UNCLAIMED PROPERTY - ANNUAL COMPLIANCE UPDATE

August 2018
AGENDA

- Unclaimed Property Overview
- Compliance Essentials
- Unclaimed Property Compliance Process
- Common Compliance and Reporting Issues
- New Developments
  - Illinois Update
  - Other State Updates
- Compliance Best Practices
- Ways to Mitigate UP Exposure
- Q&A
- Bios
Unclaimed Property Overview
UNCLAIMED PROPERTY INTRODUCTION

General Information

- All 50 states and the District of Columbia have enacted unclaimed property laws.
- The purpose of unclaimed property laws is to ensure the protection of abandoned property until the rightful owner is located. Moreover, states use any derivative funds earned on such property for the public good.
- States actively pursue unclaimed property as an additional source of revenue for the state, which avoids raising taxes.
- States’ unclaimed property laws apply to all entity types, including:
  - Corporations
  - S Corporations
  - Partnerships
  - Limited Liability Companies
UNCLAIMED PROPERTY VS. TAX

What are the Differences?

Unclaimed property is **not** considered a tax.

- Nexus does not apply
- No apportionment or allocation methods utilized
- Filing deadlines vary from state to state
- Statute of limitations
- Use of Contract Auditors (paid on a contingency fee)
- Records Retention Requirements
UNCLAIMED PROPERTY INTRODUCTION

What is Unclaimed Property?

- Generally **intangible personal property** for which there has been no owner activity for a specified period of time (“dormancy period”).

**Examples of unclaimed property:**
- Uncashed payroll or commission checks
- Uncashed payable/vendor checks
- Gift certificates/gift cards
- Customer merchandise credits, layaways, deposits, refunds or rebates
- Overpayments/unnidentified remittances
- Suspense accounts
- Unused/outstanding benefits (non-ERISA)
- GR/IR (Goods received, not invoiced)
- Miscellaneous income/bad debt expense accounts
Where Do I Report Unclaimed Property?

The Supreme Court of the United States in *Texas v. New Jersey*, established the following unclaimed property sourcing rule:

- First, to the state of the rightful owner’s last known address, if known, or
- Second, to the state of the holder’s incorporation (commercial domicile for unincorporated entities).

Priority rules in *Texas v. New Jersey* were upheld in the subsequent cases *Pennsylvania v. New York* (escheat of money orders) and *Delaware v. New York* (unclaimed dividends and interest).

Although not sanctioned by the Court, some states have adopted a “transactional or throwback rule,” which provides that if both the state of the owner’s last known address and the state of the holder’s incorporation decline or fail to exercise jurisdiction over the unclaimed property, then the state in which the transactions giving rise to such property occurred has the right to claim the property.
Compliance Essentials
FALL REPORTING DEADLINES

Reporting deadlines vary by state. Below are the differences in reporting deadlines for the Fall filing states:

<table>
<thead>
<tr>
<th>Due October 31st</th>
<th>Due November 1st</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arkansas</td>
<td>Alabama</td>
</tr>
<tr>
<td>California (Notice Report)</td>
<td>Alaska</td>
</tr>
<tr>
<td>Louisiana</td>
<td>Arizona</td>
</tr>
<tr>
<td>Maryland</td>
<td>Colorado</td>
</tr>
<tr>
<td>Minnesota</td>
<td>Georgia</td>
</tr>
<tr>
<td>Nevada</td>
<td>Hawaii</td>
</tr>
<tr>
<td>New Jersey</td>
<td>Idaho</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>Indiana</td>
</tr>
<tr>
<td>South Carolina</td>
<td>Iowa</td>
</tr>
<tr>
<td>West Virginia</td>
<td>Kansas</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>Kentucky</td>
</tr>
<tr>
<td>Virgin Islands</td>
<td>Maine</td>
</tr>
<tr>
<td></td>
<td>South Dakota</td>
</tr>
<tr>
<td></td>
<td>Massachusetts</td>
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<tr>
<td></td>
<td>Mississippi</td>
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<tr>
<td></td>
<td>Missouri</td>
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<tr>
<td></td>
<td>Montana</td>
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<td></td>
<td>Nebraska</td>
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<tr>
<td></td>
<td>New Hampshire</td>
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<tr>
<td></td>
<td>New Mexico</td>
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<tr>
<td></td>
<td>North Carolina</td>
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<tr>
<td></td>
<td>North Dakota</td>
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<tr>
<td></td>
<td>Ohio</td>
</tr>
<tr>
<td></td>
<td>Oregon</td>
</tr>
<tr>
<td></td>
<td>Rhode Island</td>
</tr>
</tbody>
</table>
Unclaimed property reporting deadlines vary by industry type as well:

<table>
<thead>
<tr>
<th>State</th>
<th>Type of Company</th>
<th>Reporting Deadline</th>
<th>Type of Company</th>
<th>Reporting Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delaware</td>
<td>Financial Institutions</td>
<td>November 10th</td>
<td>Corporations</td>
<td>March 1st</td>
</tr>
<tr>
<td>Texas</td>
<td>All Companies</td>
<td>July 1st</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>California</td>
<td>Life Insurance</td>
<td>Preliminary (April 30th) Final (December 1st)</td>
<td>All Others</td>
<td>Preliminary (October 31st) Final (June 1st)</td>
</tr>
</tbody>
</table>
DORMANCY PERIODS

“Dormancy Period”: A statutorily prescribed period that begins from the date of creation of the property type (e.g., check issuance date) and ends after the passage of a certain number of years (typically 1-5 years). Property becomes presumed abandoned when it has remained unclaimed (i.e., a holder cannot demonstrate affirmative owner contact with respect to the property at issue) during the statutory dormancy period.

Below is an example of how dormancy periods can vary by property type:

<table>
<thead>
<tr>
<th>STATE</th>
<th>ACCOUNTS PAYABLE (MS08)</th>
<th>ACCOUNTS RECEIVABLE (MS09)</th>
<th>PAYROLL (MS01)</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>3</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Kentucky</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Virginia</td>
<td>5</td>
<td>5</td>
<td>1</td>
</tr>
</tbody>
</table>

Refer to the each state’s filing instructions to determine the appropriate NAUPA code associated with the property type to be filed. Based on the NAUPA code, various dormancy periods will be applicable.
Prior to reporting unclaimed property to the state, most jurisdictions require companies to reach out to owners of the property via a due diligence letter as a last-ditch effort to reunite the owner with their property.

Although due diligence requirements vary from jurisdiction to jurisdiction, there are certain aspects of these requirements that all companies should be aware of:

- Due diligence $ threshold
- Timing of mailing due diligence letters - (e.g. 60-120 days prior to reporting the amount over to the state)
- Requirement to issue multiple notifications - (e.g. New York)
- Specific due diligence letter requirement - (e.g. California)
FALL DUE DILIGENCE REQUIREMENTS

<table>
<thead>
<tr>
<th>STATE</th>
<th>MINIMUM DDL THRESHOLD AMOUNT</th>
<th>NOT MORE THAN ___ DAYS FROM FILING</th>
<th>NOT LESS THAN ___ DAYS BEFORE FILING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>$50.00</td>
<td>120</td>
<td>60</td>
</tr>
<tr>
<td>Arizona</td>
<td>$50.00</td>
<td>365</td>
<td>120</td>
</tr>
<tr>
<td>Georgia</td>
<td>$50.00</td>
<td>180</td>
<td>60</td>
</tr>
<tr>
<td>Iowa</td>
<td>$50.00</td>
<td>120</td>
<td>30</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>$100.00</td>
<td>120</td>
<td>60</td>
</tr>
<tr>
<td>Missouri</td>
<td>$50.00</td>
<td>365</td>
<td>30</td>
</tr>
<tr>
<td>Nebraska</td>
<td>$25.00</td>
<td>120</td>
<td>60</td>
</tr>
<tr>
<td>Ohio*</td>
<td>$50.00</td>
<td>120</td>
<td>30</td>
</tr>
<tr>
<td>Virginia</td>
<td>$100.00</td>
<td>120</td>
<td>60</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>$50.00</td>
<td>120</td>
<td>60</td>
</tr>
</tbody>
</table>

* Send through first class mail for amounts with a balance equal to $50.00 and less than $1,000. If amount is greater than $1,000, the DDL must be sent by certified mail, return receipt request.
COMMON HOLDER MISUNDERSTANDING

Aggregate Reporting

► Most jurisdictions allow companies to aggregate the small dollar amount items into one lump sum on the annual report.
► This can range from $25 to $250 depending on the State.
► Aggregate reporting should not be confused with deminimus amount reporting.
► Only a few States have a deminimus reporting exemption and it may only apply to specific property types. All other states - all property is due regardless of the amount, even a penny.
USE OF NAUPA CODES

