

ESCHEAT FUNDS:

All funds remaining unpaid and unclaimed in the hands of executor or administrator shall, upon order of the court in which a final settlement is made, be paid into the treasury within one year.

July 16, 1937.

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Hon. J. B. Selby,
Judge of Probate,
Harrison County,
Bethany, Missouri.

Dear Sir:

This is to acknowledge receipt of your request for an opinion, which reads as follows:

"We write for your interpretation on the length of time required from time of final settlement in an estate in probate court before these funds, refused or not receipted for can be paid into the Escheat Fund and receipt secured from that office, which will authorize the court to discharge an administrator or executor.

"It has been the practice of this court, to wait until one year has elapsed from time of final settlement and distribution before paying this money into the State escheat fund, Sections 620 and 621 Rev. Sta. 1929. And that is the interpretation of most of our attorneys, and the practice of the court, after following up the court decisions on these sections of the statute. Now this practice is questioned by a layman, and we would appreciate very much your interpretation on this question."

Section 621 R. S. Mo. 1929, provides:

"Within one year after the final settlement of any executor or administrator, assignee, sheriff or receiver, all moneys in his hands unpaid or unclaimed, as provided in section 620, shall, upon the order of the court in which such settlement is made, be paid into the state treasury. And the state treasurer shall issue to him a duplicate receipt therefor, one of which shall be filed with the state auditor, who shall credit him with the amount thereof and charge the state treasurer therewith. All such moneys so received into the state treasury shall be credited into a fund, to be known and designated as 'escheats'".

As you will note, the above section is plain, unambiguous and clearly contemplates that within one year after the final settlement of any executor or administrator all moneys remaining in their hands, which have been unpaid or unclaimed, shall, upon the order of the court in which such settlement is made, be paid into the state treasury.

Where the statute is plain, as here, there is no room for construction of the same. (State ex rel. Jacobs-meyer v. Thatcher, 92 S.W. (2d) 640).

Your attention is further directed to Section 622, which provides in substance and effect that if moneys, as above set out in Sec. 621, supra, are not paid into the state treasury, the prosecuting attorney of the county in which such executor or administrator resides shall, upon giving ten days' previous notice of his intention to do so, move the court to enter judgment against such executor or administrator for the amount of moneys in their possession.

Hon. J. B. Selby,

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CONCLUSION

It is the opinion of this department that all funds remaining in possession of any executor or administrator, which have been unpaid or unclaimed, shall, upon the order of the court in which a final settlement has been made, be paid into the state treasury at any time within one year after a final settlement.

Respectfully submitted,

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APPROVED:

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RSC/LD