



NATIONAL ASSOCIATION OF  
UNCLAIMED PROPERTY ADMINISTRATORS

A Network of the National Association of State Treasurers

**Written Statement on Transfers of Uncashed Checks from ERISA Plans  
to State Unclaimed Property Programs**

**Before the U.S. Department of Labor  
2019 Advisory Council on Employee Welfare and  
Pension Benefit Plans**

**August 28, 2019  
Washington, DC**

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## A. Introduction and Overview

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The National Association of Unclaimed Property Administrators (“NAUPA”) is comprised of the unclaimed property programs<sup>1</sup> of all 50 states, the District of Columbia, and the Commonwealth of Puerto Rico, as well as several foreign jurisdictions. The organization’s objective is to facilitate collaboration and otherwise support program administrators in reuniting all unclaimed assets with rightful owners. NAUPA is an affiliate of the National Association of State Treasurers.<sup>2</sup>

NAUPA appreciates the interest of the ERISA Advisory Council (the “Council”) in addressing uncashed ERISA retirement plan benefit checks and the role that the states can play in returning funds to beneficiaries. Our member states were grateful for the opportunity to provide oral testimony at the Council’s meeting on June 26, 2019. That meeting demonstrated to all stakeholders the Council’s sincere desire to determine the utility of state unclaimed property programs in addressing the “missing participant” problem.

NAUPA reiterates that state governments already have the best solution to the problem of uncashed checks from ERISA plans.

This supplemental testimony has two purposes:

- First, in Part B, NAUPA comments on certain written and oral testimony made by other stakeholders.
- Second, in Part C, NAUPA addresses specific supplemental requests of the Council’s Issue Group, including:
  - I. What do state claim rates look like for property of low, intermediate, and high values?
  - II. What do state claim rates look like for property where the holder has already done extensive due diligence?
  - III. What is the rationale behind the decision for individual states to pay, or not pay interest on owner claims?
  - IV. State indemnification of plans: what are its characteristics, and how would it work?

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<sup>1</sup> In its issue statement, the ERISA Advisory Council has used the alternative terminology of “state unclaimed property *funds*.” However, the more commonly used (and descriptive) reference is “unclaimed property *programs*.”

<sup>2</sup> While the majority of unclaimed property programs are administered by state treasuries, in some states the program is administered by a different agency, e.g. state controller or tax agency.



- V. How would the concept of early/off cycle reporting operate?
- VI. What is the difference between membership in NAUPA and participation in MissingMoney.com, and how can owners search on a “national” basis?
- VII. How would the states propose to assist plans and record keepers with addressing the 40 year “backlog” of uncashed checks?
- VIII. Other Council questions

NAUPA previously testified that there is both continuous paid and earned media creating awareness of state unclaimed property programs and their search websites. These additional, recent news stories buttress NAUPA’s testimony. Recent news stories are provided as a supplement to this testimony (see appendix, **Exhibit F**).



## B. NAUPA responses to testimony by other stakeholders

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### I. Other stakeholder testimony expressing concerns over plan transfer of uncashed checks to state unclaimed property programs

NAUPA has reviewed the testimony of other stakeholders with respect to concerns over the reporting of uncashed plan distributions to state unclaimed property programs. NAUPA appreciates these concerns, and believes that they can be substantially alleviated, although not through state efforts alone.

- (1) Guidance by the Department of Labor, concerning the acceptability of the utilization of state unclaimed property programs by retirement plans, is necessary.

NAUPA concurs on this point. It is the current lack of Department of Labor guidance (and indeed, previous agency opinions discouraging state reporting) that has prevented the transfer of uncashed checks from extant ERISA plans to state unclaimed property programs. We agree with other stakeholders that a “safe harbor” should be established for state unclaimed property reporting, and that the Department of Labor should either direct the use of state programs, or indicate those factors that a plan should consider in determining whether transfer of uncashed check funds to states is appropriate.

NAUPA agrees with the comments of one stakeholder that the Department of Labor should engage in a “true regulatory project,” adopting administrative rules following notice and an opportunity for comment by all stakeholders.

- (2) Guidance is needed on what steps are required of a plan *prior to* the transfer of uncashed distributions to a state unclaimed property.

NAUPA observed that most other stakeholders did not believe that there were definitive requirements regarding what constitutes a “diligent search” for a participant owed an uncashed plan distribution. While NAUPA agrees that this question should be definitively resolved, NAUPA cannot offer its view as to the efforts required of a plan fiduciary to discharge its responsibility in this regard. NAUPA does note that the requirements of a holder under state unclaimed property laws to locate an owner of prior to reporting and remittance to a state program (generally, a notice mailing to the owner’s last known address where the amount due is not immaterial) are less robust than those efforts contemplated by the Department of Labor. Thus, NAUPA believes that states would likely accept the diligent search requirements ultimately articulated by the Department of Labor as satisfying the state search requirements.

Within this supplemental testimony there are two discussions concerning owner search. The first relates to the lost securityholder search requirements of the Securities and Exchange Commission.<sup>3</sup> The

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<sup>3</sup> See Section C (II), *infra*.

second is NAUPA's view that different "diligent search" procedures should be required for the current backlog of decades of relatively small, uncashed plan checks.<sup>4</sup>

- (3) The complexities and potential cost involved in a plan complying with the differing laws and reporting requirements of state unclaimed property programs makes those programs sub-optimal.

NAUPA believes that the states are prepared to work with retirement plans and the Department of Labor to create uniform abandonment periods and reporting standards.

As discussed in this supplemental testimony,<sup>5</sup> states have the authority to accept property either "early" or "late," and to allow for reports to be filed on alternative (i.e., other than statutorily stated) dates. NAUPA further believes that the states would be agreeable to the Department of Labor establishing uniform abandonment periods and reporting standards for transfer of uncashed plan checks applicable to all states, through rulemaking. Consistent protocols across states (who already utilize a common reporting format) should additionally eliminate stakeholder concerns.

Further, as NAUPA previously testified, every plan should already be reporting unclaimed property not covered by ERISA. Uncashed payroll and vendor checks are not governed by ERISA, but are covered by the unclaimed property laws of every state. Plans should also be filing state and local tax returns in many state and local jurisdictions. Other firms in the financial industry routinely report unclaimed property on a regular basis using the federal common law established by the U.S. Supreme Court requiring holders to report based on the state of the last known address of the owner.

While reporting to multiple states is a compliance issue, the Council should keep in mind that (a) non-ERISA businesses routinely report unclaimed property (and plans should already be doing this for non-ERISA property), and (b) NAUPA and its member states are willing to work with the Department of Labor and plans to streamline the reporting process.

- (4) Because most states do not pay reappearing owners earnings on their property for the period that it is held in custody by the state, a plan might be held liable for transferring uncashed check funds to a state unclaimed property program.

NAUPA views this issue intertwined with the Department of Labor establishing a safe harbor for the utilization of state unclaimed property programs for the disposition of uncashed plan checks. If in considering the other benefits offered by state programs<sup>6</sup> the Department of Labor establishes a safe harbor for their use by plans, we presume that attendant issues will also be addressed, i.e. whether outstanding check funds would cease to represent plan assets upon their transfer to a state. If the

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<sup>4</sup> See Section C (VII), *infra*.

<sup>5</sup> See Section C (V), *infra*.

<sup>6</sup> See Section C (III), *infra*.

question of the appropriateness of reporting to a state unclaimed property program is resolved, NAUPA believes that states would defend and/or indemnify holders should claims against plans later arise.<sup>7</sup>

## **II. Other stakeholder testimony concerning the alternative disposition of uncashed plan checks**

The testimony of other stakeholders included an assessment of alternatives to state unclaimed property programs for uncashed check disposition.

### **(1) Forfeitures of uncashed plan checks.**

In observing that states make use of unclaimed funds until such time as the owner of the property can be located and paid, a stakeholder suggested that state unclaimed property programs were the equivalent of a forfeiture with a right of restoration; hence, state programs did not offer a different option than already available to plans. NAUPA does not believe that the comparison is accurate because in a forfeiture, there is typically no ongoing effort to locate a participant, and no meaningful opportunity for the participant to learn about the existence of their property. In comparison, state unclaimed property programs, through their established internet websites, aggressive publicity campaigns, and ongoing use of state databases, make it possible for an owner of property to find the assets due them.

Another stakeholder commented that forfeiture is consistent with ERISA, because it allows unclaimed funds to be utilized for the benefit of plan participants, and not some other purpose. Testimony was also offered that transferring to a state unclaimed property program the funds owed to a missing a missing participant was not a proper use of a *plan's* assets. In NAUPA's view, this testimony represents a very narrow reading of ERISA. We believe that ERISA can also be viewed as ensuring that *all participants* receive the benefits owed them (particularly where those benefits have their genesis in salary deferrals).<sup>8</sup> NAUPA additionally believes that the transfer of uncashed plan distributions to a state unclaimed property program is consistent with ERISA.<sup>9</sup>

### **(2) Rollover IRAs.**

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<sup>7</sup> See Section C (IV), *infra*.

<sup>8</sup> NAUPA understands the appeal of forfeitures to retirement plans. Indeed, the historical context of forfeitures makes sense: rather than unclaimed funds sitting idle, they should be put to use, and a good use is the reduction of plan expenses. However, there should be an inquiry whether presently, given the technologies available to locate missing participants, that forfeiture is the appropriate disposition for uncashed distributions and whether forfeiture, notwithstanding its permitted use, is in fact inconsistent with a plan's discharge of its fiduciary duties.

<sup>9</sup> See California State Controller, Advisory Opinion Request to the U.S. Department of Labor, June 7, 2017 (Exhibit 1 to National Association of Unclaimed Property Administrators, *Written Statement on Transfers of Uncashed Checks from ERISA Plans to State Unclaimed Property Programs Before the U.S. Department of Labor 2019 Advisory Council on Employee Welfare and Pension Benefit Plans*, June 26, 2019 (testimony of G. Allen Mayer).

Testimony was offered that because the Department of Labor has already deemed rollover IRAs as acceptable vehicles for the transfer of uncashed check funds from plans, there is no need to consider other options, including the utilization of state unclaimed property programs. NAUPA submits that the concept of fiduciary duty, there is an ongoing requirement to review any and all options to best promote retirement security and other objectives of ERISA.

Testimony asserted that rollover IRAs provide the greatest benefit to a missing participant and a greater opportunity to ultimately claim their entitlement. Respectfully, NAUPA's previous testimony<sup>10</sup> cited a Governmental Accounting Office study that demonstrated that in many instances a plan distribution transferred to a rollover IRA could lose value over time because of fees. Further, NAUPA respectfully notes that the rollover IRA industry has not provided statistics concerning its success in owner unification. While one witness offered his belief that the websites of rollover IRA administrators are "at least as effective" as states, there was no data offered to support this assertion.<sup>11</sup> While individual state unclaimed property websites and missingmoney.com receive tens of millions of search inquiries annually, testimony provided by rollover IRA administrators did not include any statistics for their searchable websites.<sup>12</sup>

### (3) Other approaches to uncashed plan distributions

Several stakeholders advocated for change in how distributions made by plans that remain uncashed are handled. For instance, testimony was offered that if a check was not presented for payment, that the funds be reinstated to the account, with no 1099 issued. NAUPA views this issue as one of plan administration, to be appropriately addressed by the Department of Labor. However, NAUPA believes that this may not solve the problem of connecting owners with their unclaimed funds.

- First, it is unclear how reinstatement of a distribution results in locating and making payment to the missing participant. Absent some requirement to search for the missing participant on an *ongoing* basis, reinstatement to the account of an uncashed distribution overlooks the problem. Continuing to treat an uncashed distribution as a taxable event, where a 1099 is issued and the

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<sup>10</sup> See National Association of Unclaimed Property Administrators, *Written Statement on Transfers of Uncashed Checks from ERISA Plans to State Unclaimed Property Programs Before the U.S. Department of Labor 2019 Advisory Council on Employee Welfare and Pension Benefit Plans*, June 26, 2019, pp. 21-22 (testimony of G. Allen Mayer). In testimony to the Council on June 26, 2019, rollover IRA administrators acknowledged that smaller uncashed plan check balances transferred to rollover IRAs would most likely be eliminated through account fees.

<sup>11</sup> The rollover IRA search website described in testimony requires that an individual provide their social security number in order to undertake a search. In the experience of the states, such a requirement tends to discourage the public, as a matter of identify fraud, from searching for unclaimed property. While states uniformly request social security numbers to verify a claimant's entitlement to property, states do not request this information in order to search for unclaimed assets.

<sup>12</sup> Because there are multiple rollover IRA administrators and (ostensibly) multiple rollover IRA searchable websites, it is unclear how an individual would determine which website to initiate a search. In comparison, an individual would perform a search on the state website in which the individual currently resides or formerly resided. Moreover, an individual can search the unclaimed property records of more than 40 states through the states' national database, missingmoney.com.



Internal Revenue Service notifies the missing participant of a tax reporting deficiency, will more likely result in the participant being located. Additionally, transfer of the uncashed check funds to a state unclaimed property program could result in the (previously) lost participant being made aware of all of their entitlements (and not merely uncashed check funds held in the custody of the state), where the plan has informed the state, and the state in turn notifies the reappearing participant, of the account balance of other property still held by the plan.<sup>13</sup>

- Second, reinstatement to an account of the funds represented by an uncashed check may be incongruous where the check's issuance was mandated by the plan (e.g., required lump-sum payment being taken at an age certain), or where the plan has elected to force a transfer for a terminated employee (and the vested balance is less than \$1,000). In these instances, it would appear that the participant's account would be closed, and reinstatement not possible.

### **III. Other stakeholder testimony assessing the effectiveness of state unclaimed property programs**

The testimony of other stakeholders concerning the transfer of uncashed retirement plan checks to state unclaimed property programs included the assessment of the effectiveness (and other aspects) of state unclaimed property programs. While NAUPA welcomed this testimony and found much of it to be instructive, certain statements included in the testimony on this subject warrant comment by NAUPA.

#### **(1) Other stakeholder testimony concerning state success in locating owners.**

NAUPA found surprising the testimony of several stakeholders who stated that if a plan, in undertaking a diligent search, had failed to locate a missing participant, that the state would be similarly unsuccessful. This testimony suggests that to the extent that there is an uncashed plan check problem, that problem is unsolvable. Further testimony asserted that the only remaining uncashed checks maintained by plans that have conducted diligent searches are checks where the participant name or address cannot be identified, which thusly state unclaimed property programs would unlikely return to rightful owners.<sup>14</sup>

While NAUPA applauds retirement plans and their recordkeepers who have successfully utilized credit bureau and other proprietary databases to locate lost participants, we seriously question whether all missing participants that can be found, have been found. NAUPA believes that this testimony overlooked several important dynamics of state unclaimed property programs:

- First, the states possess unique search tools, not available to or utilized by plans and their recordkeepers.

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<sup>13</sup> For a further discussion of this possible teaming arrangement between retirement plans and states, see section C (VIII), *infra*.