- NAUPA codes are a set of standardized codes used by jurisdictions to determine the type of property that is being reported to the state (e.g. payroll, vendor checks, etc.)
- NAUPA codes are also key in determining when the property is due.
- Holders may struggle at times determining what is the appropriate code to use when reporting certain types of properties.
- In situations where selecting a NAUPA code is not straightforward, holders should consider the following:
  - Have I narrowed the list of NAUPA codes to a selected few? If so, what is the impact of choosing one code over another?
  - Have I contacted the state’s compliance hotline to seek guidance on what NAUPA code to use?
  - Is there a legal question as to what type of code should be chosen; if so, have I reached out to internal or external counsel on this issue?
Unclaimed Property Compliance Process
COMPLIANCE PROCESS
6-Step Process

- Step 1 - Kick-off meeting, role assignment, determination of compliance reporting strategy & payment set-up
- Step 2 - Compilation of reportable transactions
- Step 3 - Identification of exemptions/deductions
- Step 4 - Due diligence notification letters
- Step 5 - Reconciliation of amounts provided
- Step 6 - Reporting and remitting funds to the various jurisdictions
SAMPLE ESCHBEAT COMPLIANCE TIMELINE

See the following sample timeline for Fall and Spring filings. This timeline can be modified accordingly to meet your needs.

**Fall Compliance**

- **Company response to data request**
  - May 15
  - June 30

- **Data Request**
  - June 1

- **Validate data and ID exemptions**
  - June 1 - August 15

- **Due diligence letters sent and responses tracked**
  - July 1 - August 15

- **Reissue checks**
  - August 30

- **Prepare UP reports & check request**
  - Sept 1 - Sept 15

- **Reports to states**
  - Oct 15
  - Oct 20

- **Prepare reconciliation and send to Company**
  - Sept 16 - Oct 7

- **Reports and checks to BDO**
  - Oct 15
  - Oct 20

- **Upload electronic copies to Client Portal**
  - Nov 15

**Spring Compliance**

- **Compile DDL Responses**
  - Dec 1 - Dec 31

- **Due Diligence**
  - Jan 1 - Jan 31

- **Prepare UP reports & check request**
  - Feb 1 - Feb 15

- **Reports and Checks to BDO**
  - Feb 20

- **Reports to states**
  - May 1 - July 1

- **Upload electronic copies to Client Portal**
  - June 15

- **Prepare reconciliation and send to Company**
  - Feb 28

- **Reissue checks**
  - Feb 20

- **Reissue checks**
  - Feb 28

- **Reissue checks**
  - June 15

See the following sample timeline for Fall and Spring filings. This timeline can be modified accordingly to meet your needs.
Common Compliance and Reporting Issues
COMPLIANCE AND REPORTING ISSUES

Top Common Compliance Mistakes

- Using the wrong time period for reporting - Includes too many items in a report or does not capture all the required reportable items for a given report cycle

- Using the wrong property type code - Using the incorrect property type code could lead to incorrect reporting of property due to different dormancy periods being used for different property type codes
  - It could also lead to the application of the available exemptions

- Not realizing that foreign addressed items need to be included in reporting and should be escheated to the state of incorporation

- Holders not taking advantage of exemptions or deductions

- Holders not realizing that not all states utilize a fall report deadline and that about 1/5 of the states use a different report deadline than Oct 31/Nov 1
COMPLIANCE AND REPORTING ISSUES
Common Reasons States Reject Annual Reports

► Certain states require specific information to be included on their annual reports or be submitted in a certain format or they will reject the reports. The following are some examples:
  • California and Florida both require Social Security Numbers be provided for payroll property included on their annual reports
  • Tennessee requires that the NAICS code be included in their upload file for it to be accepted
  • Tennessee, Washington, District of Columbia and Delaware are a few examples of states that will only accept reports that are uploaded to their respective state portals
  • Certain states such as Texas, Arkansas and Oklahoma require well name, well number and well location be included for mineral royalties
  • Several States will Reject a Report if Payment is not made electronically such as Alabama, Nevada, and Tennessee
New Developments
RUUPA Overview
RUUPA OVERVIEW

Background

Four significant changes in RUUPA:

- **RUUPA clarifies which types of intangible property are covered.** The following types of intangible property are now specifically included: virtual currency, payroll cards, stored-value cards, municipal bonds, health savings accounts, commissions, employee reimbursements, and custodial accounts for minors.

