811 - 109 Street
Edmonton, AB T5K 2L5

PHONE

780-427-3044. For toll free service in Alberta, call 310-0000; then enter 780-427-3044

FAX: 780-422-3770

Toll-free Access

For **toll-free** access to any provincial government office from anywhere in Alberta, dial **310-0000** and then 780 and the number. Outside Alberta, call 780 and the number (long distance charges will apply).

Transfer of assets

In determining the amount to be transferred, the administrator must deduct:

- any withholding tax;
- any amount payable under a matrimonial property order or agreement; and
- any fees payable to the Minister under the *Unclaimed Personal Property and Vested Property Act*.

These amounts should then be paid to the appropriate parties.

Once funds have been transferred to Unclaimed Property, the provisions of the Employment Pension Plans Act no longer apply. Individuals seeking their benefits must make claims under Part 6 of the Unclaimed Property provisions.

Search for Lost Property and Money:

<https://unclaimedproperty.alberta.ca/search-for-lost-property.html>.

Confirmation of Transfer

Once consent to transfer has been received from Unclaimed Property, the administrator must transfer the funds.

Within 60 days of making the transfer to Unclaimed Property, the administrator must notify the Superintendent that the transfer has been made and must provide the Superintendent with the name of each member transferred, the date of transfer and the amount transferred on each member's behalf.

For further information please contact:

Superintendent of Pensions
Alberta Treasury Board and Finance
Room 402, 9515 - 107 Street
Edmonton, AB T5K 2C3

For toll-free dialling within Alberta, call 310-0000 and then dial 780-427-8322.

Telephone: 780-427-8322

Fax: 780-422-4283

Email: Employment.Pensions@gov.ab.ca

Internet:

<http://finance.alberta.ca/business/pensions>

Sign up for electronic notifications:

<http://finance.alberta.ca/subscribe/epen>