<sup>14</sup> To the extent that there are material amounts of uncashed check funds owed to participants whose identities cannot be determined, this is an entirely different problem that should be addressed.

- Second, owners locate their property held in custody by the state more frequently than states locate owners. States are a “one-stop shop” to search for unclaimed property, and aggressively advertise to promote and reinforce the idea that residents should check their website annually or semi-annually.

Another stakeholder’s testimony questioned the utility of state searchable websites, suggesting that a missing participant’s property could have been received by a state where the participant never lived or worked, and thus would not be readily identifiable. This testimony highlights why NAUPA and the states have stressed the importance of reporting property to the state of last known address of the owner. In addition to being mandated by federal common law, reporting on this basis will greatly increase the probability of a missing participant recovering their property.

(2) Other stakeholder testimony concerning administration of state programs.

A stakeholder noted that state unclaimed property programs have no federal regulatory oversight, implying that states are not suitable as custodians for uncashed retirement plan checks. This is the equivalent of arguing that states should not be able to impose taxes because there is no federal regulatory oversight of state departments of revenue. States collectively take in, and return to owners, billions of dollars annually in unclaimed property. Every state unclaimed property program is subject to independent audit and legislative oversight. Further, as public entities, state programs are subject to open records and other sunshine laws with which private sector entities do not have to comply.

The same stakeholder testified that state unclaimed property programs owe no duties to missing participants. While NAUPA agrees that state unclaimed property administrators do not operate as fiduciaries under ERISA, this does not mean that they do not have accountability. State unclaimed property programs—and the elected officials overseeing them—are accountable to the citizens of their respective states.

Another stakeholder testified that because the states are already administering a myriad of different types of unclaimed property,<sup>15</sup> adding uncashed retirement plan checks would likely be overly burdensome, and that the states would have difficulty in mastering the nuances of ERISA-related distributions. States are more than capable of assuming custody of uncashed checks issued by ERISA plans, as states have successfully administered a variety of other financial assets.

Testimony was also offered that some service providers did not have a positive view of state unclaimed property programs, and that consequently states were not perceived as being able to act in the best interests of missing participants. This testimony was based on experiences in conjunction with compliance examinations which, when questioned by the Council, the stakeholder indicated that the service provider complaints were from a decade ago. NAUPA is unclear how a dispute as to a holder’s

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<sup>15</sup> Examples provided by the stakeholder include real estate. However, with the exception of safe deposit box contents, all unclaimed property administered by state programs is intangible in nature.



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duties that may have arisen in a compliance examination a decade or more ago is relevant to the states' current (and future) effectiveness in returning uncashed plan distributions to missing participants.

## C. NAUPA supplemental testimony in response to ERISA Advisory Council follow-up inquiries

### I. What do state claim rates look like for property of low, intermediate, and high values?

In its previous written testimony to the Council, NAUPA provided data concerning the unclaimed property owner return rates for a sample group of 14 unclaimed property programs, representing 25 percent of the U.S. population.<sup>16</sup> In analyzing specific property with characteristics most similar to the characteristics of uncashed retirement plan distribution checks (i.e. property reported with an owner name, social security number, and U.S. address),<sup>17</sup> it was determined that the sampled states returned to owners property with an aggregate value of \$548.3 million during a recent 12-month period. During this same period, the sampled states received \$778.6 million in subject property remittances. The percentage of subject property returned as a percentage of subject property collected during the 12-month period was 70 percent.

The Council subsequently requested that NAUPA provide additional information from this data set, including (a) stratification of property values, both in terms of collections and owner returns, and, reiterating a Council request made at the meeting on June 26, 2019, (b) stratification of the *number of properties*, both in terms of collections and owner returns. NAUPA performed the requested additional analysis and produced the following results:

(1) Amounts of liquid funds remitted/returned (in millions USD)

	Remitted	Returned	Returned/Remitted
Properties < \$100	\$57.2	\$23.7	41%
Properties >\$100/<\$1000	\$132.8	\$72.6	55%
Properties >\$1000/<\$5000	\$160.0	\$95.6	60%
Properties > \$5000	\$439.0	\$355.9	81%

<sup>16</sup> National Association of Unclaimed Property Administrators, *Written Statement on Transfers of Uncashed Checks from ERISA Plans to State Unclaimed Property Programs Before the U.S. Department of Labor 2019 Advisory Council on Employee Welfare and Pension Benefit Plans*, June 26, 2019, pp. 13-14 (testimony of G. Allen Mayer). The 14 states providing data were Alabama, the District of Columbia, Idaho, Illinois, Iowa, Louisiana, Massachusetts, Michigan, North Dakota, South Carolina, South Dakota, Texas, Utah, and Wyoming, for the period June 1, 2018 through May 30, 2019.

<sup>17</sup> All state collections and return statistics discussed in this supplemental testimony is limited to property with these specific characteristics.



(2) Number of properties remitted/returned (in thousands of properties)

	Remitted	Returned	Returned/Remitted
Properties < \$100	3,944.4	779.7	20%
Properties >\$100/<\$1000	458.8	241.8	53%
Properties >\$1000/<\$5000	72.8	3,939.4	54%
Properties > \$5000	21.1	15.4	73%

The Council's Issues Group shared with NAUPA that as a result of NAUPA's testimony, the Council surmised that state unclaimed property programs placed greater emphasis on and were more successful in returning larger value properties than smaller ones and sought to determine whether this was in fact the case. While state unclaimed property programs facilitate the claiming of all property regardless of its value, the analysis provided above indeed *suggests* that a greater percentage of more material properties are and will be reclaimed. However, possible "triage" of outreach efforts by states as a function of property value is not the only potential causal factor.

*As a general rule*, the higher the value of a property, (a) the more likely that the owner will affirmatively search for it and (b) take actions to recover it. Performing further analysis of the property received by states with a value of less than \$100, a subset of the 14-state dataset indicates that in excess of 50 percent of the *items* reported had a value of less than \$10, while only representing less than 10 percent of the aggregate value of property. Claim rates for amounts \$10 less are, expectedly, low (~ six percent). Claim rates increase precipitously for properties with a value between \$50 and \$99.

State programs have found that often owners will not act to reclaim smaller amounts, even when the claims process is significantly streamlined.<sup>18</sup> There has been an effort to increase the claiming of immaterial values, which have included the streamlining of the submission process, and "bundling," so that all properties owed to a single owner are pulled together (maximizing the value of the claim) when a search is performed. However, the most useful tool in returning less material amounts to owners is the use of state databases to identify the current whereabouts of owners due smaller amounts (i.e. less than \$2,000), verify their identity, and issue payment for their property *without requiring that an owner*

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<sup>18</sup> This dynamic was demonstrated by a stakeholder who provided testimony to the Council on June 26, 2019 and explained how "a number of years ago" he had discovered that the Illinois State Treasurer was holding \$87 in unclaimed wages, but only recently had he attempted to reclaim it.



*file a claim.*<sup>19</sup> Although the number of states that have established and launched “tax matching” processes to date is limited, the initial results are extremely encouraging. For example, Rhode Island<sup>20</sup> (a state not included in the 14-state dataset analyzed above) compares unclaimed property records to tax records and automatically issues a payment to the owner where a verified match is made. Rhode Island returned 60 percent of the number of reported properties less than \$100 in amount that it received (with a name, Rhode Island address and social security number) for the period in question. This return rate is three times that of the combined rate for the 14 states discussed above. NAUPA believes that other states will increasingly adopt this approach and, along with other process improvements, this will significantly boost the return of smaller unclaimed property amounts to rightful owners.<sup>21</sup>

## **II. What do state claim rates look like for property where the holder has already done extensive due diligence?**

In response to the testimony of several stakeholders to the Council on June 26, 2019, the Council requested that NAUPA provide data on return rates for property where a holder has conducted a “more diligent” search than required by state unclaimed property laws. These stakeholders asserted, without providing data of their own, that state programs (notwithstanding the specialized owner locations tools and database available to states) would be unlikely to locate the remaining participants that plans themselves could not find.<sup>22</sup>

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<sup>19</sup> See National Association of Unclaimed Property Administrators, *Written Statement on Transfers of Uncashed Checks from ERISA Plans to State Unclaimed Property Programs Before the U.S. Department of Labor 2019 Advisory Council on Employee Welfare and Pension Benefit Plans*, June 26, 2019, pp. 9-11 (testimony of G. Allen Mayer).

<sup>20</sup> Effective July 18, 2017, R.I. Gen. Laws § 33-21.1-17(f) authorized Rhode Island’s unclaimed property program to provide the social security number of a lost owner to the Department of Taxation and Department of Labor and Training “for the sole purpose of obtaining the name and current address of rightful property owner(s)....” The provision supersedes other state laws mandating confidentiality of these agency records but subjects the unclaimed property program to “the same confidentiality laws that apply to the state departments providing the information.” The Personal Income Tax chapter of Rhode Island General Laws was also revised to authorize the tax administrator to share information with the unclaimed property program. In the last two years, three other states have adopted legislation similar to Rhode Island expressly mandating cooperation of the state taxing authority in performing address matching; four additional states have during the same time period enacted legislation requiring more general cooperation from all public agencies.

<sup>21</sup> Even if one concludes that states are not highly effective at returning immaterial amounts to owners (and bear in mind, 41 percent of the *value* of properties with a value of less than \$100 are being returned), state unclaimed property programs may nonetheless represent for retirement plans the most efficient means of handling the disposition of such check amounts. If forfeited to the plan, the plan would nonetheless be required to maintain records, and potentially reinstate the amounts; if transferred to a rollover IRA, administrators of those assets acknowledged in testimony to the Council that balances would likely quickly be extinguished through account set-up and maintenance fees.

<sup>22</sup> While some plans may have undertaken extensive searches for their participants that are owed unclaimed distributions, recent media reports concerning Employee Benefit Security Administration (EBSA) compliance audits suggests that many plans have not done so, and that there is a widespread problem of reuniting missing participants with their retirement benefits.

In reviewing the Council's request, NAUPA determined that the property type where the most robust search efforts are undertaken prior to the transfer of remaining unclaimed assets to the states was that of securities.<sup>23</sup> Because they are expressly required by the U.S. Securities and Exchange Commission ("SEC") extensive, uniform, and consistent owner searches are performed on unclaimed securities by issuers and their stock transfer agents,.

SEC Rule 17Ad-17<sup>24</sup>, captioned as "Lost securityholders and unresponsive payees," sets forth the requirements for the securities industry to attempt to re-establish contact with owners, where communications have been returned by the post office as undeliverable, or where a payment made by check remains uncashed. Originally implemented in 1997, the rule was substantially expanded under the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act.<sup>25</sup>

SEC Rule 17Ad-17 can be summarized as follows:

- Where a mailing sent to an owner is returned by the post office as undeliverable, a search for an owner must be conducted utilizing an "automated data base service that contains addresses from the entire United States geographic area, contains the names of at least 50% of the United States adult population, is indexed by taxpayer identification number or name, and is updated at least four times a year."<sup>26</sup> If an updated address for the owner is obtained, a communication is to be sent via first class mail to the owner's updated address, requesting confirmation of the updated address.
- If the initial search for an updated address is unsuccessful, a second database search must be conducted within six to 12 months of the initial search.
- If for a period of six months an owner has failed to negotiate a check for \$25 or greater in amount, a written notification must be sent to the owner no later than seven months following the date of issuance of the outstanding check, notifying the owner of the outstanding payment.

The requirements under SEC Rule 17Ad-17 to utilize a national commercial database to update contact information and contact the owner are more definitive than the Department of Labor's Field Assistance

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<sup>23</sup> NAUPA also considered the property type of Individual Retirement Accounts but determined it to be inferior to securities for purposes of the inquiry for several reasons. First, owner search requirements are inconsistent between different types of IRA custodians. Second, in conjunction with a recent (2018) information request from the U.S. Government Accountability Office (GAO), many state programs ascertained that the manner in which holders had reported unclaimed IRAs over time prevented the compilation of complete and accurate data.

<sup>24</sup> Codified at 17 CFR §240.17Ad-17.

<sup>25</sup> Pub. L. 111-203, codified at 12 U.S.C. ch. 53. Section 929W of the Act required the SEC to revise Rule 17Ad-17 to both extend to brokers and dealers the rule's requirement that searches be conducted for lost customers, and to additionally require all securities "paying agents" to provide a written notification to a security holder that had not cashed a distribution check within seven months of its issuance.

<sup>26</sup> 17 CFR §240.17Ad-17(b)(1)(i). The databases that are principally utilized are those of, or including information from, major credit bureaus.

Bulletin 2014-01 required search steps to find missing participants. The SEC has found the requirements to be highly effective in locating lost owners and although the scope of their application has been revised over time, the specific steps required have remained unchanged over the last two decades.

NAUPA likewise believes that SEC Rule 17Ad-17 is highly successful in re-establishing contact with missing owners, and we reasonably estimate that operation of the rule reduces the volume of securities and associated cash that would otherwise be transferred to the custody of state programs as unclaimed property by well in excess of 50 percent, and perhaps as much as 65 percent.<sup>27</sup>

It is important to further note that securities industry efforts to locate owners is not limited to the mandated SEC Rule 17Ad-17 searches. Many securities issuers additionally engage the services of search firms or commercial locators. The use of commercial locators is permitted by the SEC, where either the two required database searches were unsuccessfully performed, or a search was not required.<sup>28</sup> There are a number of commercial locators in the United States, and they are both active and successful.<sup>29</sup> In NAUPA's view, the efforts of locators result in a further substantial percentage of securities being returned to owners, rather than being transferred to state custody, albeit at a substantial cost to owners.

For the reasons explained above, NAUPA requested from its member states data specific to the receipt of, and payment of claims on, securities property.<sup>30</sup> More specifically, securities property received where the value of the property was greater than or equal to \$25 or where shares were remitted, and the properties contained an owner name, social security number, and an address in the reported state. This data was obtained from 25 state unclaimed property programs.<sup>31</sup> A mix of small, medium and large state programs provided data; collectively, these states represent 35 percent of the U.S. population.

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<sup>27</sup> Stock transfer agents, who generally perform lost securityholder searches on behalf of issuers, are required by the SEC to provide information on the results of the searches in a report known as a Form TA-2. Form TA-2s are public records and posted to the SEC's website. The most recent Form TA-2 filed by the largest stock transfer agent, Computershare, indicated that in 2018 it performed a total of 230,283 lost securityholder searches (including follow-up searches where an initial search was unsuccessful), with 176,212 updated addresses obtained..

<sup>28</sup> Under 17 CFR §240.17Ad-17(3), there is no requirement to attempt to obtain an updated address for an owner who is known to be deceased or is a "non-natural person," or where the value of the securities holdings is less than \$25.

<sup>29</sup> In contrast to the expense of performing automated database searches for updated addresses, which costs pennies per successful "hit" and which under SEC rules cannot be charged to owners, the fees charged by commercial locators can substantially reduce the value of property recovered by an owner. While commercial locators operate under different fee models (including being paid by the holder, and not the owner), state unclaimed property programs frequently see owners being charged by a commercial locator a fee of 25% or more of a lost asset's value.