- **RUUPA provides specific dormancy periods.** RUUPA establishes dormancy periods for many types of property for the first time. For example, RUUPA provides for a three-year dormancy period for health savings accounts, custodial accounts for minors, payroll card accounts, and stored-value cards. Similarly, there is a one-year dormancy period for a commission or reimbursement owed to an employee.

- **RUUPA expands remedies for holders.** A holder has several remedies after an examination by an administrator, including informal conferences between a holder and the administrator as well as administrative and judicial review.

- **RUUPA includes additional information security provisions.** New rules for protection and use of confidential information, including when confidential information may be disclosed. RUUPA also includes security-breach notification and response requirements.
RUUPA OVERVIEW
State Adoption & Current Consideration Map

Courtesy of the Uniform Law Commission
RUUPA OVERVIEW

Extrapolation

- Administrators are required to adopt rules governing extrapolation.
- Extrapolation is permitted if the holder fails to maintain records. The official comment cites to the *Temple-Inland* decision noting limitations on the use of estimates during an examination.
- Estimates cannot be used unless the holder expressly consents.
RUUPA OVERVIEW

Record Retention

RUUPA includes a 10-year record retention policy and the records must include:

- all information required to be included in the holder’s annual report;
- the date, place, and nature of the circumstances that gave rise to the property right;
- the amount or value of the property;
- the last address of the apparent owner, if known to the holder; and
- if the holder sells, issues, or provides to others for sale or issue in the state traveler’s checks, money orders, or similar instruments, other than third-party bank checks, on which the holder is directly liable, a record of the instruments while they remain outstanding indicating the state and date of issue.
Illinois Update
## ILLINOIS UP LAW CHANGE
### IL Dormancy Period

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Dormancy Period Pre SB9</th>
<th>New Dormancy Period</th>
<th>Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accounts Receivable</td>
<td>5 years</td>
<td>3 years</td>
<td>Old Provision: 765 ILCS 1025/2a (a)(5),(7)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>New Provision: Section 15-201 (7)</td>
</tr>
<tr>
<td>Securities</td>
<td>5 years</td>
<td>3 years or 5 years</td>
<td>Old Provision: 765 ILCS 1025/4</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>New Provision: Section 15-208</td>
</tr>
<tr>
<td>Payroll</td>
<td>1 years</td>
<td>1 years</td>
<td>Old Provision: 765 ILCS 1025/2a (c)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>New Provision: Section 15-201 (13)</td>
</tr>
<tr>
<td>Accounts Payable &amp; Disbursements</td>
<td>5 years</td>
<td>3 years</td>
<td>765 ILCS 1025/2 (a)(6)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>New Provision: Section 15-201 (5),(15)</td>
</tr>
<tr>
<td>All other property</td>
<td>5 years</td>
<td>3 years</td>
<td>Old Provision: 765 ILCS 1025/9</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>New Provision: Section 15-201 (15)</td>
</tr>
</tbody>
</table>
ILLINOIS UP LAW CHANGE

IL Address Determination

General Address Rules (section 15-301 - 303)

- “Last known name and address” of apparent owner is any description, code, or other indication of the location of the apparent owner which identifies the state, even if the description, code or indication of the location is not sufficient to direct the delivery of first class US mail to the apparent owner.
  - IL full address = IL address
  - IL not full address but one of three factors above ID to IL = IL address
  - IL Zip code = IL address (unless other records suggest address in another state)
  - IL government determined via its records the owner is in IL = IL address

If multiple addresses on holder books

- Most recent address wins
- If most recent address is temporary address, then next most recent address

Life Insurance/Beneficiaries

- For life insurance - address is of the insured or annuitant
- For beneficiary items - address of the beneficiary (followed by deceased owner address)
### ILLINOIS UP LAW CHANGE

