

Compliance

2011 Maine Unclaimed Property Holder Seminar

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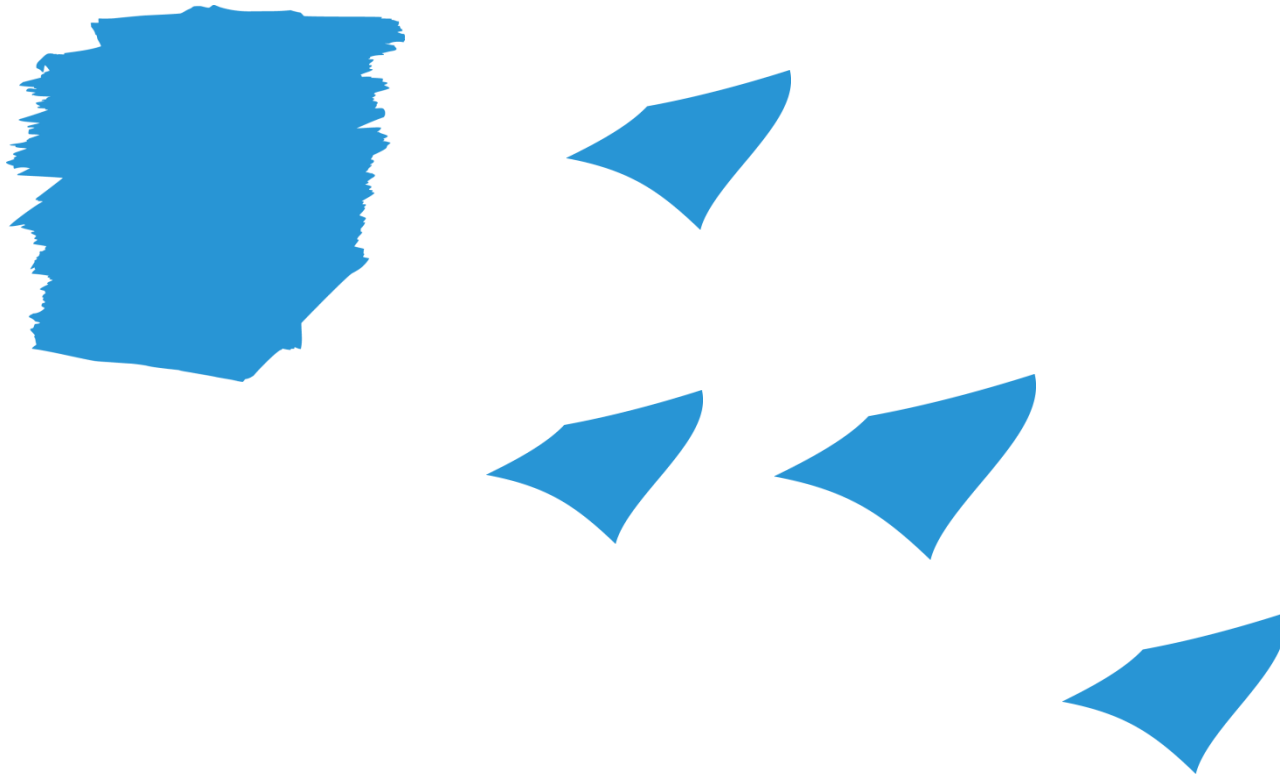
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Legal Requirements



Legal Requirements

A state's unclaimed property law applies to all categories of intangible property unless they are specifically exempted

- Examples of property that generally must be reported if unclaimed include bank accounts, utility deposits, stock, dividends, bonds, amounts payable under insurance policies, and customer credit balances
- If property is exempted by one state it may be reportable to another state

Legal Requirements

The unclaimed property law establishes a dormancy period for each category of property

- Dormancy periods differ from state to state
- Dormancy periods differ depending on the property type
- Most dormancy periods range from 5 years to 1 year but some are longer

Legal Requirements

The unclaimed property law establishes what activity is sufficient to show contact and rebut the presumption of abandonment

- The activity must be owner initiated and reflect knowledge of the account/property
- Examples include cashing a check, voting a proxy, paying a bill or an insurance premium, submitting instructions to buy or sell shares, or sending a change of address notice

Legal Requirements

The unclaimed property law establishes how and when a holder must report and what must be included

- Most states require holders to report in the spring or the fall depending on the state and the property type
 - Michigan now has a filing date of July 1 with a March 31 cutoff
 - Texas will move to a filing date of July 1 with a March 1 cutoff effective January 1, 2013
- 11 states require electronic filing if reports meet certain criteria
- Texas requires holders to include additional owner information if available, including email address and drivers license or state identification number

Legal Requirements

The unclaimed property law establishes the requirements for due diligence

- 51 of 53 jurisdictions require holders to perform due diligence prior to reporting and all jurisdictions encourage due diligence
- Only Delaware and Pennsylvania do not mandate due diligence
- Most states require holders to send a first class letter to the owner within a specified time period prior to reporting the property as abandoned
- A few states require certified mail for specific property types or where the property value exceeds a specified threshold (e.g., New Jersey, New York, and Ohio)
- Most states do not require a due diligence mailing if the holder knows the owner address on its records is inaccurate (e.g., mail has been returned)
- Most states do not require a due diligence mailing if the value of the property does not exceed the aggregate amount