<sup>30</sup> State unclaimed property reporting procedures provide for each item of property reported to be accompanied by a "property type code." Under NAUPA's standard property type codes, there are 20 specific "SC" codes covering unclaimed securities and associated cash.

<sup>31</sup> Including Alabama, Alaska, Arkansas, the District of Columbia, Idaho, Illinois, Iowa, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, West Virginia, and Wyoming,

In reviewing the data, it was recognized that state programs account for securities (as opposed to cash) differently. Some states value securities on the date of receipt; others, as of the current date; and still others, only on the date returned to the owner. It would have been difficult, if not impossible, to standardize securities valuation across all the states in the study. For this reason, it was necessary to work with the percentage of securities properties both received and returned, rather than the value of the property returned. In NAUPA's view, this approach nonetheless documents the efficacy of states in finding the owners of property where there were active search efforts by the holder, prior to reporting.

The analysis indicated that during the period June 1, 2018 through May 31, 2019, the states included in the data set received 343,423 securities-related properties for which the holder was unable to locate the owner. During the same period, these states returned 171,747 securities-related properties, for an owner claim rate of 50 percent.

The fact that states are able to return fully one-half of the properties reported where previously holders performed a robust search for the owners is significant. While this claim rate is not as high as for property generally, for most other property types the holder is merely required to send a notice letter to the owner by mail. While NAUPA believes that over time (as owner location technologies improve and greater public awareness of state unclaimed property programs is achieved), the return rate for securities-related property is likely to improve. However, even the current owner claim rate is impressive, considering the fact that the securities industry, despite robust efforts, was unsuccessful in re-establishing contact with owners of a material volume of property, and the states were. Put another way, the states were able to achieve a 50 percent return rate with respect to this property, and the holders achieved a zero percent return rate.

### **III. What is the rationale behind the decision for individual states to pay, or not pay interest on owner claims?**

Whether or not a state pays interest on unclaimed property during the period that the property is maintained in custody is largely a matter of the state's historical practice.

When the initial Uniform Unclaimed Property Act was promulgated by the Uniform Law Commission in 1954, the statute provided that "the owner is not entitled to receive income or other increments accruing thereafter" on reported property.<sup>32</sup> The 1966 revision retained this provision. When the Uniform Unclaimed Property Act was substantially overhauled in 1981, a provision was included requiring payment to a reappearing owner of "any dividends, interest or other increments realized or accruing on" securities received by the state,<sup>33</sup> but there was otherwise no provision for the payment of interest on cash properties. The 1995 Uniform Unclaimed Property Act, for the first time, provided for the payment of interest during the period that property was in the possession of the state, but was

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<sup>32</sup> 1954 Uniform Disposition of Unclaimed Property Act, § 15.

<sup>33</sup> 1981 Uniform Unclaimed Property Act, § 21.

limited to “an interest bearing demand, savings, or time deposit...”<sup>34</sup> The most recent of the Acts, adopted in 2016, likewise provided for the state’s payment of interest, but only with respect to interest bearing deposit accounts.<sup>35</sup>

There is nothing contained in the transcripts of the various Uniform Law Commission drafting committees, or the Commissioners’ Comments, that reflect any substantial debate on whether a state unclaimed property program should credit a reappearing owner with interest *on an asset that was non-interest bearing while in the possession of the holder* for the period that the state maintained custody. Just as this was not of concern to the Uniform Law Commission, it has not been an issue for state legislatures. Approximately 20 states have enacted statutes providing for the payment of interest on owner claims, but the interest is limited to deposit accounts that were yielding interest prior to reporting.

There are, however, several exceptions, including Massachusetts and New Jersey.<sup>36</sup> These jurisdictions add interest to all property recovered by owners, regardless of whether the property was interest bearing while in the possession of the holder. It is noteworthy that the associated unclaimed property statutes are not versions of Uniform Unclaimed Property Acts.<sup>37</sup> The Massachusetts and New Jersey statutes were substantially drafted by the respective state legislatures and under these statutes, it has been the historical practice *to pay* interest.

Another factor in determining a state’s payment of interest is the outcome of litigation. Initially, in the early 2000s, a number of lawsuits were brought seeking a determination that states are obligated to pay reappearing owners of all unclaimed property interest for the period that the property was held in state custody. All of these suits were unsuccessful, with the exception of a case in Ohio which concluded that under that State’s Constitution, “the state may not appropriate for its own use, against the owner of the underlying property, interest earned on [unclaimed] property.”<sup>38</sup> Consequently, Ohio now pays interest on all unclaimed property claims.

The rationale for judicial determinations where states are *not* required to pay interest on unclaimed property during the period it is maintained in state custody is perhaps best summarized by the Louisiana Court of Appeals:

When the state receives custody, it is also required to assume, in apparent perpetuity, the responsibility of safekeeping the property for any owners who may wish to re-claim their abandoned property. In return for this advantageous

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<sup>34</sup> 1995 Uniform Unclaimed Property Act, § 11.

<sup>35</sup> 2016 Revised Uniform Unclaimed Property Act, § 607(a).

<sup>36</sup> In NAUPA’s previous written testimony provided to the Council, Michigan was erroneously identified as a state that credits all claimants with interest on their property. Michigan actually only pays reappearing owners interest on property that was originally interest-bearing.

<sup>37</sup> While the current New Jersey unclaimed property law includes provisions from both the 1981 and 1995 Uniform Unclaimed Property Acts, the practice of paying interest on all owner claims predates the existing statute.

<sup>38</sup> *Sogg v. Zurz*, 905 N.E.2d 187,193 (Ohio 2009).



long-term reclaiming service, the state is afforded the benefit of retaining, after any deductions required by law, the interest earned from post-abandonment actions of the state...

The statutory duty to accept custody and hold abandoned property in safekeeping cannot logically or fairly be stretched to create a higher fiduciary duty to pay interest not earned by any action of an owner who abandoned not only his property and investment opportunities, but also the responsibility to maintain and care for the property.<sup>39</sup>

In more recent years, there has been a second round of lawsuits seeking payment of interest on all property returned by states to owners. The cases have been brought in both federal and state courts, alleging due process violations under federal and state constitutions. The U.S. Court of Appeals for the Third Circuit found that there is no constitutional requirement for a state's payment of interest on unclaimed property,<sup>40</sup> and the Ninth Circuit reached the same conclusion.<sup>41</sup> The Seventh Circuit determined otherwise; however, the court's rulings indicated that a state was entitled to offset against interest its reasonable costs for administering the property.<sup>42</sup> The Minnesota Supreme Court ruled that the State's unclaimed property program deprived owners of a property interest in taking custody of income-earning property (only), without subsequently crediting the owner with interest.<sup>43</sup> Still, a majority of courts reviewing the issue have concluded that a state unclaimed property program has no legal duty to pay interest earned on an asset while in the state's custody.

NAUPA respectfully notes that retirement plans themselves do not appear to pay a beneficiary interest on funds represented by an unnegotiated plan distribution check.

However, NAUPA understands that the Council wants to better understand why most states would not do so either. The best explanation may be inertia: most states have never paid interest on non-interest-bearing assets, and there has been no broad-based effort aside from *ad hoc*, generally unsuccessful, lawsuits to change this approach.

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<sup>39</sup> *Hooks v. Kennedy*, 2006-0541 (La. App. 1 Cir 05/04/07), 961 So. 2d 425, 432

<sup>40</sup> *Simon v. Weissman*, 301 Fed. Appx. 107 (3d Cir. 2008), *aff'd* Civ. Action No. 04-941, U.S. Dist. LEXIS 63417 (E.D. Pa. Aug. 27, 2007).

<sup>41</sup> *Suever v. Chiang*, 579 F.3d 1047 (9<sup>th</sup> Cir. 2009), *aff'd in part and rev'd in part Suever v. Connell*, No. 5:03-CV-00156, 2007 U.S. Dist. LEXIS 79265 (N.D. Cal. Oct. 12, 2007), *on remand—summary judgment for defendants*, 2010 U.S. Dist. LEXIS 82686 (N.D. Cal. Aug. 6, 2010), *aff'd*, 2012 U.S. App. LEXIS 12186 (9<sup>th</sup> Cir. June 15, 2012), *cert. denied*, 133 S.Ct. 1243, 186 L. Ed. 2d 178 (U.S. 2013).

<sup>42</sup> *Cerajeski v. Zoeller*, 735 F.3d 577 (7<sup>th</sup> Cir. 2013), *rev'd Schunn v. Zoeller*, 2012 U.S. Dist. LEXIS 160119 (S.D. Ind. Nov. 8, 2012). *Goldberg v. Frerichs*, 912 F.3d 1009 (7<sup>th</sup> Cir. 2019)

<sup>43</sup> *Hall v. State*, 908 N.W.2d 345 (Minn. 2018), *aff'd in part and rev'd in part* 890 N.W.2d 728 (Minn. Ct. App. 2017). Concerning non-interest-bearing accounts, the Court found no requirement to pay interest: "As other states have recognized in somewhat similar circumstances, to require that the State pay interest to these owners of unclaimed property would reward their inattention and provide an inappropriate windfall." *Id* at 345.





NAUPA notes, as the Louisiana court did, that state unclaimed property programs expend significant funds not only to collect and administer abandoned assets, but to also facilitate their return to owners. These expenses are not passed along to claimants. States do not charge fees for this, potentially perpetual, service. Legislatures and courts have determined that public policy favors the use of these funds by the public, until claimed by the rightful owner, as opposed to a “windfall” to a mere holder of someone else’s property.<sup>44</sup>

As NAUPA stated in its previous written testimony, it is recognized that other options available to retirement plans for the disposition of uncashed plan check funds may offer a nominal rate of return; however, interest earnings are irrelevant if the beneficiary is not located and paid their entitlement.<sup>45</sup> Additionally, the rates of return on rollovers of uncashed check distributions may be significantly diminished (or non-existent) where service charges and other fees are offset against the asset.

As substantiated by the state owner claim rates previously provided to the Council and supplemented above, NAUPA believes that state unclaimed property programs are the most successful, effective mechanism to reunite missing beneficiaries with their retirement benefits. We encourage other stakeholders who claim success in locating missing owners to similarly substantiate the outcomes of their outreach efforts with data.

As a final comment on the matter of paying interest on uncashed plan distribution checks, NAUPA does not wish to create the impression that its member states are categorically opposed to this notion. Rather, currently and for the most part, the capacity (i.e., statutory authority) to do so does not currently exist. If in its analysis the failure of most states to pay a rate of return is a significant discriminator in terms of utilization of state unclaimed property programs, we encourage the Council to make note of this in its report to the Department of Labor.

#### **IV. State indemnification of plans: what are its characteristics, and how would it work?**

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<sup>44</sup> See *Standard Oil Co. v. New Jersey*, 341 U.S. 428, 435-36 (1951): “As a broad principle of jurisprudence rather than as a result of the evolution of legal rules, it is clear that a state, subject to constitutional limitations, may use its legislative power to dispose of property within its reach, belonging to unknown persons. Such property thus escapes seizure by would-be possessors and is used for the general good rather than for the chance enrichment of particular individuals or organizations,” and *State by Lord v. First National Bank*, 313 N.W.2d 390, 393 (Minn. 1981): “The purposes of the act are: (1) to protect the interests of the owners of unclaimed property; (2) to relieve holders of the annoyance, expense, and liability of keeping such property; (3) to preclude multiple liability; and (4) to give the adopting state use of considerable sums of money which otherwise is windfall to holders.”

<sup>45</sup> National Association of Unclaimed Property Administrators, *Written Statement on Transfers of Uncashed Checks from ERISA Plans to State Unclaimed Property Programs Before the U.S. Department of Labor 2019 Advisory Council on Employee Welfare and Pension Benefit Plans*, June 26, 2019, p. 16 (testimony of G. Allen Mayer).



In its previous submission to the Council, NAUPA addressed the protections provided by state unclaimed property laws to holders that transfer abandoned assets to state custody.<sup>46</sup> NAUPA gave testimony with respect to both relief from liability statutes,<sup>47</sup> under which a state assumes responsibility for reported property, and indemnification statutes,<sup>48</sup> under which a state is obliged to defend and hold harmless a holder for claims that arise as a result of the holder's reporting of unclaimed property. The Council has requested that NAUPA further elaborate on the character and operation of state indemnification.

Most states have an indemnification provision from one of three versions<sup>49</sup> of the Uniform Unclaimed Property Act. While the wording of each Uniform Act provision is slightly different, each provides that the state shall both defend and indemnify a holder against claims for the payment or delivery of unclaimed property to the state, provided that the holder has acted in good faith<sup>50</sup> in reporting the property as abandoned.

Some states have not adopted express indemnification provisions. In a majority of these jurisdictions, the state constitution prohibits the extension of credit to private entities, and the attorney general or other legal officer has opined that indemnification by the state is the equivalent of the state pledging its credit to third parties. However, many of these same states have adopted alternative holder protections, including a duty to defend a holder on a claim, as well as barring as a matter of law a suit against a holder for reporting unclaimed property.

Indemnification by the state is seldom sought by holders, because disputes arising from a holder's reporting of unclaimed property are rare. Because the inherent power of the state to assume custody of unclaimed property has become so well-established, an owner of unclaimed property would virtually never bring suit against a holder for having complied with reporting requirements of a duly-enacted unclaimed property law. Generally speaking, an owner would have no basis for any form of legal redress; the state, through payment of the owner's claim, would make the owner whole.<sup>51</sup>

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<sup>46</sup> *Id.*

<sup>47</sup> Supplementing its previous testimony, NAUPA has prepared a schedule setting forth the text of the relief from liability provisions included in each of the Uniform Unclaimed Property Acts, and an accompanying table that details the relief from liability statutory enactment for each state (see Appendix, **Exhibits A and B**).

<sup>48</sup> Supplementing its previous testimony, NAUPA has prepared a schedule setting forth the text of the indemnification provisions included in each of the Uniform Unclaimed Property Acts, and an accompanying table that details the indemnification statutory enactment for each state (see Appendix, **Exhibits A and C**).

<sup>49</sup> 1981 Uniform Unclaimed Property Act § 20(e); 1995 Uniform Unclaimed Property Act, § 10(f); 2016 Revised Uniform Unclaimed Property Act § 604(b).

<sup>50</sup> The 1981 Uniform Unclaimed Property Act provision, § 20(e), provides the following definition of "good faith": "(1) payment or delivery was made in a reasonable attempt to comply with this Act; (2) the person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based the facts then known to him, that the property was abandoned for the purposes of this Act; and (3) there is no showing that the records pursuant to which the delivery was made did not meet the reasonable commercial standard of practice in the industry." Neither the 1995 nor 2016 Uniform Acts provide a definition.