#### Exemptions

<table>
<thead>
<tr>
<th>Provision Pre SB9</th>
<th>New Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Summary</strong> - B2B exemption allowed and gift cards exempt</td>
<td><strong>Summary</strong> - No B2B exemption - “Property” definition excludes:</td>
</tr>
<tr>
<td>Gift cards exempt if:</td>
<td>1. Game related digital content</td>
</tr>
<tr>
<td>1. No expiration date</td>
<td>2. Loyalty card <em>(no monetary consideration provided)</em></td>
</tr>
<tr>
<td>2. No dormancy or inactivity fee</td>
<td>3. Gift card <em>(includes prepaid commercial radio service)</em></td>
</tr>
<tr>
<td>3. Redeemable for merchandise only</td>
<td>4. In Store Merchandise credit (returned for goods)</td>
</tr>
<tr>
<td>Other rules applied if gift cards issued before 1/1/2005. Didn’t address treatment of reloadable store value cards or similar instruments</td>
<td>Net card value of store value card (“SVC”) is presumed abandoned 5 years after certain events transpire.</td>
</tr>
<tr>
<td>765 ILCS 1025/10.6</td>
<td>• To the extent a store value card is a gift card then could be exempt.</td>
</tr>
<tr>
<td></td>
<td>• Gift card must meet certain conditions to constitute a gift card</td>
</tr>
<tr>
<td></td>
<td>Store value cards are not exempt under new law - See SB 868 trailer modification Sec. 15-206 presumption of abandonment store value cards</td>
</tr>
<tr>
<td></td>
<td>Sec. 15-102(24)(C) gift cards; (10) game related digital content; (14) loyalty cards; (19) net card value</td>
</tr>
</tbody>
</table>
ILLINOIS UP LAW CHANGE
IL BOP & Remediation

Burden of Proof (Section 15-307)
- Administrator has initial burden to prove:
  - Amount of property
  - Property is presumed abandoned
  - Property is subject to the custody of the administrator

Remediation & Rebuttal to State Demonstrating its Burden of Proof (Section 15-1005)
- A record of a putative holder showing an unpaid debt or undischarged obligation is prima facie evidence of the debt or obligation.
- A putative holder may establish by a preponderance of the evidence that there is no unpaid debt or undischarged obligation for a debt or obligation described in subsection (a) or that the debt or obligation was not, or no longer is, a fixed and certain obligation of the putative holder.
Extrapolation

<table>
<thead>
<tr>
<th>Provision Pre SB9</th>
<th>New Provision</th>
<th>Proposed Rules</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Summary</strong> - estimation and extrapolation allowed, calculation method not specified.</td>
<td><strong>Summary</strong> - extrapolation treated as penalty plus retroactive transitional provision implications.</td>
<td>(c) Estimation is intended as a deterrent to the intentional or negligent destruction of records used in an examination to identify unclaimed property.</td>
</tr>
<tr>
<td>(a) If a holder has failed to retain records as required by this Act or if the records retained are shown to be insufficient to conduct and conclude an examination, the Office of the State Treasurer may use estimation techniques that conform to either GAAS or GAAP to determine the amount of unclaimed property. In the conduct of an examination, the State shall not request of a holder any records that relate only to property that under subsection (a) [relating to financial institutions, governmental agency or periods prior to 7/1/1985] or (b) [SOL period] of Section 10.5 is not subject to this Act.</td>
<td>IL RUUPA requires for audits:</td>
<td>...</td>
</tr>
<tr>
<td>765 ILCS 1025/11.5 (a)</td>
<td>1. Review of records.</td>
<td>(e) Estimation by the admin. Should reasonably approximate the amount of unclaimed property that should have been reported to IL if all reports had been filed and records maintained.</td>
</tr>
<tr>
<td></td>
<td>2. Exam may not be based on estimate without holder consent (where holder has records).</td>
<td>Based on conversations with Illinois Treasurer Office the expectation is to apply an extrapolation method that is reasonable and in a way where Illinois is receiving what belongs to Illinois. <strong>It is believed that this will approximate a “net method”.</strong></td>
</tr>
<tr>
<td></td>
<td>3. Auditor consider evidence in good faith.</td>
<td>Sec. 760.890</td>
</tr>
<tr>
<td></td>
<td>4. If a holder fails to retain the records “…admin. may determine the value of property due using a reasonable method of estimation based on all information available to the administrator, including extrapolation and use of statistical sampling when appropriate and necessary…”</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5. Payment of estimation = penalty.</td>
<td></td>
</tr>
<tr>
<td>765 ILCS 1025/11.5 (a)</td>
<td>Section 15-1002; 1003, 1006</td>
<td></td>
</tr>
</tbody>
</table>
ILLINOIS UP LAW CHANGE
Transitional Provision

<table>
<thead>
<tr>
<th>Provision Pre SB9</th>
<th>New Provision</th>
<th>Proposed Rules</th>
</tr>
</thead>
</table>
| Not Applicable    | An initial report filed under this Act for property that was not required to be reported before the effective date of this Act [B2B exempted property], but that is required to be reported under this Act, **must include** all items of property that would have been presumed abandoned during the 5-year period preceding the effective date of this Act as if this Act had been in effect during that period. Section 15-1503(a) | **Transition Property**
(A) Holders should report all property that would have been reported in 2013-2017 as if the Act had been in effect on 1/1/13.
(B) [Previously exempted] Property excluded in 2013-2017 should be reported in 2018.

