The Essentials of Reporting & Compliance – Part 1

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INTRODUCTION

What is Unclaimed Property?
Common Types of Unclaimed Property

- Payroll checks
- Accounts payable checks
- Refund checks
- Cashier checks
- Insurance proceeds
- Securities

- Money orders
- Accounts receivable credit balances
- Utility deposits
- Bank accounts
- Travelers checks
- Safe deposit contents
Rationale for Unclaimed Property Laws
The State can best preserve and protect the interest of the rightful owner and possibly reunite the owner with this forgotten property.

Premise of Unclaimed Property Laws
Reunite the property with its rightful owner.
Benefits of Unclaimed Property Laws

- Establishes a system in which an obligation due an owner can be removed from the company’s books and records forever.
- Transfers custody and liability to the State.
- Indemnifies the entity transferring custody.
- Protect the property owners interest.
Most Common Unclaimed Property Myths

• Myth #1 – My organization does not have any unclaimed property.

• Myth #2 – My organization is only required to report to states in which I conduct business.

• Myth #3 – Unclaimed property reporting is voluntary.
UNCLAIMED PROPERTY REALITY #1

- Practically ALL companies have an unclaimed property liability.
  - Any entity in possession of property belonging to another is potentially a holder of unclaimed property

UNCLAIMED PROPERTY REALITY #2

- Unclaimed Property is reportable pursuant to the “rules of jurisdiction” as set forth by the U.S. Supreme Court
UNCLAIMED PROPERTY REALITY # 3

- Unclaimed property compliance is required under all state statutes
- Failure to report and remit unclaimed property liability could result in a material misstatement under FAS 5
- Litigation risks
- Sarbanes-Oxley Act of 2002
Definitions

- **Holder**: An entity who is in possession of property belonging to another, or is indebted to another on an obligation.

- **Owner**: Person who has a legal right or equitable interest in the unclaimed property.

- **Due Diligence**: The use of reasonable and prudent methods under particular circumstances to locate apparent owners of inactive accounts.
HOLDER RESPONSIBILITY

What You Need to Know
Holder Responsibilities

- Identify potential unclaimed property
- Perform due diligence
- File an annual report and remit the property
  - Report and Remit Issues
- California’s reporting process
Identify Potential Unclaimed Property

• Dated/outstanding liability or obligation
• Where to report property
• Unclaimed property laws vary between states
Dated/Outstanding Liability

• No owner-generated activity.

• The owner has not otherwise indicated an interest in the account.
Where to Report Property

- Unclaimed Property is reportable pursuant to the “rules of jurisdiction” as set forth by the U.S. Supreme Court.
RULES OF JURISDICTION

• *Texas v. New Jersey* (1965)
  – State of owner’s last known address, if known
  – State of holder’s incorporation or domicile if address not known

• *Pennsylvania v. New York* (1972)
  – Money orders, travelers checks and similar written instruments.

  – Upheld previous decisions
Unclaimed Property Laws Vary Between States

- Property dormancy period
- Due diligence requirements
- When to report
- How to report
Property Dormancy Period

• Determines when property becomes unclaimed.
• Dormancy periods will vary among states.
Holder Due Diligence

- Due diligence is the process of locating apparent owners of dormant property on a holder’s books and records.

- Why practice due diligence?
  - Increases good will.
  - Reestablishes communication with customer.
  - It’s the Law.
Due Diligence Requirement

• Example: For property valued at $50 or more, the holder shall send written notice to the owner at the owner’s last known address not more than 120 days and not less than 60 days prior to filing the report

• All jurisdictions except Pennsylvania now require due diligence

• Vary by state
To comply with each state, look for:

- Dollar values – some states require mailing over a minimum dollar value

- Dates – whether a date or a time period

- Form and content of notice
  - Letter
  - Certified mail
  - Publication

- Property Types and Industry – some states specify

- Who completes? Holder, State or both
Tips for Effective Due Diligence

• Allow enough time for response
• Make the letter easy to understand and the purpose of the letter obvious
• Clearly state purpose of letter
• Include a deadline for receipt of the response
• Indicate what will happen if response not received
• Provide company contact information for customer questions
• Use the words on the envelope, “Action Needed,” or “Response Required”
Due Diligence Checklist

• Verify owner:
  ✓ has not increased or decreased account
  ✓ has not written concerning the property
  ✓ has not indicated an interest in the property
  ✓ does not own other active accounts
  ✓ is not a current employee
  ✓ Is not a public figure
Due Diligence Letter Content

• Inform about property and pending dormancy and reporting to the state
• Tell owner how to claim or re-establish an account
• Provide a deadline
• Provide contact information including ways to ask questions
• Provide information about what state the account will be reported to for future claiming
File an annual report & remit property

- When to report
- How to report
- Best reporting practices
- Common Reporting Errors
- Data Integrity Issues
When to Report

States with a report due date prior to November 1:

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<thead>
<tr>
<th>Alabama</th>
<th>Alaska</th>
<th>Hawaii</th>
<th>Idaho</th>
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<tr>
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<td>Louisiana</td>
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<td>Rhode Island</td>
<td>South Carolina</td>
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<td>Washington</td>
<td>Wisconsin</td>
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When to Report

States with a report due date for life insurance companies prior to May 1 and for all other entities a report due date prior to November 1:

- Arizona
- Arkansas
- Colorado
- District of Columbia
- Indiana
- Kansas
- Maine
- Massachusetts
- Missouri
- Montana
- Nebraska
- New Jersey
- New Mexico
- North Carolina
- North Dakota
- Ohio
- Oklahoma
- South Dakota
- West Virginia
- West Virginia
When to Report

States with a report due date for all insurance companies prior to May 1 and for all other entities a report due date prior to November 1:

Georgia    Maryland    Nevada    New Hampshire    Virginia

States with a report due date prior to May 1 for all entities reporting unclaimed property:

Florida    Tennessee    Vermont
When to Report

- All property March 31 – Connecticut
- All property April 15 – Pennsylvania
- All property July 1 – Michigan and Texas
- All insurance companies September 30 and all others November 1 – Minnesota
- Banking, government, financial institutions, non-life insurance companies November 1 and all others May 1 - Illinois
- Life insurance only May 1; Banking August 1 and all others November 1 - Delaware
- Contact state for requirements – California and New York
How to Report

Paper Report
• Property limits – State requirements
• State specific forms
• Limited in most states

Electronic Reporting
• NAUPA format required
• FREE reporting software at www.unclaimed.org
• CD or Diskette or Online
Purpose of Electronic Reporting

- Accepted business practice
- Shorten the time that it takes to process holder reports
- Reduces errors
- Less misspelling
- Mandated by law in most states
How to Report Electronically

• Use the NAUPA endorsed holder reporting software provided free (UPExchange)
• Customize your own in-house programs
• Use service providers that are unclaimed property specialists
Advantages of Using UPExchange

- Free web application
- Free technical support
- Accessible from anywhere
- Ensures required information is included
- Maintains a running total of property entered
Advantages of Using UPExchange

- Accounts available to owners sooner
- Data can be imported from Excel
- Creates an encrypted file
- Produces due diligence letters & reports
- Accepted by all states
Accessing UPExchange Reporting Software

- [www.unclaimed.org](http://www.unclaimed.org) – Click on “Reporting Resources” tab
California’s Reporting Process Overview

1. Annually Review Files for Unclaimed Property

2. Perform Holder Due Diligence

3. Submit Holder Notice Report

4. Respond to Owner Claims SCO Notices (receive 14F form)

5. Send Holder Remit Report & Remittance
Holder Action: Perform Due Diligence

- Due Diligence is the process of attempting to locate the owner(s) of dormant property valued at $50 or more before escheating property to the State.

- Due Diligence is mandated by CA state law (CCP 1513.5, 1514, 1516, and 1520).

- Holders are responsible for notifying property owners 6 – 12 months before the deadline for reporting the property to the State.

- Reasonable efforts must be made to locate the owners and send a notice (1st class or Certified mail) to their last known address.

- If contact is made with the property owner, the property is no longer dormant/unclaimed.
**Holder Action: Perform Due Diligence**

- **Mail the Due Diligence Letter**
  - Centered Heading that reads: “THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US”
  - Notice must clearly state that the property will escheat to the State if a timely response to the notification is not received
  - Notice must be sent if the Holder has in its records an address for the apparent property owner, which the Holder’s records do not disclose to be inaccurate
  - Notice can be sent electronically with the property owner’s consent or mailed to the property owner’s last known address
  - Notice must include a form for the owner to indicate an interest in the property (except for Safe Deposit Box Property)
California’s Two-Report Process

- **Notice Report** – Do **Not** Remit Property ($)
- **Remit Report** – Remit Property ($)
Submitting the Holder Notice Report

- **Notice Report** – Do **Not** Remit Property ($)
  - First report in the two-report process
  - Due Annually
  - Submitted after Holder Due Diligence is performed
  - Due before November 1
  - Must be in correct format (Standard NAUPA II)
  - Includes a complete Listing of all properties that are still unclaimed
Report Property Detail and Aggregates

- Owner Property Information:
  - Name, Address
  - SSN, DOB

- Code Details – Pay Attention to Them:
  - Relationship Codes
    - AN-And, BF-Beneficiairy, OR-Or, AO-And/Or
  - Property Type Codes
  - Owner Type Codes
    - OT-All owners except UN-Unknown, AG-Aggregate
After the Holder Notice Report is Received

Receipt of the Notice Report and SCO DUE DILIGENCE

– Once the Notice Report is received, SCO will send the Holder a Confirmation of Receipt – the 14F (Remit Report Reminder Letter)

• Note: The 14F Form must be signed and returned later with the Holder Remit Report to expedite report processing.