<sup>51</sup> There are however instances where owners have alleged a loss as a result of a state unclaimed property program's liquidation of marketable securities, and the holder has been sued by the owner for having transferred the securities to state custody. In such an instance, if the holder had reported consistent with the unclaimed



It is important to note that indemnification provisions are intended to insulate holders from liability for the *act of reporting and delivering unclaimed property to the state*. Indemnification would not provide protection to a holder for its failure to perform its obligations to an owner during the period that the property was in the possession of the holder. For example, if an owner alleged in a legal action that a plan owed a duty to that owner to have commenced an earlier or more extensive updated address search following the postal return of an uncashed distribution check, a state would not defend the holder in that action or indemnify the holder if it was found to have breached its fiduciary duty prior to reporting. Similarly, there would be no indemnification if a beneficiary alleged that a plan owed the beneficiary interest on funds represented by an uncashed plan distribution check, for the period that the funds were held by the plan. The basis of these disputes would be unrelated to the reporting and transfer of the underlying funds to the state.

Several stakeholders providing testimony at the June 26, 2019 Council meeting expressed concerns as to the operation of state unclaimed property law indemnification provisions, and their adequacy with respect to a plan's reporting of uncashed distribution checks. NAUPA agrees that these concerns warrant consideration, in terms of protecting *both plans and states* from liability claims. The dynamics of reporting uncashed plan distribution checks to states as unclaimed property, and the attendant indemnification of plans by states is inherently different because the Department of Labor has never sanctioned state reporting by extant plans. Thus, plans have legitimate concerns about being sued for the utilization of state programs. NAUPA shares this concern. If plans are to be indemnified by states as reporters of unclaimed property, then states would likely bear the cost of litigation and potentially judgements for their "wrongfully" assuming custody of uncashed plan distribution checks.

State unclaimed property programs would ideally indemnify retirement plans, as well as any other holder, for the reporting and delivery of unclaimed property; there should not be a penalty for acting consistent with public policy. At the same time, states do not wish to step into a liability trap. As advocated by various other stakeholders, the Department of Labor needs to provide clarity as to the permissibility of a plan's reporting of uncashed distributions to state programs.<sup>52</sup> If a safe harbor for utilization of state unclaimed property programs is established, the probability of legal actions against plans for their utilization would be minimized, and state indemnification of plans would be achieved through existing statutory protections for holders acting in good faith.<sup>53</sup>

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property law, the state would be obliged to indemnify the holder. *See, e.g., Azure Ltd. v. I-Flow Corp.*, 46 Cal. 4<sup>th</sup> 1323, 210 P.3d 1110, 96 Cal. Rptr.3d 501(2009).

<sup>52</sup> NAUPA concurs with the suggestion of a member of the Council at the June 26, 2019 meeting that substantial ambiguity would be eliminated if the Department of Labor would formally rule not only that permissive transfer of uncashed plan checks to state unclaimed property programs were allowed, but additionally that upon transfer of custody to the state the underlying check funds no longer constitute a plan asset.

<sup>53</sup> NAUPA is not a law firm and does not represent any of its member states as legal counsel. The views expressed by NAUPA herein are intended for discussion purposes only, and not as a formal interpretation or opinion of any state's unclaimed property law or obligations.



## V. How would the concept of early/off cycle reporting operate?

NAUPA previously identified the existence of “mechanisms” under which a plan could report uncashed distribution checks to all states using a common reporting date and abandonment period, notwithstanding existing statutory differences amongst states.<sup>54</sup> Under the laws of most states, the unclaimed property program administrator can elect to receive property that has not yet reached the statutory period of dormancy,<sup>55</sup> as well as agree to modify the date on which a report is to be filed.<sup>56</sup> Even where the unclaimed property law does not provide express authority to accept property prior to the expiration of the statutory abandonment period or to allow for the submission of a report other than on the stated filing date, states make such accommodations on an administrative basis. NAUPA is unaware of any state that has determined it lacks the ability make such accommodations.

NAUPA understands that the Council’s inquiry is not concerned with the length of the abandonment period of three years for uncashed checks under a majority of state unclaimed property laws, but rather relates to the fact that some states utilize an alternative abandonment period, both shorter and longer than three years.<sup>57</sup> NAUPA further understands that in an effort to “streamline” unclaimed property

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<sup>54</sup> National Association of Unclaimed Property Administrators, *Written Statement on Transfers of Uncashed Checks from ERISA Plans to State Unclaimed Property Programs Before the U.S. Department of Labor 2019 Advisory Council on Employee Welfare and Pension Benefit Plans*, June 26, 2019, p. 21 (testimony of G. Allen Mayer).

<sup>55</sup> See 1981 Uniform Unclaimed Property Act § 27(b); 1995 Uniform Unclaimed Property Act, § 17(b); 2016 Revised Uniform Unclaimed Property Act § 608(b). As previously noted by NAUPA, the core concern that states possess with respect to premature reporting is whether the holder has undertaken reasonable steps in an effort to locate the owner of property.

<sup>56</sup> See 1981 Uniform Unclaimed Property Act § 17(d); 1995 Uniform Unclaimed Property Act, § 7(f); 2016 Revised Uniform Unclaimed Property Act § 403(c). All unclaimed property laws provide for a window of time (typically, four months) between when property is deemed abandoned, and the date by which it must be reported; “reporting dates” do not reflect a specific date on which a report must be filed, but rather represent a deadline after which a filing would be treated as untimely made. Additionally, for most states, there are two reporting cycles, each six months apart: one for life insurance, and the other for all other types of holders. Considering the multiple reporting cycles, the “windows” within which time a report can be filed, and the fact that many holders report (both with and without permission) off cycle, states routinely receive reports of unclaimed property on every business day.

<sup>57</sup> In 20 states, the statutory abandonment period for outstanding check funds held by a fiduciary is five years. In two states, the abandonment period is two years, and in one state, seven years. Another stakeholder provided somewhat different abandonment periods for states. These alternative periods appear to be premised on treating an uncashed check as a “retirement account.” However, in the view of the states, under unclaimed property laws an *uncashed distribution from an account* is treated differently from an *abandoned account balance*.



reporting to states, plans would prefer to use a common abandonment period for all states,<sup>58</sup> as well as a common report year<sup>59</sup> and reporting date.

Implementing early/off cycle reporting comes down to a question of *mechanics*: how would an individual plan secure authorization to report and deliver uncashed plan checks, outside of a state's statutory abandonment period and reporting date? Under state unclaimed property laws a holder can seek, and obtain, the consent of the state.<sup>60</sup> This would not present a significant challenge where a plan was holding uncashed check funds for lost beneficiaries with last known addresses in a single, or even a handful of states. However, for a plan holding uncashed checks owed to beneficiaries in multiple (or potentially all) states,<sup>61</sup> obtaining the requisite state consents is an administrative task.<sup>62</sup>

The need to obtain permission for early and off cycle reporting from multiple, *individual* states would appear resolvable through the establishment of a protocol whereby any plan which met certain criteria could report uncashed plan distributions outside of a state's abandonment period and standard report cycle, without a requirement of obtaining express state consent. NAUPA believes that this could be accomplished through the Department of Labor's adoption of administrative rules specifying the conditions under which a state could take custody of uncashed distribution checks. A state unclaimed property program would receive uncashed plan distribution checks under defined reporting parameters, which would be established by the Department of Labor,<sup>63</sup> through consultations with NAUPA, retirement plans, and their service providers.<sup>64</sup>

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<sup>58</sup> It should be noted that if a plan were to commence reporting uncashed plan distributions to state, most checks included in that initial filing will have been outstanding far longer than three, or even five years. It is also worth noting that there are a number of discussions underway that may lead to material changes in the nature and treatment of future uncashed plan distributions, such as reinstating the funds to the participant's account. Thus, the issue presented here may prove to be short term in duration, i.e. be applicable to a "clean-up" of existing, uncashed plan distributions only.

<sup>59</sup> As distinguished from the reporting date, the reporting period is the timeframe which the report covers, e.g. the preceding calendar or fiscal year.

<sup>60</sup> See 1981 Uniform Unclaimed Property Act § 27(b); 1995 Uniform Unclaimed Property Act, § 17(b); 2016 Revised Uniform Unclaimed Property Act § 608(b).

<sup>61</sup> As explained in NAUPA's previous written statement to the Council, as a general proposition a state is permitted only to accept unclaimed property where the last known address of the owner was recorded as being in that state. This outcome is compelled by both federal common law and state unclaimed property statutes.

<sup>62</sup> The number of states that consent would be required from would be dependent upon the last known address composition of the uncashed checks. Note that 21 states have in common the same reporting period of July 1-June 30, reporting date of November 1, and abandonment period for uncashed checks held by a fiduciary of three years.

<sup>63</sup> NAUPA anticipates that the Department of Labor will ultimately promulgate rules, such as when a plan should undertake a diligent search for an owner of an uncashed distribution that would dovetail with rules establishing the state unclaimed property reporting parameters.

<sup>64</sup> NAUPA has previously indicated its support of minimum program standards for the states' custody of uncashed plan checks, and for the Department of Labor's issuance of administrative rules incorporating such standards. See National Association of Unclaimed Property Administrators, *Written Statement on Transfers of Uncashed Checks from ERISA Plans to State Unclaimed Property Programs Before the U.S. Department of Labor 2019 Advisory Council on Employee Welfare and Pension Benefit Plans*, June 26, 2019, pp. 31-32 (testimony of G. Allen Mayer).



NAUPA believes that the states, through on-line reporting utilities, the adoption of a common reporting format, and other technological efficiencies have significantly simplified the filing process, and that concerns regarding multi-state reporting are overstated. As NAUPA previously stated in its oral testimony to the Council on June 26, 2019, in all probability the employers with missing participants in multiple states are already filing reports of unclaimed property with numerous state unclaimed property programs through other corporate operations. The suggestion by some stakeholders that a business operation currently filing uncashed payroll and vendor checks as unclaimed property would struggle with correctly reporting uncashed plan distribution checks reflects a lack of understanding of the filing process. Following completion of owner outreach efforts and a determination that the underlying funds should be transferred to state custody, an uncashed plan distribution check has the same characteristics as and would be treated identical to any other reportable, outstanding check, aside from the assignment of a different property type code.

#### **VI. What is the difference between membership in NAUPA and participation in MissingMoney.com, and how can owners search on a “national” basis?**

Apparently, some members of the Council misunderstood NAUPA as indicating in its June 26, 2019 testimony that NAUPA’s membership is comprised of only 40 states. However, NAUPA’s membership consists of all 50 states, the District of Columbia, and the Commonwealth of Puerto Rico, as well as several foreign jurisdictions.

This confusion apparently arose from NAUPA’s testimony concerning state participation in the states’ national internet search database, MissingMoney.com.<sup>65</sup> Forty states, the District of Columbia, Puerto Rico, and several Canadian provinces post their unclaimed property records to MissingMoney.com. Ten state unclaimed property programs do not currently provide owner records for posting on the states’ national database.

However MissingMoney.com can still be used to search for property potentially held by all states. MissingMoney.com links to the individual websites of the 10 remaining states.<sup>66</sup>

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<sup>65</sup> *Id.*, p. 6 (testimony of G. Allen Mayer).

<sup>66</sup> The website administrator documented 33,245 unique pageviews on this webpage during the period July 17-August 15, 2019.



## NATIONAL ASSOCIATION OF UNCLAIMED PROPERTY ADMINISTRATORS

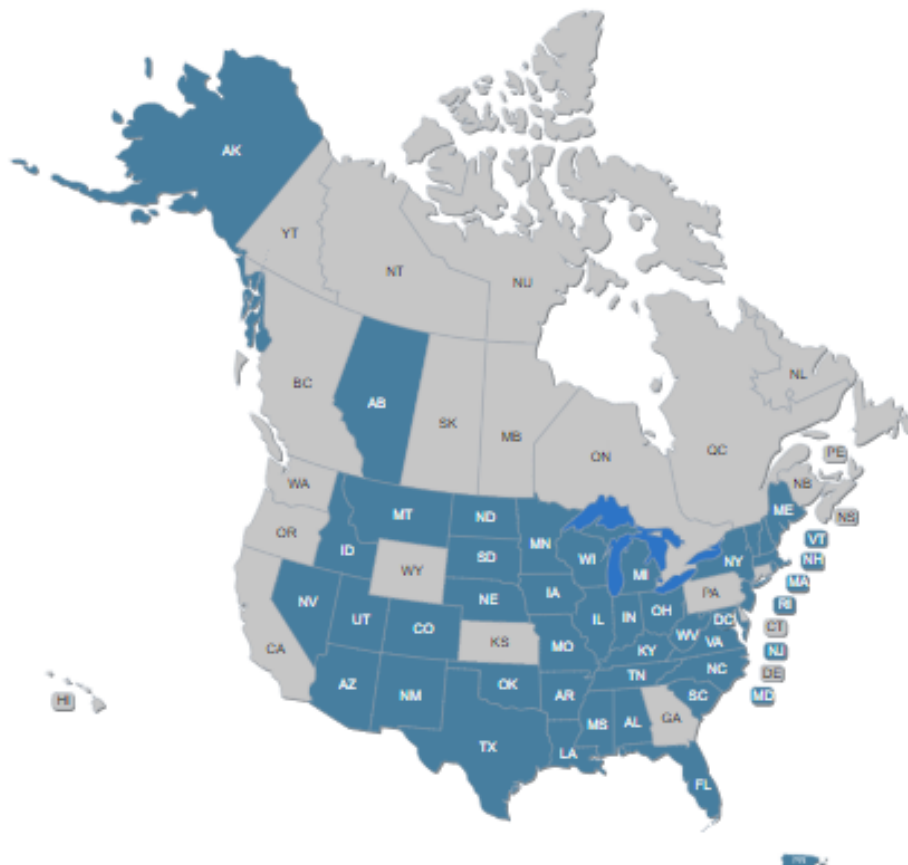
A Network of the National Association of State Treasurers

### For States and Provinces Contact Information

The states and provinces listed below currently participate and their records are contained in the MissingMoney.com national database. We are working with many states and provinces to add their data to the MissingMoney.com website so please check back soon.

Alabama, Alaska, Alberta Canada, Arizona, Arkansas, Colorado, District of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin

[Return to continue searching for missing money!](#)



Request claim forms and receive additional information on documents needed from office contact information below.

#### Alabama

Unclaimed Property Division  
RSA Union Building  
100 North Union Street, Suite 626  
Montgomery AL 36104  
Phone (205) 242-9614  
Toll Free Phone: (800) 844-8400  
[unclaimed@treasury.alabama.gov](mailto:unclaimed@treasury.alabama.gov)

#### Alaska

State of Alaska  
Treasury Division  
PO Box 110005  
Juneau AK 99811-0005  
Phone (907) 465-2726  
[ucproperty@alaska.gov](mailto:ucproperty@alaska.gov)

#### Alberta Canada

Alberta Treasury Board and Finance  
Unclaimed Property  
9911 109 Street  
Edmonton AB T5K 2L5  
Phone 780-427-2000  
[unclaimed.property@gov.ab.ca](mailto:unclaimed.property@gov.ab.ca)

MissingMoney.com facilitates the ability of an individual to search the unclaimed property databases of all U.S. jurisdictions: 42 programs through a single search, and the remaining 10 programs by a link to the individual websites. While not perfect, it is nonetheless good. The public has the ability to access all state databases, through a single webpage.<sup>67</sup>

<sup>67</sup> The MissingMoney.com “related links” webpage (found at <https://www.missingmoney.com/en/Home/RelatedLinks>) additionally provides links to facilitate searches of unclaimed property records maintained on additional, unaffiliated websites, including but not limited to Internal Revenue Service tax refunds, unredeemed United States Savings Bonds, and abandoned accounts held by Swiss banks.