Penalties & Interest (“P&I”)
(A) Transition property reported in 2018 is not past due, so no P&I
(B) Admin may waive P&I for transition property reported in 2019 if reported in good faith

Insufficient Records
(A) If domiciled outside IL, estimate is for owner addressed *(net method)*
(B) If domiciled in IL, estimate is for owner addressed **AND** IL domicile *(modified net method)*

Audit
Property not previously reportable will be reportable. Holder and admin can agree in writing how to resolve issues where both acts may reasonably be interpreted as applying to property under examination.
ILLINOIS UP LAW CHANGE

Transitional Provision

Potential Look-back period for Transitional Provision

- 5 year transitional period + 3 year dormancy period = 8 years
- 5 year transitional period + 5 year dormancy period = 10 years

Other Observations

- Mandatory Provision
- B2B property
  - Holder only exempted from prior escheat filing to IL
  - Record retention statutes required records to be kept for 5 or 14 years
  - Record retention statutes should cover B2B type information
  - Liability not extinguished as due and owing to 3rd party apparent owner
  - Could Contract or other SOL provision be raised as defense?
  - If yes, to the above, does the Anti-limitation provisions trump that defense?
  - Is there a due process violation even where holder was on notice to keep records included in the transitional period?
### ILLINOIS UP LAW CHANGE

#### P&I

<table>
<thead>
<tr>
<th>Types of Penalty and Interest</th>
<th>Details</th>
<th>Waiver</th>
<th>Citation</th>
</tr>
</thead>
</table>
| Failure to report, pay or deliver property interest                 | 1% / month on amount or value of property - calculated from date the property should have been reported, paid or delivered | Yes - if holder acted in good faith and without negligence | Section 15-1204 (a) (interest)  
Section 15-1206 (a) (waiver)                                         |
| Failure to report, pay or deliver property penalty                  | $200 / day for each day the failure occurred, maximum of $5,000          | Yes - if holder acted in good faith and without negligence | Section 15-1204 (b) (penalty)  
Section 15-1206 (a) (waiver)                                         |
| Failure to retain required records penalty                          | State is permitted to use “reasonable method of estimation” as penalty   | No                                          | Section 15-1006 (penalty)                                    |
| Evasion of unclaimed property law penalty                           | $1,000 / day obligation is evaded or duty not performed, maximum of $25,000 plus 25% of property that should have been reported | No                                          | Section 15-1205(a) (penalty)                                 |
| Fraudulent filing penalty                                           | $1,000 / day from date of original report until corrected, maximum of $25,000 plus 25% of property that should have been reported or was under reported | No                                          | Section 15-1205 (b) (penalty)                                |
ILLINOIS UP LAW CHANGE

Other Provisions

Remediation Standards & Rebuttal to State (Section 15-1005)

- The holder must establish by a preponderance of the evidence that a check, draft, or similar instrument was:
  - Issued as an unaccepted offer in settlement of an unliquidated amount;
  - Issued but later was replaced with another instrument because the earlier instrument was lost or contained an error that was corrected;
  - Issued to a party affiliated with the issuer;
  - Paid, satisfied, or discharged;
  - Issued in error;
  - Issued without consideration;
  - Issued but there was a failure of consideration;
  - Voided not later than 90 days after issuance for a valid business reason set forth in a contemporaneous record; or
  - Issued but not delivered to the third-party payee.

Moreover, a holder may present evidence of a course of dealing between the holder and apparent owner as a defense against an assertion that a particular item is abandoned property.
Other State Updates
OTHER STATE UPDATES

North Carolina H.B. 294
Signed by the Governor on July 20, 2017; Effective October 1, 2017
► This bill changes the amount required for minimum amount a due diligence letter must be sent from $50.00 to $25.00.