• Within 165 days of receiving the Holder Notice Report, the SCO will send out another Due Diligence letter to all property owners listed on the report with properties valued at $50 or greater, and for all stocks and safe deposit box properties

• This letter instructs the property owner to contact the Holder to reclaim their property before it escheats to the State
Submitting the Holder Remit Report

Second and final step of two-report process

- **Remit Report is due between June 1-15** and includes:
  
  - **UFS-1**
    - Section F may be edited if property owner contacted Holder
  
  - Section A (Check #, EFT #)
  
  - **CD/Disk in Standard NAUPA II Format**

- **Remittance**
  
  - FEIN
  
  - $ Amount Reported
  
  - Report Year
  
  - Company Name
Submitting the Holder Remit Report

- Property reported in the Holder Notice Report but subsequently claimed by the owner will be:
  1. Excluded from the Holder Remit Report
  2. Reported with the appropriate pay or deletion type code and show the remitted amount as zero

- List of property owners on the Remit Report must match the list of property owners on the previously submitted Notice Report

- No new properties can be listed/remitted; remittances of new properties will be returned to the holder. (Instead submit a Supplemental Notice Report for new prop)
Submit the Holder Remit Report

Remitting Money

- **$20,000 or more**
  
  Holder shall submit payment of unclaimed cash in the amount of $20,000 or more by electronic funds transfer, pursuant to CCP section 1532. Failure to make payment by electronic funds transfer when required will result in the assessment of a 2% penalty.
  
  - Holders may remit funds by Automated Clearinghouse (ACH) Debit, ACH Credit, Fedwire, or International Funds Transfer

- **Amounts under $20,000**
  
  - Holders may remit funds by EFT or check
Avoid Interest, Fines, and Penalties

• Submit your Reports on Time
  • California has a 12% per annum interest charge on late reports and remittances (CCP §1577)

• Remit Property on Time
  • A fine can be assessed by the courts for willful failure to report/remit/deliver OR filing a fraudulent report
    -$100 per day ($10,000 maximum) for failure to report (CCP §1576(a))
    -$5,000 – $50,000 for refusing to deliver property (CCP §1576(b))

• A Civil Penalty of 2% of the payment amount can be administratively assessed when the remittance is over $20,000 and was not remitted by EFT (CCP §1532(g))
CA Compliance & Outreach Resources
http://sco.ca.gov/upd_msg.html

- Holder Handbook
- NAUPA Instructions
- EFT Guide
- Reporting Forms
- Newsletters
- Notice to Holders
- Free email subscription – Holder Notices & quarterly newsletters
  http://sco.ca.gov/ucp_holder_notification_email.html
CA Reporting Resources List

Information for Holders:

SCO website (sco.ca.gov):
Holder Handbook, EFT guidelines, NAUPA II instructions, reporting forms:  www.sco.ca.gov/upd_form_rptg.html

Unclaimed Property Law:  www.sco.ca.gov/upd_lawregs.html

Due Diligence Requirements, Dormancy Periods and Reporting Cycle tables:  www.sco.ca.gov/upd_rptg.html

National Association of Unclaimed Property Administrators (NAUPA):
Link to free software:  www.unclaimed.org/reporting/free-holder-reporting-software/
CA Contact Information

California State Controller’s Office  
Unclaimed Property Division  
10600 White Rock Road, Ste 141, Rancho Cordova, CA  95670

Holder Outreach and Compliance Unit : (916) 464-6088  
updholderoutreach@sco.ca.gov

Reporting Unit : (916) 464-6284  
ucpreporting@sco.ca.gov

Questions regarding EFT Remittance: (916) 464-6220  
updscoeft@sco.ca.gov

Visit our Web site: www.sco.ca.gov
Reporting Best Practices

• Provide all required information
  – Full name and last known address (if known) for all owners
  – Social security number or Tax ID
  – Date of birth
  – Last transaction date

• Use correct property, owner and relationship codes

• Review reports thoroughly prior to submission for accuracy and completeness
Reporting Best Practices

• Be sure the amount on the report and the amount on the check match
  - one check for all cash property on the report
  - Make check payable to state

• Provide contact information for the person who can best answer questions about the report

• When filing on cd/diskette do so using the NAUPA format
Common Reporting Errors

• Reporting property too early
  ➢ Learn and keep updated on:
    - due dates
    - report cycles
    - dormancy periods

• Incorrect file format
  ➢ Paper report - property limits
  ➢ Not in NAUPA format
Common Reporting Errors

- Invalid property type codes
- Invalid date of last transaction
- Invalid joint owners/relationship codes
- Lack of social security number
- Not following state specific requirements
Data Integrity Issues

• Incomplete Owner Names
  – Conversion from Internal Applications to Reporting Software

• Business Name Incorrect Format

• Inaccurate Last Address
  – Ex. “DO NOT MAIL”, “P.O. Box 9999”

• Social Security Number Duplicated on Report for Different Owners
Contacts

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