## VII. How would the states propose to assist plans and record keepers with addressing an ostensible 40 year “backlog” of outstanding checks?

In its previous written submission to the Council, NAUPA stated its belief that:

...there are large volumes of uncashed checks that are not being actively administered, because the plan has been terminated; is orphaned; the checks are held by a previous service provider, as a result of a plan merger or plan change in outsourcer; the service provider issued the checks from an omnibus account and cannot currently identify the plan; the checks are immaterial; or the checks are old and have simply been forgotten.

A “clean-up” of the uncashed plan checks dating back more than 40 years would be a massive undertaking, particularly where the uncashed checks are not being administered by the plan itself. Older records would need to be converted, and in some cases even key-punched; sufficient information would need to be gathered to ensure proper owner identification; beneficiaries would need to be contacted; claimant responses (at least one-quarter of which, are likely to come from heirs) would need to be vetted; and check reissuances would need to be processed. Given the anecdotal reports of significant numbers of plan checks outstanding, addressing the uncashed check backlog could take a number of years to complete.<sup>68</sup>

In conjunction with these observations, NAUPA offered two suggestions. The first, that employing the Department of Labor’s extensive “diligent search” procedures with respect to older checks would be of questionable cost/benefit and that the logic of this exercise should be scrutinized; the second, that state unclaimed property programs would be in a position to assist in compiling data and preparing reports of the accumulated uncashed plan distributions.<sup>69</sup> The Council has requested that NAUPA elaborate.

With respect to attempting to locate and reissue payment to a participant for a check issued many years ago, it is NAUPA’s experience that the older the property, the more difficult it is for a holder to locate the current whereabouts of the owner. Presumably, the value of most individual retirement plan checks, particularly older checks, is small. The costs for any search efforts beyond the mailing to a

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<sup>68</sup> National Association of Unclaimed Property Administrators, *Written Statement on Transfers of Uncashed Checks from ERISA Plans to State Unclaimed Property Programs Before the U.S. Department of Labor 2019 Advisory Council on Employee Welfare and Pension Benefit Plans*, June 26, 2019, p.28 (testimony of G. Allen Mayer)(footnote omitted). See also AICPA Employee Benefit Plan Audit Quality Center, *Testimony Before the ERISA Advisory Council [RE: Locating Lost and Missing Participants]*, August 28, 2013 (testimony of J. Haubrock, CPA), p.3 (included in Appendix as **Exhibit D**).

<sup>69</sup> *Id.*, p. 29.



notice to the last known address of record will likely significantly reduce the funds available for recovery by the owner. NAUPA cannot opine as to whether trust law or ERISA creates an absolute duty on the part of a plan to undertake *extensive* efforts to contact a participant before their funds are transferred to the custody of an unclaimed property program. But, in addition to the likely futility of this exercise in many instances, NAUPA notes that the specific plan which originally issued the check may not be identifiable, locatable, or even still in existence.

NAUPA has thus suggested that in conjunction with a four-decade clean-up of outstanding checks extensive searches (beyond the mailing of a notice to the beneficiary's last known address) are warranted for *all* such checks.<sup>70</sup> In offering this proposal, NAUPA is suggesting that some checks could be transferred directly to the custody of the states, without the plan (or if no plan exists, the record keeper) performing a "diligent" search. The state would then undertake to locate and pay the owner (or heir), likely with a much higher degree of success, and at a much lower cost (and at no cost to the owner), than if attempted by the plan or a service provider.

Even if the volume of owner outreach for older plan checks was significantly reduced, it can be anticipated that the effort required to identify and compile reports of older checks will be significant. There will be substantial costs involved, and those costs will be borne either by missing participants or plans. State unclaimed property programs believe that the time, effort and expense can be reduced through state participation in the "clean-up" process. States possess significant accounting, records review, and data processing resources and the states have experience in undertaking similar projects.

An example is the multi-state project involving unclaimed securities in the 1990s. The vast majority of publicly traded companies had not reported unclaimed stock and dividends, due in part to large volumes of older records maintained by their stock transfer agents. The states worked directly and cooperatively with the stock transfer agents to compile reports of unclaimed securities and to facilitate their transfer to state custody. Much of the record processing and reconciliation was performed by the states themselves. The work was undertaken pursuant to extensive project plans, developed in collaboration with the stock transfer agents. Considerable efficiencies were achieved in the states working through the stock transfer agents to accomplish this clean-up, rather than with individual issuers. Each of the stock transfer agents acted as record keeper for hundreds, if not several thousand securities issuers. This permitted the contemporaneous and timely compilation of reports for multiple holder-issuers. It additionally resulted in the expedited and comprehensive resolution of record keeping and other issues that arose in the course of the work, with the states providing guidance as to how specific matters should be resolved.

It is recognized by NAUPA and was confirmed in stakeholder testimony at the June 26, 2019 meeting of the Council that some record keepers are in possession of records from predecessor record keepers that are imperfect. There are various data hygiene processes employed by the states to reconstruct owner addresses with the goal of compiling sufficient information to locate and pay the missing owner.

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<sup>70</sup> With respect to larger value and more recently issued payments, the Department of Labor could consider the database address updating procedures utilized by the securities industry, as discussed in section C (II), *supra*.





NAUPA's research suggests that record keeping for approximately 90 percent of all 401(k) plan accounts is performed by a group of only 20 record keepers.<sup>71</sup> Unquestionably, some records of uncashed plan distributions have been returned to plans; however, it can be reasonably assumed that large volumes of uncashed checks remain with this finite group of service providers. State unclaimed property programs would propose to work directly with these record keepers to compile reports of uncashed plan distributions, just as states previously did with respect to unclaimed securities in cooperation with the stock transfer industry.<sup>72</sup> NAUPA believes that this assistance would allow both plans and record keepers to reduce the cost of the clean-up, and allow greater focus on ongoing, core activities.

## VIII. Other Council questions

There are two other questions that members of the Council raised during the course of the June 26, 2019 meeting.

- One was the accounting “formula” that states utilize to identify, and record in fiscal statements, projected unclaimed property liabilities (i.e., property that was received in a current year but likely to be paid by a claimant in a future year). Included in the appendix as **Exhibit E** is the full text of the Governmental Accounting Standard Board Statement No. 21, *Accounting for Escheat Property*. This GASB standard is followed by states which do not place unclaimed property collections in a trust.
- The second open matter related to situations where a lost participant's retirement benefits were “bifurcated,” with some funds transferred to the state as unclaimed property, and additional funds held by the plan or a service provider. The following question was asked: if a state unclaimed property program was successful in locating a missing participant whose additional entitlements (including an account balance) remained with the plan, could the state then contact the plan and provide the participant's current whereabouts? State unclaimed property reporting platforms are not *currently* set up in this manner, for the reason that as a general matter, when any of an owner's property is deemed unclaimed, all other property due that owner, regardless of when the additional property became payable or distributable, is likewise deemed abandoned.<sup>73</sup>

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<sup>71</sup> States recognize that a plan's record keeper is not, in all instances, the check-issuing entity, which creates an additional level of complexity—which states can further assist in, through the consolidation of data from multiple sources.

<sup>72</sup> More recently, the states have coordinated reviews of the policy records of major life insurance companies, with the states themselves identifying deceased insureds and compiling the resulting reports of unclaimed policy proceeds.

<sup>73</sup> The operational design of state unclaimed property laws is intended, to the extent possible, to maintain all of an owner's unclaimed property in one place. By way of example, where an owner's securities are deemed abandoned and reportable, all outstanding dividends issued on such securities are likewise deemed abandoned and



However, it would be possible for the states to revise their reporting procedures such that where either a participant (a) was due additional uncashed distribution checks by the plan that had not yet been reported and delivered to the state<sup>74</sup> or (b) maintained an undistributed account balance with the plan, a code or notation could be included in the report filed with the state, indicating the existence of such additional assets. When a claim was paid to the missing participant, the state could then inform the participant of their additional entitlements and provide them with contact information for the plan or the plan's service provider. This would ensure that the missing participant would not only recover the property that was in the possession of the state unclaimed property program, but would also be connected to other property that was still with the plan.

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reportable, regardless of when issued. See 1981 Uniform Unclaimed Property Act § 10(d); 1995 Uniform Unclaimed Property Act, § 2(b); 2016 Revised Uniform Unclaimed Property Act § 209.

<sup>74</sup> In concept, if the participant was deemed to be lost, it would be acceptable to transfer to the state all of the outstanding plan distributions then owing to the participant (regardless of the date of issuance) and then, with respect to any future mandatory distributions that are made, send them directly to the state at the time of issuance. This approach (known as "current pay") is undertaken in many states by oil & gas producers, where an unclaimed underlying mineral interest (which is considered an interest in real property and is not transferred to the state) has become abandoned, but on an ongoing basis generates royalty payments.

## Appendix

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Uniform Unclaimed Property Act Relief from Liability and Indemnification Provisions.....Exhibit A

State Unclaimed Property Holder Relief from Liability Provisions.....Exhibit B

State Unclaimed Property Holder Indemnification Provisions.....Exhibit C

AICPA Employee Benefit Plan Audit Quality Center, *Testimony*  
*Before the ERISA Advisory Council {RE: Locating Lost and Missing*  
*Participants}*, August 28, 2013 (testimony of J. Haubrock, CPA).....Exhibit D

Governmental Accounting Standards Board, Statements No.  
21, *Accounting for Escheat Property*, No. 103-B (October 1993).....Exhibit E

Recent news stories featuring state unclaimed property programs.....Exhibit F

# Exhibit A

Uniform Unclaimed Property Act Relief from Liability and  
Indemnification Provisions

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# Uniform Unclaimed Property Act Release and Indemnification Provisions

Uniform Act	Relief from Liability	Indemnification
1954 Uniform Disposition of Unclaimed Property Act and its 1966 Revision	<p>§14 Upon the payment or delivery of abandoned property to the [State Treasurer], the state shall assume custody and shall be responsible for the safekeeping thereof. Any person who pays or delivers abandoned property to the [State Treasurer] under this Act is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property.</p> <p>Any holder who has paid moneys to the [State Treasurer] pursuant to this Act may make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the [State Treasurer] shall forthwith reimburse the holder for the payment.</p>	None
1981 Uniform Unclaimed Property Act	<p>§20(a) Upon the payment or delivery of property to the administrator, the state assumes custody and responsibility for the safekeeping of the property. A person who pays or delivers property to the administrator in good faith is relieved of all liability to the extent of the value of the property paid or delivered for any claim then existing or which thereafter may arise or be made in respect to the property.</p>	<p>§20(e) If the holder pays or delivers property to the administrator in good faith and thereafter another person claims the property from the holder or another state claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim.</p> <p>(f) For the purposes of this section, “good faith” means that</p> <p>(1) payment or delivery was made in a reasonable attempt to comply with this Act;</p> <p>(2) the person delivering the property was not a fiduciary then in breach of trust in respect to the property and had a reasonable basis for believing, based on the facts then known to him, that the property was abandoned for the purposes of this Act; and</p> <p>(3) there is no showing that the records pursuant to which the delivery was made did not meet reasonable commercial standards of practice in the industry.</p>
1995 Uniform Unclaimed Property Act	<p>§ 10(a) In this section, payment or delivery is made in “good faith” if:</p> <p>(1) payment or delivery was made in a reasonable attempt to comply with this [Act];</p> <p>(2) the holder was not then in breach of a fiduciary obligation with respect to the property and had a reasonable basis for believing, based on the facts then known, that the property was presumed abandoned; and</p> <p>(3) there is no showing that the records under which the payment or delivery was made did not meet reasonable commercial standards of practice.</p> <p>(b) Upon payment or delivery of property to the administrator, the State assumes custody and responsibility for the safekeeping of the property. A holder who pays or delivers property to the administrator in good faith is relieved of all liability arising thereafter with respect to the property.</p>	<p>§ 10(f) If a holder pays or delivers property to the administrator in good faith and thereafter another person claims the property from the holder or another State claims the money or property under its laws relating to escheat or abandoned or unclaimed property, the administrator, upon written notice of the claim, shall defend the holder against the claim and indemnify the holder against any liability on the claim resulting from payment or delivery of the property to the administrator.</p>
2016 Revised Uniform Unclaimed Property Act	<p>§ 604(a) On payment or delivery of property to the administrator under this [act], the administrator as agent for the state assumes custody and responsibility for safekeeping the property. A holder that pays or delivers property to the administrator in good faith and substantially complies with Sections 501 and 502 is relieved of liability arising thereafter with respect to payment or delivery of the property to the administrator.</p>	<p>§ 604(b) This state shall defend and indemnify a holder against liability on a claim against the holder resulting from the payment or delivery of property to the administrator made in good faith and after the holder substantially complied with Sections 501 and 502.</p>

## Exhibit B

State Unclaimed Property Holder Relief from Liability Provisions

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State Unclaimed Property Holder Relief from Liability Provisions

State	1954/66 Act	1981 Act	1995 Act	2016 Act	None	Other
Alabama			X			
Alaska		X				
Arizona			X			
Arkansas			X			
California	X					
Colorado		X				
Connecticut		X				
Delaware						Report and payment of property releases and discharges holder from all liability
District of Columbia		X				
Florida		X				
Georgia		X				
Hawaii			X			
Idaho		X				
Illinois				X		
Indiana			X			
Iowa	X					
Kansas			X			
Kentucky				X		
Louisiana			X			
Maine			X*	X**		
Maryland	X					
Massachusetts						Payment and delivery of property releases and discharges holder from all liability
Michigan		X				
Minnesota	X					
Mississippi		X				
Missouri	X					
Montana			X			
Nebraska	X					
Nevada			X			
New Hampshire		X				
New Jersey		X				
New Mexico			X			
New York						Upon payment or delivery person is relieved and held harmless from all liability
North Carolina			X			
North Dakota		X				
Ohio						Holder relieved of responsibility and held harmless for all liabilities for any claim
Oklahoma		X				
Oregon	X					
Pennsylvania	X					
Puerto Rico						For insurance corporations: holders released from liability; for other holders: not responsible for funds after delivery
Rhode Island		X				
South Carolina		X				
South Dakota		X				
Tennessee				X		
Texas						Holder who delivers property is relieved of all liability
Utah				X		
Vermont			X			

State Unclaimed Property Holder Relief from Liability Provisions

State	1954/66 Act	1981 Act	1995 Act	2016 Act	None	Other
Virginia	X					
Washington		X				
West Virginia			X			
Wisconsin		X				
Wyoming		X				

\*Effective until October 1, 2019  
\*\*Effective as of October 1, 2019



# Exhibit C

State Unclaimed Property Holder Indemnification Provisions

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# State Unclaimed Property Holder Indemnification Provisions