Legal Requirements

Almost every state allows aggregate reporting for small dollar amounts

- Most states allow holders to report small amounts in the aggregate without providing names and addresses
- 51 of 53 jurisdictions allow aggregate reporting but states encourage holders to provide detailed information for all owners
- State aggregate amounts range from \$20 to \$100
- The majority of states have an aggregate amount of \$50

Legal Requirements

Most states require the holder to file verified reports

- In some states the holder must sign an affidavit affirming that it has complied with the state's due diligence requirements
- California and Oklahoma will no longer indemnify holders who have not complied with due diligence requirements

Legal Requirements

Negative reports may be required by policy or regulation rather than by law

- Many states require holders to file a negative report if they have no unclaimed property for the report year
- Some states do not require negative reports but will accept them

Legal Requirements

States have different record retention requirements

- Many states require that records required to file an unclaimed property report be retained for 10 years after the report is submitted
- For business associations and financial organizations that sell traveler's checks and money orders other than 3rd party bank checks upon which the organization is directly liable, the records generally must be retained as long as the instruments remain outstanding and for 3 years after the unclaimed property report is filed



- 11
- October 13, 2011
- Most state laws authorize unclaimed

Legal Requirements

Remember the priority rules of Texas v New Jersey to determine where to report unclaimed property

Primary Rule: Property is reportable to the state of the last known address of the owner

Secondary Rule: If there is no last known address on the holder's records, the property is reportable to the holder's state of incorporation

The priority rules may require that you report to multiple states

Specific Legal Requirements for Maine



Specific Legal Requirements for Maine

Property Exempted

- Property held, due, and owing in a foreign country and arising out of a foreign transaction
- Tangible property that has a fair market value of less than \$750 left by a tenant
- Gift obligation or stored-value card sold on or after December 31, 2011, sold by a single issuer who in the past year sold no more than \$250,000 in face value of gift obligations or stored-value cards
 - “Single issuer” means under common ownership or control with another business or businesses in the state or operated as franchised outlets of a parent business

Specific Legal Requirements for Maine

Dormancy Periods

- Most dormancy periods are 3 years
- Dormancy period for traveler's checks is 15 years
- Dormancy period for money orders is 7 years
- Dormancy period for gift obligations and stored-value cards is 2 years
- Dormancy period for wages, property held by a court or government, and utility deposits and refunds is 1 year

Specific Legal Requirements for Maine

What Constitutes Activity

- Presentment of a check or other payment instrument
- Evidence that an electronic distribution has been received
- Owner-directed activity in an account, including a direction by the owner to increase, decrease, or change the amount or type of property held
- Making a deposit to or withdrawal from a bank account
- Payment of an insurance premium
- For deposits where the owner has another relationship with the holder

Specific Legal Requirements for Maine

Report Contents

- Description of the property
- Name, last known address, and SSN or TIN
- Name and last known address of annuitant or insured AND beneficiary for annuity or life or endowment insurance policy
- Date property became payable or demandable and date of last transaction with the owner
- Former names and addresses of holder (e.g., predecessor companies)

Specific Legal Requirements for Maine

Due Diligence

- Send written notice to apparent owner not more than 120 days or less than 60 days before filing report
- Not required if address in holder's records is known to be inaccurate (e.g., mail previously returned)
- Only required if property is valued at \$50 or more

Specific Legal Requirements for Maine

Aggregate Reporting

- Items valued under \$50 each may be reported in the aggregate but it is requested that owner detail be provided

Specific Legal Requirements for Maine

Filing and Delivery Requirements

- Reports are due for life insurance companies, gift obligations, and stored-value cards before May 1 as of December 31
- Reports are due for all others before November 1 as of June 30
- Electronic filing is required if the report includes more than 10 items
- The administrator may grant an extension for good cause
- Payment is due with the report except safe deposit box contents are to be delivered on June 1
- Upon payment in good faith the holder is relieved of liability for the property and indemnified against claims

Specific Legal Requirements for Maine

Verification of Report

- The report must be verified
- The holder must file an affidavit stating that it has complied with the requirements for performing due diligence

Specific Legal Requirements for Maine

File a Negative Report if:

- You are an entity located or incorporated in the State of Maine;
- You are holding no unclaimed property; and
- You have never filed an unclaimed property report with the State of Maine

OR

- You are holding no unclaimed property and
- You have filed a positive report with the State of Maine within the last three years

Specific Legal Requirements for Maine

Record Retention Requirements

- Records required to file a report must be maintained for 10 years after the report is submitted
- Records of a business association or financial organization that sells or issues traveler's checks or money orders other than 3rd party bank checks on which the entity is directly liable must be maintained while the instruments are outstanding and for 3 years after the unclaimed property report is filed
- If a holder does not maintain the required records and available records are insufficient to prepare a report, the administrator may require payment of an amount the administrator reasonably estimates should have been reported

Specific Legal Requirements for Maine

Holder Reimbursement to Owners

- A holder may reimburse a reappearing owner for property delivered to the State
- The holder is entitled to reimbursement from the State for such claims

For Additional Help

Get to Know Your State Administrator and Use the State Website

http://www.maine.gov/treasurer/unclaimed_property/index.html



Questions





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