California A.B. 2773
Bill introduced February 16, 2018
Bill pulled April 2018 to work more on the issue and hope is that it will be reintroduced in the coming year
► This bill would create a voluntary disclosure agreement program for California that would allow holders to report without being penalized.
OTHER STATE UPDATES

Utah S.B. 156

Signed by the Governor on March 26, 2018; Effective May 8, 2018

- This bill defines various terms, subjects stored-value cards and payroll cards to the Revised Uniform Unclaimed Property Act, provides a time period after which a stored-value card is considered unclaimed property.
OTHER STATE UPDATES

Hawaii S.B. 208
Signed by the Governor on July 11, 2018; Effective January 1, 2019

Wisconsin S.B. 274
Signed by the Governor on April 3, 2018; Effective April 5, 2018

The Bills Implement the Model Unclaimed Life Insurance Benefits Act prepared by the National Conference of Insurance Legislators. Generally, the bill addresses the obligations of an insurer providing life insurance policies, annuities, or retained asset accounts with respect to identifying insureds who have died and their beneficiaries.
OTHER STATE UPDATES

States that now require annual reports be submitted online only:

- Alabama (Payment must be made electronically)
- Arkansas
- Delaware
- District of Columbia
- Florida
- Idaho
- Illinois
- Indiana
- Iowa
- Kentucky
- Maine
- Montana
- Nebraska
- Nevada (Payment must be made electronically)
- New Jersey
- North Dakota - Negative Reports only required
- Oklahoma
- South Carolina
- Tennessee (Payment must be made electronically)
- Texas
- Utah
- Virginia
- Washington (Payment must be made electronically or 5% penalty)
- Wisconsin
### OTHER STATE UPDATES

<table>
<thead>
<tr>
<th>State</th>
<th>Previous</th>
<th>New</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indiana - Address</td>
<td>P.O. Box 2504 Greenwood, IN 46142</td>
<td>Indiana Unclaimed Property Division P.O. Box 2504 Greenwood, IN 46142</td>
</tr>
<tr>
<td>Michigan - Address</td>
<td>P.O. Box 30756 Lansing, MI 48909</td>
<td>Michigan Dept. of Treasury Attn: UPD P.O. Box 30756 Lansing, MI 48909</td>
</tr>
<tr>
<td>Missouri - Check Payable to:</td>
<td>Missouri State Treasurer Clint Zweifel</td>
<td>Missouri State Treasurer</td>
</tr>
<tr>
<td>Utah - Address</td>
<td>Unclaimed Property - Holder Reports 168 N 1950 W #1950 Salt Lake City, UT 84116</td>
<td>Unclaimed Property - Holder Reports 350 N. State Street, STE 180 Salt Lake City, UT 84114</td>
</tr>
<tr>
<td>West Virginia - Address</td>
<td>P.O. Box 3328 Charleston, WV 25333</td>
<td>Office of State Treasurer Unclaimed Property Division P.O. Box 3328 Charleston, WV 25333</td>
</tr>
<tr>
<td>West Virginia - Check Payable to:</td>
<td>State of West Virginia - WVSTO</td>
<td>WV State Treasurer’s Office- Unclaimed Property Division</td>
</tr>
</tbody>
</table>
Compliance Best Practices
BEST PRACTICES

Compliance

An efficient compliance process increases the likelihood that an organization will only remit funds rightly due to the states. The compliance process should include the following, which is most effectively addressed in a compliance manual:

- Evaluate company needs/resources regarding unclaimed property
- Centralize unclaimed property reporting by assigning an unclaimed property administrator
- Assign liaisons with individual departments to assist in the gathering of unclaimed amounts (i.e. - accounting, controller, treasury and internal legal).
- Train staff and management
- Implement procedures for internal identification of unclaimed property and the proper tracking, reporting, and payment methods once property is identified
- Develop records retention policy
BEST PRACTICES

Compliance (continued)

Other key points to consider for the compliance manual:

- Establish unclaimed property liability account
- Perform monthly reconciliations and processing of escheat information consistent with escheat calendar deadlines (e.g. Cash / A/R accounts)
- Utilize software or outsource report filing to ensure all new statutory changes are incorporated into the unclaimed property review
- Establish compliance calendar to track reporting deadlines and key milestones (e.g. due diligence)
- Track legislative changes that impact annual reporting
- Establish a centralized repository to maintain historical unclaimed property filings (UP reporting software may help here)
- Review possibilities for mitigation of future unclaimed property
BEST PRACTICES

Accounts Receivable

Best practices for the accounts receivable department:

- Deminimus amounts are reclassed to a unclaimed liability account instead of a P&L account
- Include available credits, not just outstanding invoices, on customer statements
- The earlier the AR team reaches out to the customer on an outstanding credit (greater than 90-180 days) the better the chance to resolve the credit
- Ensure that payments are matched to invoices in the system
- For any credit amounts where the customer agrees that the amount is not owed, keep all supporting documentation and correspondence.
- Use doc types or codes in the system to better identify transaction types running through AR (i.e. - pricing adjustment, write-off, bad debt recovery, settlement, etc.)
BEST PRACTICES
Accounts Receivable (continued)

