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Due Diligence

- Due Diligence is the process of a holder attempting to contact the true owner of dormant property to give them a last opportunity to claim the property from the holder before it is turned over to a State Unclaimed Property Administration.



Why Perform Due Diligence?

- Due diligence is mandated by state law
- Good customer relations
 - Reestablishes communication with the customer
 - Increases good will
- Smart business practice
 - Fraud prevention tool
 - Prevents material misstatement on Financial Statements



Time Frames

- Most States - 120 days to 60 days before property is reportable
- California - 365 days to 180 days
- Texas – by August 31st
- Iowa – July 1st to end of September
- Hawaii – begin May 1st



Dollar Threshold

- Do I have to send for every dollar amount?
 - Aggregate amount states
 - Non-aggregate amount states
 - Recommendations



Dollar Threshold

Non-aggregate amount states

Arkansas	\$50/\$25 (preferred)
Colorado	\$50/\$25
Illinois	\$10/\$25
Oregon	\$100/\$50
Texas	\$250/\$50
Washington	\$75/\$50



Dollar Threshold

Recommendations

At least follow the guidelines set by the states.

If feasible, send letters to all owners.



Mailing Requirements

- Send to valid owner addresses
- Most states accept first class mailing
- Ohio

\$50.00 to \$999.99 - First Class

\$1000.00 and greater - Certified Mail, Return Receipt Requested,
include SASE



Letter Content

- Do's
 - List the owner's name.
 - List your company's name.
 - List the company's contact person.
 - List the company's contact information.



Letter Content

- Do's
 - Use the specific verbiage that may be required by the reporting state.
 - State the time frame the owner has to respond in order to receive their money or cash the check if possible before turning the property over to the state.



Letter Content

- Do's
 - Provide the owner with an easy way to respond, i.e. direct phone number for contact, or return slip that may be removed from letter.



Letter Content

- Don'ts
 - List the state's contact information!
 - Refer the owner to the state!



Failure to Complete Due Diligence

- Non-completion of due diligence does not relieve the holder from reporting unclaimed funds
- Early reporting does not relieve the holder of performing due diligence



Record keeping & Retention

- Holder must maintain records relating to property in report for 10 years after the holder files the report, unless a shorter period is provide by rule of the administrator



Consequences of Due Diligence Failure

- Potential liability for Holder: Barron vs. Fidelity Magellan Fund (784 N.E.2d634) (2003)
- Potential liability for State: Taylor v. Westly (9th Circuit Court of App.) (2007 WL 1557611)



Outsourcing vs. In House

- Cost Benefit Analysis
- Efficiency
- Print and mail services may offer more options than internal print/mail department
 - Bar Coding
 - Certified Mail
 - Bulk Mail
 - Layout of Due Diligence Letter



Outsourcing vs. In House

- Appropriate staffing for escheatment process
- Resources for processing responses from owners
- Outsourcing benefits
 - Trained staff
 - Availability of external resources for one time, compliance catch-up projects

FAQ's

- Can I combine multiple properties for one owner on a letter, or do I have to send one letter for each property?
- Do states have specific letter requirements?

FAQ's

- What are the certified letter requirements?
- Is there a minimum dollar amount?
- If I know that an address is bad, do I still have to send a letter during the due diligence period?