

## Frequently Asked Questions Remittances and Unclaimed Deposits

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*The Alberta Real Estate Foundation has put together this list of questions pertaining to remittances and unclaimed deposits. If you have further questions, please contact the Foundation directly at (403) 228-4786.*

### **What are my obligations to have a trust account if I am a property manager?**

All brokerages are required to keep and operate a trust account as outlined in section 20 of the *Real Estate Act*. The only exemption is if the trust account is inactive. Also refer to section 25 of the *Real Estate Act*, which outlines the requirements for handling of the trust account monies.

Trust funds in a property management setting include:

- any money defined in the management agreement with the property manager;
- funds such as rental payments received on behalf of the property owner;
- bank accounts in the client's name to which the property manager has access; and,
- security deposits.

Note that security deposit interest is NOT payable to the Foundation. Interest from trust accounts holding security deposit funds is payable to the tenant. Furthermore, the property manager often has a formal contractual arrangement with property owners to forward interest on any trust funds held by the brokerage to the property owner. As a result, trust fund money which would generate interest for the Foundation is negligible.

### **What kind of interest must be remitted to the Alberta Real Estate Foundation?**

All Brokerages must have a trust account set up with the Foundation as the designated recipient (see "[Instructions to Financial Institution from Industry Member](#)" form). Interest must be remitted to the Foundation from your trust account if:

- the sales contract does not stipulate otherwise;
- there is no contractual agreement in place with a property owner; and
- the funds are not rental security deposits.

### **How do I set up my bank accounts properly?**

To enable your bank to set up the trust account for automatic remittance of the interest to the Foundation, use the forms "[Instructions to Financial Institution from Industry Member](#)". Print the forms from your computer, or contact the Foundation office to send them to you by email, mail or fax.

The "Bank copy" should be kept by the bank; the executed "Foundation copy" must be mailed or faxed to the Foundation so that our records are complete. Verification of accounts is conducted to ensure the account is set up to remit interest to the Foundation. Keep a copy of the forms for your own records.

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### What if I change banks?

If your Brokerage changes banks and a new trust account is set up, you will need to submit new "Instruction to Financial Institution from Industry Member" form. Do not simply send a letter or change of address as this will not ensure that the new bank account is set up properly. Your declaration of Broker Banking Information form for that year should report both accounts and the time periods for which they were active.

### What do I do with unclaimed deposits or unclaimed interest on deposits from clients?

Unclaimed deposits, or unclaimed interest on deposits, must be remitted to the Foundation after:

- at least two (2) years have passed since your client was entitled to receive the funds back; and
- reasonable efforts have been made to locate the beneficial owner of the funds.

Unclaimed deposits can be remitted to the Foundation in the form of a cheque from the trust account along with a letter detailing the original transaction the funds are connected to as well as the efforts made to locate the beneficial owner of the funds.

### What do I need to send with unclaimed deposit money?

Unclaimed deposits must be accompanied by the following information:

- circumstances resulting in the money being unclaimed;
- name of beneficial owner of the funds;
- statement of attempt to locate beneficial owner; and
- date of transaction collapse.

### Who is the beneficial owner of an unclaimed deposit request or refund?

An unclaimed deposit may be reclaimed by the beneficial owner at any time as per the *Real Estate Act*, Section 25(6). If an unclaimed deposit has been forwarded to the Alberta Real Estate Foundation, and is subsequently claimed by a beneficial owner or the beneficial owner's estate, notify the Alberta Real Estate Foundation in writing and provide the following information:

- name of the beneficial owner;
- amount submitted to the Foundation; and
- date of submission.

The Alberta Real Estate Foundation will confirm that the funds were received, and will issue a check in the amount of the refund to the brokerage. The brokerage should then refund the claim to the beneficial owner. This creates a paper trail which protects the brokerage as well as the Alberta Real Estate Foundation.

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### Unusual circumstances

Contact the Foundation immediately if any of the following issues arise:

- your brokerage has closed and ceased operations;
- there are unclaimed security deposit funds in your Brokerage's trust account;
- there are funds due to the Foundation as a result of an audit;
- your Brokerage's financial institution will not accept or process the "Instruction to Financial Institution from Industry Member" form; or
- your Brokerage's trust account does not appear to be remitting interest to the Foundation as defined in the *Real Estate Act*.