State	1981 Act	1995 Act	2016 Act	None	Other
Alabama					Reporting and delivery may be pleaded as an absolute bar to any action brought against a holder, and holder will be relieved of and held harmless against any and all liabilities on the claim
Alaska	X				
Arizona		X			
Arkansas		X			
California	X				
Colorado	X				
Connecticut	X				
Delaware	X				
District of Columbia				X	
Florida	X				
Georgia					State will indemnify for claims by other states
Hawaii		X			
Idaho	X				
Illinois					State will indemnify for claims by other states
Indiana		X			
Iowa					State will defend but not indemnify
Kansas		X			
Kentucky			X		
Louisiana		X			
Maine		X*	X**		
Maryland				X	
Massachusetts	X				
Michigan					State will defend but not indemnify
Minnesota					State indemnifies and holds harmless
Mississippi					State will defend but not indemnify
Missouri					State will indemnify for claims by other states
Montana		X			
Nebraska				X	
Nevada		X			
New Hampshire	X				
New Jersey	X				
New Mexico		X			
New York					No action shall be maintained for property reported or interest or damages
North Carolina		X			
North Dakota	X				
Ohio					State shall defend and indemnify
Oklahoma	X				
Oregon					Issuers of securities indemnified by State to extent allowed under Oregon Constitution
Pennsylvania				X	
Puerto Rico				X	
Rhode Island	X				
South Carolina	X				
South Dakota	X				
Tennessee					Holder indemnified by State against claims
Texas					State shall defend and indemnify
Utah					State will indemnify for claims by other states
Vermont				X	
Virginia					State will indemnify for claims by other states
Washington	X				
West Virginia		X			
Wisconsin	X				
Wyoming	X				

\*Effective until October 1, 2019

\*\*Effective as of October 1, 2019

## Exhibit D

AICPA Employee Benefit Plan Audit Quality Center, Testimony  
Before the ERISA Advisory Council {RE: Locating Lost and Missing  
Participants}, August 28, 2013 (testimony of J. Haubrock, CPA)

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**TESTIMONY OF  
JAMES HAUBROCK, CPA**

**EXECUTIVE COMMITTEE MEMBER  
AICPA EMPLOYEE BENEFIT PLAN AUDIT QUALITY CENTER**

**BEFORE THE ERISA ADVISORY COUNCIL**

**AUGUST 28, 2013**

I am pleased to appear before the ERISA Advisory Council on behalf of the American Institute of Certified Public Accountants for which I serve as a member of the Employee Benefit Plan Audit Quality Center Executive Committee. The Employee Benefit Plan Audit Quality Center is a firm-based voluntary membership center with nearly 2,300 CPA member firms that audit employee benefit plans.

We applaud the Council's focus on connecting missing and lost participants (hereinafter referred to as "Lost Participants") with their benefits. The Council's Issue Paper observes that plan representatives, including their accountants, regularly face accounting issues involving Lost Participants. These include how to account for amounts due Lost Participants or held by a third party administrator to pay claims to lost participants in employee benefit plans, and the treatment of retirement plans that are intended to be treated as terminated but the final distribution of assets is not possible due to Lost Participants.

In my remarks today I will discuss the accounting and auditing issues associated with Lost Participants. Specifically, I will focus on plan accounting and auditing considerations related to unclaimed benefits and uncashed benefit checks. I also will discuss these issues for plans that have terminated or are terminating. I will not address the tax, legal or fiduciary responsibility aspects of Lost Participants.

I also will provide recommendations for the Council to consider in addressing these issues.

To begin, I will summarize the situations in which a plan participant may be considered "lost":

- a. The plan administrator cannot locate a participant in an active or terminated plan who is eligible to receive benefits or distributions but has not requested a benefit payment (*unclaimed benefits*).
- b. The plan administrator cannot locate a participant to whom a benefit payment was sent (or to whom an automatic distribution of a terminating participant's account balance of less than \$1,000 was made) and the check is not cashed (*uncashed benefit checks*).

While the Department of Labor (DOL) has issued guidance outlining fiduciary duties under ERISA related to Lost Participants, and has provided a safe harbor for sponsors to make rollover distributions into IRAs for Lost Participant balances of \$5,000 or less, there is no definitive guidance on when a distributed benefit ceases to be a plan asset or how plans should account for



plan benefits and related assets for Lost Participants (or known participants who simply do not cash their benefit checks.) As a result, there continue to be questions and inconsistencies in the plan sponsor community about how unclaimed benefits and uncashed checks should be accounted for in the plan's accounting records, and reported on the Form 5500 *Annual Report* and in the plan's financial statements.

Historically, the total dollar amount of unclaimed benefits and uncashed benefit payment checks in employee benefit plans generally has not been what auditors would consider "material"—a concept that I will discuss later in my testimony. However, the trends toward plans providing for automatic enrollment in 401(k) plans, employees holding multiple jobs during their careers and leaving their retirement accounts with their ex-employer when they change jobs, and employers' automatic distributions of former employee account balances of less than \$1,000, are contributing to an increase in the amount of unclaimed benefits and uncashed benefit checks.

As a result of these trends, the amount of unclaimed benefits and uncashed checks has become quite large in some plans, and there is an increasing likelihood that the amounts will continue to increase in even more plans. This creates accounting challenges for plan administrators and potential issues for financial statement auditors. I will discuss these later in my testimony.

But first, I will highlight some general challenges regarding Lost Participants to provide context for my remarks about accounting and auditing issues related to Lost Participants.

#### General Challenges Related to Lost Participants

A plan sponsor's inability to locate Lost Participants can impair effective plan administration. For example, a 401(k) plan sponsor is unable to provide Lost Participants with required annual investment related information, or information that assists plan participants in directing their investments when there is a change in service provider. In addition, sponsors of plans that hold insurance contracts, such as 403(b) plans, may be unable to terminate a contract without the participant's election. In a terminating or terminated plan, the sponsor cannot make a distribution or, where required, obtain authorization for a distribution, if they are unable to locate the participant.

Plans may encounter situations where participants and beneficiaries do not cash benefit checks—because they never receive the checks or the checks are lost, or for whatever reason they simply choose not to cash the check. Uncashed checks in a benefit plan can present unique challenges. Whereas a company can simply void stale uncashed checks and adjust the cash and accounts payable balances on their books and then reissue the check, for various reasons the situation for the sponsor of a benefit plan is not as straightforward. And, as I will discuss later, the plan sponsor may not even be aware that participants or beneficiaries have not cashed their benefit checks. Uncashed checks may go undetected indefinitely or until there is a significant plan change, such as a change in service provider or plan termination.

I will now explain some of the more typical arrangements of how benefits are paid and how uncashed benefit checks related to Lost Participants create challenges for the plan sponsor.



### *Benefits Paid from Trustee Account*

Plan benefits may be paid from the trustee's bank account, which is not a part of the plan's accounting records. However, even when the benefits are paid from an account of the trustee, the amount paid is immediately deducted from plan assets. The trustee may use either of the following arrangements:

- a. Benefits are paid from an omnibus bank account of the plan trustee. The trustee writes benefit payment checks from a single omnibus account for all plans for which the bank serves as the trustee, whether or not the plans are affiliated.
- b. Benefits are paid from an individual plan bank account managed by the plan trustee. The trustee writes benefit payment checks for an individual plan from an account separate from the plan trust.

In these benefit payment arrangements, the plan trustee often does not provide the plan sponsor with any information about outstanding benefit checks until they become stale, at which time the trustee may return the funds to the plan sponsor. But in some cases the trustee does not return the funds and does not inform the plan sponsor that there are stale uncashed checks, so the plan sponsor may not be aware they exist. Unless the plan sponsor thinks to ask whether there are uncashed checks, the plan sponsor will not be aware of their existence.

And where trustees use omnibus accounts to make benefit payments, there is even greater likelihood the plan sponsor will be unaware of uncashed checks. The trustee may be unable to identify which stale outstanding checks relate to which plan. In that case, the plan sponsor is unable to determine the amount of the plan's stale uncashed checks. We have recently seen that more trustees are providing uncashed check reports, adding the uncashed check balance to plan assets as forfeitures, and providing service agreement addendums outlining how uncashed checks are handled. However, this does not yet seem to be the norm.

### *Benefits Paid from Plan Sponsor's Payroll Account*

Benefits may be paid from the plan sponsor's payroll bank account. The plan sponsor writes benefit checks directly from a payroll or payroll-type system, and deducts those amounts from plan assets. The plan sponsor may receive account statements and is aware there are outstanding checks but may not be aware they relate to the benefit plan and not employee payroll. This is especially true in arrangements when the plan sponsor account is reimbursed by the plan. In these arrangements it may be unclear where the outstanding checks are residing or where they should be recorded.

### *Terminating or Terminated Plans*

As I mentioned earlier, the first time a plan sponsor becomes aware that the plan has stale, uncashed benefit checks may be when the plan is terminating. The plan cannot fully and legally be terminated until all plan assets have been distributed. The first step to address uncashed benefit checks typically is for the plan sponsor to contact the participants and reissue the checks.



If the plan has Lost Participants the sponsor is unable to do this and therefore is unable to complete the plan termination.

### Accounting Considerations Related to Lost Participants

Plan administrators face several accounting challenges with Lost Participants, including how plans should account for unclaimed benefits and uncashed benefit payment checks of Lost Participants in the plan's accounting records, on the Form 5500 and in the plan's financial statements.

#### *Unclaimed Benefits*

Unclaimed benefits, where the participant is eligible to receive benefits but does not request them, do not create an accounting issue per se. This is because the assets remain in the plan and continue to be reported in the plan's financial statements as net assets available to pay benefits. In a defined benefit plan the amount of unclaimed benefits is included in the total benefit obligation reported in the plan's accumulated benefit obligations. In a defined contribution retirement plan, no benefit obligation is recognized as the benefit the participant ultimately will receive is based upon his or her vested account balance at the time of payment.

#### *Uncashed Checks*

Accounting issues may arise in situations where participants and beneficiaries do not cash benefit checks. Further, for reasons previously noted, the plan sponsor may not be able to determine the amount of uncashed checks. As I noted earlier, there is inconsistency in accounting practice because no specific accounting guidance currently exists to determine when a distributed benefit ceases to be a plan asset and how to account for a plan's uncashed benefit checks.

As permitted by the DOL's *Fiduciary Responsibility Under the Employee Retirement Income Security Act of 1974 Automatic Rollover Safe Harbor* rule (safe harbor rule), certain Lost Participant retirement plan account balances (of \$5,000 or less) can automatically be rolled over into IRAs on behalf of a participant who has separated from service. However, in situations involving leased employees, transient workers, or where the participant has been "lost" for a significant period of time, failure by the plan administrator to maintain participant data (e.g., social security number) may preclude the plan from taking advantage of the safe harbor rule. And it is our understanding that ERISA typically does not permit Lost Participant balances in an ongoing plan to be escheated to the state.

Some defined contribution pension plan documents specify that stale uncashed checks should be brought back into the plan as forfeitures. Depending on the plan document, forfeitures may be used to pay plan expenses, offset future employer contributions, reinstate the previously forfeited account balance of a terminated employee when that participant is rehired within a specified period of time, or may be allocated to the remaining participants. However, in the situation where Lost Participants' uncashed checks are brought back into the plan as forfeitures, those Lost Participants still have a right to their benefits. In this case, the question arises as to how or whether the plan administrator should account for the plan's continuing obligation to pay



benefits to Lost Participants who may be subsequently located. Practice is inconsistent in this area. Some plans record a liability to reflect the benefits payable to those Lost Participants.

If uncashed checks are not brought back into the plan as forfeitures, it is unclear how they should be recorded. Again, practice varies in this area. For example, some defined contribution retirement plans reinstate participant accounts for the Lost Participants. In situations where Lost Participants' benefit checks have been outstanding for several years and the plan sponsor no longer maintains the data necessary to restore the account balances of those Lost Participants who are subsequently located, it may not be possible to reinstate those accounts.

Practice also varies in how defined benefit pension plans account for benefit obligations related to Lost Participants. Some reestablish a benefit obligation for those Lost Participants whose checks go uncashed, while others consider the obligation fulfilled when the benefit check was cut.

### *Terminating or Terminated Plans*

Terminating plans also can take advantage of the DOL's safe harbor rule and roll over Lost Participant retirement plan account balances of \$5,000 or less into IRAs. In addition, while ERISA does not allow plans to escheat to states Lost Participants' account balances in an ongoing plan, DOL Field Assistance Bulletin 2004-02 does allow plan fiduciaries to consider transferring missing participants' account balances to state unclaimed property funds in the state of each participant's last known residence or work location, if that state accepts such distributions on behalf of Lost Participants. Those transfers from a terminated defined contribution plan to a state's unclaimed property fund would constitute a plan distribution, which ends both the property owner's status as a plan participant and the property's status as plan assets under ERISA.

However, in situations where the plan cannot use the safe harbor, or where participant account balances exceed \$5,000 and the state does not escheat participant account balances, the plan termination cannot legally be finalized until those plan assets have been distributed. As such, it is unclear what the plan sponsor's responsibility is for maintaining plan books and records related to Lost Participants whose uncashed checks cannot be rolled over into IRAs or escheated to the state.

### Auditing Considerations Related to Lost Participants

I will now discuss the auditing considerations related to Lost Participants.

#### *Audit Objective/Materiality*

The independent CPA's overall objectives in a plan financial statement audit are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error. The plan auditor has no responsibility to locate Lost Participants.



Financial statement audits are guided by two important factors: reasonable assurance and materiality. The independent auditor applies materiality considerations in planning and performing the audit, in evaluating the effect of any identified misstatements, and in forming the opinion included in the auditor's report. The determination of materiality is a matter of professional judgment and is based on a combination of both quantitative and qualitative factors. Inherent in reaching judgments about materiality is the auditor's perception of the needs of users of the financial statements.

As I noted previously, the total dollar amount of unclaimed benefits and uncashed benefit payment checks in benefit plans historically has not been material. However, these amounts have become increasingly material for some plans and there is an increasing likelihood that the amounts will become material to more plans. Plan auditors need to consider the potential that these amounts may be material to the plan when planning and performing the audit and in forming their opinion on the plan's financial statements.

The 2013 AICPA Audit and Accounting Guide, *Employee Benefit Plans*, suggests that the auditor may wish to consider inquiring of plan management about any omitted balances that may be held by the plan sponsor, trustee, custodian, or third-party administrator.

#### *Unclaimed Benefits*

Unclaimed benefits do not create an auditing issue per se because, as I mentioned earlier, the assets that will be used to pay benefits to those participants remain in the plan and are reported in the plan's financial statements as net assets available to pay benefits. Further, the related benefit obligation is reported in the plan's statement of benefit obligations. Generally, no audit special procedures are necessary to test the assets and obligations related to Lost Participants.

However, the auditor needs to consider the greater potential for fraud in the accounts of Lost Participants in 401(k) plans. Because those participants are not receiving statements, they are unable to determine whether unauthorized distributions are made from their accounts.