Best practices for the accounts receivable department:

- Offset credits on account to future invoices for current customers
- Do not write-off credits due customers simply because the credit has aged
- Do not offset credit from one customer account to debit from another customer account unless allowed by contract
- Unidentified remittances or unapplied cash should be refunded to company making payment and not written off to P&L
- Simply issuing a refund check without having made contact does not re-start the calculation of dormancy
BEST PRACTICES

Self-Assessment Qualitative Review

- Does my company have a history of unclaimed property reporting? If so, is property being reported or is it just negative reports being filed each year?
- Where is/was my company incorporated and how far back can that state(s) audit my company for?
- What is my company’s record retention policy? Does it match up to the UP audit look back periods?
- Is there a material amount of checks on my current outstanding A/P check listing that are older than 3 years?
- Does my company have a policy of writing off credits or checks simply because they have been aged for a specific period of time?
- Is there a deminimus amount write-off policy (either done manually or automatically by the system?)
Ways to Mitigate Unclaimed Property Exposure
WAYS TO MITIGATE UNCLAIMED PROPERTY EXPOSURE

► Voluntary Disclosure Agreements
  • All property types (AP, PR, AR)
  • Limited scope of review
  • Brings company into compliance
  • Limited reach-back

► Compliance
  • Execute strong annual unclaimed property filings and due diligence compliance
  • Policy and Procedures
    - Develop and implement firm-wide process to help mitigate future risk
    - Evaluate M&A Activity
    - Evaluate System conversions and banking relationship changes
  • Feasibility Review
    - Review to address the scope of your unclaimed property exposure and internal control risks
Speaker Biographies
BIOGRAPHY
Angie Gebert, CPA

Managing Director, National Escheat Compliance & Mid Atlantic Escheat Leader

EXPERIENCE SUMMARY
Angie has more than 20 years of state and local tax experience advising multinational and domestic companies on unclaimed property and the state and local tax implications of transactions, operational changes, tax minimization strategies, audits, and appeals. Angie has primarily focused on unclaimed property as well as has extensive experience with income, franchise, and business activity taxes and nexus. Angie heads up the Firm’s Unclaimed Property Compliance practice. In addition, Angie has assisted clients with unclaimed property audit defense, voluntary disclosure agreements and policy and procedures. Angie has given presentations in the area of unclaimed property and state and local taxation as well as published in the Tax Advisor.

Prior to joining BDO, Angie worked with Crowe Horwath LLP and PwC in state and local tax and federal tax/audit divisions respectively

PROFESSIONAL AFFILIATIONS
Unclaimed Property Professional Organization, Member
American Institute of Certified Public Accountants
Indiana CPA Society

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BIOGRAPHY

James Mann, MBA, CFE

State & Local Tax Manager, Unclaimed Property

EXPERIENCE SUMMARY
James has more than 17 years of unclaimed property experience at both at the governmental and industry levels. James has primarily focused on unclaimed property compliance issues including policy, due diligence and reporting requirements. James has also aided clients come into compliance utilizing various state’s Voluntary Compliance Programs.

James works in the Firm’s Unclaimed Property Compliance practice. In addition, James has assisted clients with unclaimed property audit defense, voluntary disclosure agreements and policy and procedures.

Prior to joining BDO, James worked with United Airlines, Inc. and the Illinois State Treasurer’s Office handling unclaimed property compliance related efforts.

PROFESSIONAL AFFILIATIONS
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Unclaimed Property Professional Organization, Member

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B.A. in Finance, Loras College

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BIOGRAPHY
Rodney Michna, CPA, MSA

State & Local Tax Manager, Unclaimed Property

EXPERIENCE SUMMARY
Rodney has over 5 years of experience in the public accounting industry, with a focus on assisting clients with their abandoned and unclaimed property (AUP) matters. Rodney has assisted clients in various industries including: manufacturing, distribution, retail, oil & gas, business services, and healthcare.

As a member of BDO National Unclaimed Property Practice, Rodney helps clients with all types of escheatment needs including helping clients defend against audits, voluntary disclosure advice and consulting, developing policy and procedures, assistance with escheat compliance matters, etc. In addition, Rodney has helped clients with escheat planning.

Rodney is a contributor to various written alerts, firm bulletins and outreach on unclaimed property matters, and has presented on unclaimed property matters at both internal and third party-sponsored events.

PROFESSIONAL AFFILIATIONS
American Institute of Certified Public Accountants
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