#### *Uncashed Checks*

Now I will highlight auditing issues that may arise related to uncashed checks, including the need for the plan to establish proper internal controls and the potential increased risk of fraud.

As part of the plan audit the auditor obtains an understanding of the plan's internal control over the financial reporting process and evaluates its effectiveness in order to assess the risks of material misstatement. The lack of internal control to identify and monitor uncashed checks may be considered a material weakness, significant deficiency, or deficiency that the auditor is required to communicate to plan management.

It is increasingly important for plan administrators to have internal controls in place to identify and monitor uncashed checks so they are handled in accordance with the plan document and established administrative procedures, and properly reported in the plan's accounting records. These controls typically include periodically obtaining an uncashed check detail report from the



trustee or custodian and monitoring compliance with established administrative procedures to locate Lost Participants.

Uncashed checks may pose a potential fraud risk, especially in situations where the plan sponsor is not aware of their existence. While the primary responsibility for the prevention and detection of fraud rests with both those charged with governance of the plan and plan management, the auditor is required to perform certain procedures to identify and assess the risks of material misstatement due to fraud and to design procedures responsive to the assessed risks of material misstatement due to fraud. Auditors may need to consider the fraud risks associated with uncashed checks when they conduct their audit planning and fraud brainstorming sessions, in their consideration of internal control over financial reporting, and as they design and perform substantive audit procedures.

In addition, the situation I described earlier where the plan does not maintain records related to leased employees, transient workers, or participant who have been “lost” for a significant period of time may result in a scope limitation for the plan auditor. A scope limitation could result in the auditor issuing a disclaimer of opinion, which generally is not acceptable to the DOL.

#### *Terminating or Terminated Plans*

Earlier I noted that it is unclear what the plan sponsor’s responsibility is for maintaining plan books and records related to Lost Participants of terminating plans whose uncashed checks cannot be rolled over into IRAs or escheated to the state. In those situations where there are more than 100 participants who have not cashed their benefit checks, it also is unclear whether the plan would require a financial statement audit.

#### Recommendations

- The Department should issue guidance clarifying whether uncashed checks are considered plan assets under ERISA. If it is determined that uncashed checks are in fact plan assets, the Department should issue guidance requiring that the plan administrator maintain adequate plan records related to the Lost Participants with uncashed checks.
- The Department should issue guidance clarifying how unclaimed benefits and uncashed checks should be reported in the Form 5500.
- The Department should clarify the plan sponsor’s (fiduciary) responsibility for following up on unclaimed benefits and uncashed benefit checks.
- The Department should educate plan administrators about the importance of having internal controls in place to identify and monitor uncashed checks so they are handled in accordance with applicable laws and regulations, the plan document, and established administrative procedures.
- The Department should educate plan administrators about the need to periodically request from the plan’s trustee a list of the plan’s uncashed checks.

### Conclusion

Thank you for your interest in this important matter and the opportunity for me to testify before the ERISA Advisory Council today.

I will be happy to answer any questions.

\* \* \* \* \*

## Exhibit E

Governmental Accounting Standards Board, Statements No.21,  
Accounting for Escheat Property, No. 103-B (October 1993)

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NO. 103-B | OCTOBER 1993

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# **Governmental Accounting Standards Series**

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Statement No. 21 of the  
Governmental Accounting  
Standards Board

**Accounting for  
Escheat Property**



**Governmental Accounting Standards Board**  
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## Summary

This Statement establishes standards for the fund type to be used to report escheat property and for reporting liabilities and interfund transfers relating to escheat property. An escheat is the reversion of property to a governmental entity in the absence of legal claimants or heirs.

This Statement requires escheat property generally to be reported in either an expendable trust fund or the fund to which the property ultimately escheats (the “ultimate fund”). Escheat revenue should be reduced and a fund liability reported to the extent that it is probable that escheat property will be reclaimed and paid to claimants. Payments to claimants should reduce the liability.

If escheat property is initially reported in an expendable trust fund, amounts transferred to the ultimate fund should be reported as an operating transfer. If, as a result of the transfer, the remaining assets of the expendable trust fund are less than the liabilities of that fund, the difference should be reported as an “advance to” in the expendable trust fund and an “advance from” in the ultimate fund. If, however, the escheat assets of the expendable trust fund exceed the liabilities of that fund, the difference should be reported as fund balance.

The provisions of this Statement are effective for financial statements for periods beginning after June 15, 1994. Earlier application is encouraged.

Unless otherwise specified, pronouncements of the GASB apply to financial reports of all state and local governmental entities, including public benefit corporations and authorities, public employee retirement systems, governmental utilities, governmental hospitals and other healthcare providers, and governmental colleges and universities. Paragraph 3 discusses the applicability of this Statement.
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Statement No. 21 of the  
Governmental Accounting  
Standards Board

Accounting for  
Escheat Property

October 1993



**Governmental Accounting Standards Board**  
of the Financial Accounting Foundation  
401 Merritt 7, PO Box 5116, Norwalk, Connecticut 06856-5116



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**Statement No. 21 of the Governmental Accounting Standards Board**

**Accounting for Escheat Property**

**October 1993**

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## **Statement No. 21 of the Governmental Accounting Standards Board**

### **Accounting for Escheat Property**

**October 1993**

#### **INTRODUCTION**

1. An escheat is the reversion of property to a governmental entity in the absence of legal claimants or heirs. The laws of many governmental entities provide that a rightful owner or heir can reclaim escheat property into perpetuity, provided the claimant can establish his or her right to the property. This does not necessarily mean that governments hold all escheat property into perpetuity. Because large portions of escheat property are never reclaimed, most governments use some of the property to help finance either their general or specific operations. Many governmental entities, for example, require that all escheat property over a specific dollar amount be transferred from an escheat fund to the general fund. (In this case, the general fund may be referred to as the fund to which the property ultimately escheats, or the “ultimate fund.”) However, some governmental entities hold the entire amount of escheat property into perpetuity, using only the earnings on that property to help finance their operations.

2. National Council on Governmental Accounting (NCGA) Interpretation 9, *Certain Fund Classifications and Balance Sheet Accounts*, provides that “. . . escheat property should be accounted for in either an Expendable Trust Fund or the fund to which the property ultimately escheats” and that “. . . fund balance should be reserved for that portion of the escheat property which under law is held in perpetuity for its owners” (paragraph 11). A question has been raised whether the intent of that standard is that the *entire* amount of unclaimed property that has ever escheated to a governmental entity (but that has not subsequently been reclaimed) should be reported as reserved fund balance. This Statement changes the manner in which governmental entities should report the escheat property that will be reclaimed and paid to claimants.

## **STANDARDS OF GOVERNMENTAL ACCOUNTING AND FINANCIAL REPORTING**

### **Scope and Applicability of This Statement**

3. This Statement establishes standards for the fund type to be used to report escheat<sup>1</sup> property and for reporting liabilities and interfund transfers relating to escheat property. The provisions of this Statement apply to all state and local governmental entities. This Statement supersedes NCGA Interpretation 9, paragraph 11.

### **Accounting for Escheat Property**

4. Escheat property generally should be reported in either an expendable trust fund or the fund to which the property ultimately escheats (the “ultimate fund”). Escheat property held for another governmental entity should be reported in an agency fund or in the fund in which escheat property is otherwise reported, offset by a liability.

5. Escheat revenue should be reduced and a fund liability reported to the extent that it is probable that escheat property will be reclaimed and paid to claimants. Payments to claimants should reduce the liability. The liability should represent the best estimate of the amount ultimately expected to be reclaimed and paid, giving effect to such factors as previous and current trends in amounts reclaimed and paid relative to amounts escheated, and anticipated changes in those trends. (This liability may differ from the amount specified in law to be separately held for payments to claimants.)

6. If escheat property is initially reported in an expendable trust fund, amounts transferred to the ultimate fund should be reported as an operating transfer. If, as a result of the transfer, the remaining assets of the expendable trust fund are less than the liabilities of that fund, the difference should be reported as an “advance to” (an asset) in the expendable trust fund and an “advance from” (a liability) in the ultimate fund. On the

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<sup>1</sup>An escheat is the reversion of property to a governmental entity in the absence of legal claimants or heirs. Property escheats from the estate of a person who dies intestate without any known or discoverable heirs at the time the estate is settled. For the purposes of this Statement, escheat property also includes abandoned and unclaimed property. Abandoned and unclaimed property results from the failure of a person who is legally entitled to property to make a valid claim against the holder of the property within a prescribed period of time. For example, a bank account in which there has been no activity for a certain period of time may be deemed by law to have been abandoned; it would revert to a governmental entity after the bank, following prescribed procedures, has been unable to locate the rightful owner.

other hand, if the escheat assets of the expendable trust fund exceed the liabilities of that fund, the difference should be reported as fund balance.

## **EFFECTIVE DATE AND TRANSITION**

7. The provisions of this Statement are effective for financial statements for periods beginning after June 15, 1994. Earlier application is encouraged. Accounting changes adopted to conform to the provisions of this Statement should be applied retroactively, if practical, by restating financial statements for all prior periods presented. If restatement of financial statements for prior periods presented is not practical, the cumulative effect of applying this Statement, if any, should be reported as a restatement of beginning fund balance or retained earnings, as appropriate, for the earliest period restated. In the period this Statement is first applied, the financial statements should disclose the nature of any restatement and its effect. Also, the reason for not restating prior periods presented should be explained.

<p><b>The provisions of this Statement need not be applied to immaterial items.</b></p>
---

*This Statement was adopted by unanimous vote of the five members of the Governmental Accounting Standards Board:*

James F. Antonio, *Chairman*  
Martin Ives, *Vice-Chairman*  
Robert J. Freeman  
Barbara A. Henderson  
Edward M. Klasny

## Appendix A

### BACKGROUND INFORMATION

8. This project was added to the Board's agenda after the Board concluded, as the result of requests from various state governments for Board reconsideration of the previous standard, that a literal interpretation of NCGA Interpretation 9, paragraph 11, could lead to an illogical conclusion. That paragraph states in part: ". . . fund balance should be reserved for that portion of the escheat property which under law is held in perpetuity for its owners." This sentence could be interpreted as a requirement to reserve fund balance into perpetuity for the entire amount ever escheated to a governmental entity (based on the legal right of claimants to claim the property into perpetuity) less amounts previously reclaimed. However, the entire amount will never be reclaimed. On the other hand, the sentence also could be interpreted as requiring a fund balance reservation for only the dollar amount required by law to be held in an escheat fund. Just as the first interpretation could severely overstate the amount that might ultimately be reclaimed and paid, so might the second interpretation lead to a significant understatement.

9. On May 17, 1993, the Board issued an Exposure Draft (ED) of a proposed Statement, *Accounting for Escheat Property*. The Board received fifty-three comment letters on the ED, a large majority of which supported its provisions. Respondents generally believe that previous standards need clarification or change and that the provisions of this Statement are reasonable, recognize substance over form, and will not present implementation problems.

## **Appendix B**

### **BASIS FOR CONCLUSIONS**

10. This appendix discusses factors considered by Board members in reaching the conclusions in this Statement. It includes discussion of the alternatives considered and the Board's reasons for accepting some and rejecting others. Individual Board members gave greater weight to some factors than to others.

#### **Nature of Escheat Property**

11. The most significant factor considered by the Board in developing this Statement is the nature of escheat property. As a practical matter, for most governmental entities, escheat property consists of two elements: (a) amounts that will be reclaimed by rightful owners or their heirs and (b) amounts that will never be reclaimed and instead will be used by the governmental entity to help finance its activities. This is so even though the laws of many governmental entities permit escheat property to be reclaimed into perpetuity. In essence, once the property escheats to the governmental entity, the entity has an accounting liability for the amounts that ultimately will be reclaimed and paid. Thus, the *accounting* liability (which takes into consideration the probability of payment) represents that portion of the *legal* liability (which exists into perpetuity) that is expected to be reclaimed and paid.

#### **Calculation of the Liability**

12. Many governmental entities require that a specific dollar amount or a specific percentage of the year's escheats be retained in an escheat fund for payment to claimants, and that the balance be transferred to the general fund or some other fund to help finance the entity's activities. The amount retained in the escheat fund may or may not bear a close relationship to the amount ultimately expected to be reclaimed and paid.

13. For entities whose laws provide that a claim against escheat property may be made into perpetuity, the liability to claimants is the amount expected to be reclaimed and paid (whenever that claim is made and paid) against property that has escheated to the entity (whenever the escheat occurred). One way to estimate the liability is to analyze over a period of years the subsequent claims experience against escheat property collected in a particular year. This could be done for several years, and the resulting annual rates of

claims payout versus escheats collected in a given year could be applied to escheat collections for a period of years before the balance sheet date to establish the liability as of the balance sheet date. The same procedure could be used to calculate the liability even if a legal limitation is imposed on the number of years over which escheat property may be reclaimed.

### **Reporting Escheat Revenue and Liabilities**

14. This Statement changes previous standards by requiring escheat amounts reclaimed and paid to be reported as a change in the escheat liability rather than as revenue and expenditures. The accounting required by this Statement is consistent, for example, with the current accounting for income taxes, for which refunds are reported as a liability and a reduction of revenue. The Board believes that the escheat amounts that a governmental entity holds for and returns to claimants do not constitute a revenue and subsequent expenditure.

15. Most ED respondents agree with reporting the claimant liability as a fund liability. However, a few questioned that reporting, with some suggesting that (or questioning whether) it would be more appropriate to report the amount as a general long-term debt account group (GLTDAG) liability. The Board believes that this liability should be reported in the fund for the following reasons. First, the liability arises from the collection of resources that belong to others and that do not represent revenue to the governmental entity. The governmental entity is, in essence, holding those resources as an agent for the claimants, and the fund liabilities match the related assets. Second, the resources associated with the claimant liability are or have been reported as fund resources—as expendable available financial resources—and thus the liability, which is payable with expendable available financial resources, should be reported as a fund liability.

16. Some respondents to the ED questioned whether fund balance relating to escheat property should be reserved. The Board does not believe that specific guidance regarding fund balance reservations for escheat property is needed. The Board believes that accounting standards and an entity's policies for reporting fund balance reservations should be adequate in this regard.

17. This Statement does not address issues relating to when noncash escheat property should be reported as assets or when escheat revenue should be recognized. Although



some respondents to the ED asked that the Board provide accounting guidance in these areas, the Board continues to believe that those issues are beyond the scope of this project. The Board does not intend for this Statement to change the timing of recognition of escheat property or escheat revenue.

### **Implications of Amounts Transferred to the Ultimate Fund**

18. As previously noted, the liability measured in accordance with this Statement may not bear a close relationship to the amount required by law to be retained in an escheat fund. The amount transferred to the fund to which the property ultimately escheats may cause the liabilities reported in the escheat fund to exceed its assets. If so, the excess of the escheat fund liabilities over its assets should be reported as an “advance to” the ultimate fund, and the ultimate fund should report an “advance from” the escheat fund. The Board concluded that, in essence, the ultimate fund has “borrowed” against future years’ escheats and that, to report that borrowing, it is more appropriate for the ultimate fund to report an “advance from” the escheat fund than for the escheat fund to report a deficit.

19. The opposite also may occur, and the escheat fund may have a net asset. This often will occur where there are time restrictions placed on the transfer of escheat property to the ultimate fund. In those situations, the difference between escheat fund assets and its liabilities should be reported as fund balance in the escheat fund.

### **Fund Type Classification**

20. The Board considered alternatives for the fund types in which escheat property should be accounted for and reported, including expendable trust funds, nonexpendable trust funds, agency funds, and the fund to which the property ultimately escheats (the ultimate fund).

21. In arriving at its conclusion, the Board was concerned primarily with the nature of escheat property, as discussed in paragraph 11. That is, escheat property generally consists of two elements: a liability to claimants and amounts that will be used by the governmental entity. The Board believes that, given these elements, it would be appropriate to report escheat activity and balances in the ultimate fund, which usually is the general fund. The reasons are that (a) financial reporting is simplified by reducing the number of funds being reported on, (b) this reporting avoids reporting interfund transfers

between the escheat fund and the ultimate fund, and (c) the entire revenue from escheat collections would be fully reported in the ultimate fund, regardless of the amount actually transferred from the escheat fund.

22. On the other hand, the Board recognizes that (a) many governmental entities require the use of an escheat fund to account for the holding of escheat property, (b) many entities (in accordance with previous standards) use an expendable trust fund for that purpose, and (c) escheat revenues available to the ultimate fund often are a relatively small portion of the total revenues of that fund. For these reasons, the Board decided to continue to allow the escheat property to be reported in either an expendable trust fund or the ultimate fund.

23. The Statement also requires that property held for another governmental entity should be reported in an agency fund or in the fund in which escheat property is otherwise reported, offset by a liability. Previous standards provided for the use of an agency fund in situations in which, for example, local governments collect escheat property for remittance to the state government. Some respondents to the ED questioned the accounting for escheat property that will be remitted to another jurisdiction under a reciprocal agreement. The Board had not intended to require the use of an agency fund in such situations. Therefore, the Statement provides that a government's liability to remit escheat property to another government under a reciprocal agreement can be reported in the fund that otherwise reports escheat property.

## Appendix C

### ILLUSTRATIVE EXAMPLES

24. This appendix illustrates the reporting required by this Statement. The facts assumed in these examples are illustrative only and are not intended to modify or limit the requirements of this Statement or to indicate the Board's endorsement of the policies or practices shown. Application of the provisions of this Statement may require reporting other than that illustrated here. This appendix uses the same assumptions for both examples.

#### Assumptions

State law requires that receipts of abandoned and unclaimed property be received into the escheat fund and that the year-end balance of that fund equal \$10. "Excess" receipts are to be transferred to the general fund. Balances and activities determined in accordance with this Statement are:

##### Year-end balances, 19X1

Escheat assets	\$ 10
Amount expected to be repaid to claimants	10

##### Activity, 19X2

Escheat receipts	100
Escheat disbursements to claimants	20
Cash remitted to general fund	80

##### Year-end balances, 19X2

Escheat assets	10
Amount expected to be repaid to claimants	12

### Example 1: Reporting in an Expendable Trust Fund

For financial reporting purposes, the governmental entity presents escheat activity and balances in an expendable trust fund.

#### Expendable Trust Fund 19X2

##### Statement of Revenues, Expenditures, and Changes in Fund Balance

Revenue	\$78	(\$100 receipts less \$20 reclaimed less \$2 increase in amount expected to be repaid to claimants)
Operating transfer-out	<u>78</u>	(Cash remitted of \$80 less \$2 excess of escheat fund liabilities over escheat fund assets)
Excess of revenues and other sources over expenditures and other uses	<u>\$ 0</u>	

##### Balance Sheet

Escheat assets	\$10	Claimant liability	\$12
Advance to general fund	<u>2</u>	Fund balance	<u>0</u>
Total assets	<u>\$12</u>	Total liabilities and fund balance	<u>\$12</u>

#### General Fund 19X2 (Relating to Escheat Activity and Balances)

##### Statement of Revenues, Expenditures, and Changes in Fund Balance

Operating transfer-in	\$78	(\$80 cash transferred less \$2 excess of escheat fund liabilities over escheat fund assets)
-----------------------	------	--

##### Balance Sheet

		Advance from escheat fund	\$ 2
		Fund balance	<u>78</u>
Assets	<u>\$80</u>	Total liabilities and fund balance	<u>\$80</u>

### Example 2: Reporting in the Ultimate Fund

For financial reporting purposes, the governmental entity presents escheat activity and balances in the general fund (the ultimate fund).

#### General Fund 19X2 (Relating to Escheats Activity and Balances)

##### Statement of Revenues, Expenditures, and Changes in Fund Balances

Revenue	\$78	(\$100 receipts less \$20 reclaimed less \$2 increase in amount expected to be repaid to claimants)
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##### Balance Sheet

		Claimant liability	\$12
		Fund balance	<u>78</u>
Assets	<u>\$90</u>	Total liabilities and fund balance	<u>\$90</u>

## **Appendix D**

### **CODIFICATION INSTRUCTIONS**

25. The section that follows updates the June 30, 1993 *Codification of Governmental Accounting and Financial Reporting Standards* for the effects of this Statement. Only the paragraph number of this Statement is listed if the paragraph will be cited in full in the Codification.

\* \* \*

### **ESCHEAT PROPERTY**

### **SECTION E70**

[Revise entire section as follows:]

Source: GASB Statement 21

#### **Scope and Applicability of This Section**

.101 This section establishes standards for the fund type to be used to report escheat property and for reporting liabilities and interfund transfers relating to escheat property. An escheat is the reversion of property to a governmental entity in the absence of legal claimants or heirs.<sup>1</sup> The provisions of this section apply to all state and local governmental entities. [GASBS 21, ¶3 and fn1]

#### **Accounting for Escheat Property**

.102—.104 [GASBS 21, ¶4—¶6]

### **NONAUTHORITATIVE DISCUSSION**

#### **Illustrative Examples**

.901 [GASBS 21, Appendix C]

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<sup>1</sup>[GASBS 21, fn1] [Change Statement to section and omit the first sentence.]

## Exhibit F

Recent news stories featuring state unclaimed property programs

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# Record amount of unclaimed property returned to Kansans

Sorry, the video player failed to load.  
(Error Code: 100001)

Posted: Mon 12:42 PM, Jul 01, 2019 | Updated: Mon 6:28 PM, Jul 01, 2019

For the second year in a row, a record amount of unclaimed property was returned to Kansans last year.





State Treasurer Jake LaTurner announced Monday, his office returned \$27.1 million in unclaimed property to Kansans in the fiscal year that ended June 30. That's up from the previous year's record of \$26.5 million, which was also a record.



"After setting a record high amount of returns last year, we wanted to make sure we set our sights on an even higher goal this year," said LaTurner in a press release. "I am so delighted we were able to not only reach our goal, but exceed it. Thousands of Kansans have money back in their wallets because of the hard work of our staff and the help of the many media outlets that allowed us to help Kansans far and wide get connected with their unclaimed property."

Throughout the year, LaTurner and his team set up events statewide to help residents across Kansas search for their unclaimed property.

The Treasurer's Office also held two live television events, hosted by WIBW of Topeka and KWCH-12 of Wichita. Those were aimed at raising awareness of the millions in unclaimed property waiting to be claimed.

You can see if you have unclaimed property at **The Kansas Treasurer's Website**.

Get the latest updates from kwch.com delivered to your browser

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# State Treasurer's office returns more than \$45M in unclaimed property




Missouri State Treasurer Scott Fitzpatrick has announced that his administration returned \$45,083,224.85 of unclaimed property in the recent fiscal year that closed June 30th. In the prior fiscal year, the Unclaimed Property Division returned \$44,696,518.89.

“I encourage all Missourians to visit our website (<https://treasurer.mo.gov/>) and check to see if they are entitled to unclaimed property,” Treasurer Fitzpatrick said. “This record-breaking year is a reflection of the Unclaimed Property Division’s dedication and hard work. I am proud to have them on my team—and look forward to hopefully set a new record over the coming year.”

Treasurer Fitzpatrick has made returning Unclaimed Property to Missourians a priority since taking office in January. Staff in the Unclaimed Property Division returned the first \$1 million (<https://treasurer.mo.gov/newsroom/news-and-events-item?pr=16744d1e-0c28-4c93-8e74-8ba21d87ab6e>) in a record-breaking nine days (including a State holiday). In May, Treasurer Fitzpatrick and Unclaimed Property staffers traveled to Joplin to help residents search for and claim unclaimed property. That effort helped return over \$328,000 in Jasper County.

State law requires financial institutions, insurance companies, public agencies, and other business entities to turn over assets, including cash and the contents of safe deposit boxes, to the Treasurer’s Office. Most Unclaimed Property consists of cash from bank accounts, stocks, bonds and contents of safe deposit boxes that have been abandoned. It can also include uncollected insurance policy proceeds, government refunds, utility deposits and wages from past jobs.

PUBLIC RECORDS SEARCH 

First Name	Last Name	State
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## Nevada treasurer returns \$44M in unclaimed property to citizens



The Nevada Unclaimed Property Division returned this amount to a single claimant, according to a Facebook post on April 2, 2019.

By **Bill Dentzer** Las Vegas Review-Journal



July 18, 2019 - 5:05 pm

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CARSON CITY — The record \$44 million in unclaimed property the Nevada treasurer's office returned in the past year to more than 28,000 claimants includes individual payments ranging from nearly \$929,000 to 1 cent, a review of the payment schedule shows.

As with other paltry reimbursements, the penny payment is likely the result of an automated system that sends out a check no matter how small, the state treasurer's office said Wednesday. The state is required to honor all

claims, though claimants who find out that they're due only minuscule amounts sometimes forgo them.

The average amount paid out during the fiscal year that ended June 30 was about \$1,500, but nearly half of the 28,655 payees got \$67 or less. Of the total \$43.9 million refunded, almost half went to the top 200 payees in amounts ranging from the \$929,000 claim to about \$39,000.

The returned funds do not represent individual claims but can include a collection of sums from bank accounts and other deposits, legal settlements, life insurance payments, uncashed checks, utility deposits and securities. Unreturned property is held in perpetuity by the treasurer's office and is used to fund state programs such as Millennium Scholarships.

The top 100 payees include 26 corporate or government entities such as casinos and resorts, cities, the U.S. Treasury and even Google, which got back nearly \$140,000. The federal treasury likely accepted returned funds on behalf of other federal agencies, said Linda Tobin, deputy state treasurer of unclaimed property.

The same is true for corporate payees who might receive payments for subsidiaries, she said.

"There's a whole laundry list of different things that can be happening with those businesses because of the scope of their operations," Tobin said.

The state returned \$3.8 million more in 2018-19 than in the previous year — a "banner year," Treasurer Zach Conine said in a statement.

To check for unclaimed property in your name, visit [the state treasurer's website](#) or go to [nevadatreasurer.gov](http://nevadatreasurer.gov). The office also maintains an unclaimed property [Facebook page](#) and an office [Twitter account](#).



# The Salt Lake Tribune

## Utah returns a record \$29.3M in unclaimed property to residents



(Elise Amendola | AP file photo) A record-breaking \$29.3 million was recently returned to Utah residents.



By Lee Davidson

Published: 1 hour ago

Updated: 1 hour ago

Utahns were reunited with a record-breaking \$29.3 million from overpaid bills, dormant bank accounts, unpaid insurance benefits and other lost property during the last fiscal year, according to State Treasurer David Damschen.

When a business owes money to someone it cannot find for three years, it remits the funds to the state's Unclaimed Property Division. During the fiscal year from July 2018 through June 2019, it received 327,000 unclaimed properties worth \$38.4 million.

"Our mission is to reunite lost property with rightful owners, and our team strives to consistently reach for record levels of unclaimed property payouts," Damschen said. "By leveraging technology and implementing aggressive outreach campaigns, our efforts are literally paying off for thousands of Utahns."

Instead of relying solely on owners to search for their property, the division has been reaching out to people it can identify to advise them about their lost money.

“Despite our accomplishments, we still take in more property each year than we can return,” Dennis Johnston, unclaimed property Administrator, said.

“One in five Utahns has lost money. Everyone should go online, find and claim their property – and check for family, friends and deceased relatives as well,” he said. “It’s easier than playing the lottery, and the odds are better.”

For more information and to search property, visit [mycash.utah.gov](http://mycash.utah.gov) or call 801-715-3300.

“Even if you have searched for unclaimed property in the past, you should check again,” Damschen said. “We might have received additional property since you last visited our website.”



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## More Vermonters claim their unclaimed property for 2nd consecutive record year

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**Vermont Business Magazine** Some 18,012 individuals or organizations claimed their missing money in the fiscal year ending June 30, a new single-year record for the free service managed by the Vermont State Treasurer's Office. The Treasurer's Office received \$12.1 million of new property in FY2019, increasing the total amount on hand to \$94.5 million. The 18,012 claims processed in the fiscal year improves on the previous record of 17,665 that was set last year.

"In fiscal year 2019, a record 18,012 citizens, businesses, and nonprofits were reunited with more than \$6 million worth of unclaimed financial property," said Treasurer Pearce. "We are continuing to reach more and more Vermonters with expanded outreach programs. We believe that this is all about consumer protection - making sure that Vermonters are reunited with their rightful property."

"Unclaimed property" describes assets like uncashed checks, lost valuables, forgotten security deposits, misplaced insurance policies, investments or estates. Through efforts to improve compliance, the Vermont Treasurer's Office has increased the number of properties it is safeguarding to 530,000.

The Treasurer's Office continues to receive new property, so Vermonters are encouraged to check and search online at [www.MissingMoney.Vermont.Gov](http://www.MissingMoney.Vermont.Gov), even if you have checked previously.

Al LaPerle, Director Unclaimed Property Division, reminded Vermonters to be aware of for-profit enterprises that claim they will locate and recover lost property for a fee: "Prior to moving forward with a paid service, Vermonters should check the State's unclaimed property databases or touch base with our office. This is a free service to protect consumers. We never charge a commission or fees to return unclaimed property to its rightful owner."

The Treasurer's Office conducts regular outreach to connect Vermonters with their unclaimed property. If you have questions about how to claim your money, visit [www.MissingMoney.Vermont.Gov](http://www.MissingMoney.Vermont.Gov), or call 1-800-642-3191.

**Source: MONTPELIER, VT — Treasurer 7.17.2019**





**For Immediate Release:** July 31, 2019

**Contacts:** Office of the Governor: Alena Yarmosky, [Alena.Yarmosky@governor.virginia.gov](mailto:Alena.Yarmosky@governor.virginia.gov) |

Virginia Department of the Treasury: Diana Shaban, [Diana.Shaban@trs.virginia.gov](mailto:Diana.Shaban@trs.virginia.gov)

# Governor Northam Announces Another Record Year of Unclaimed Property Returned to Virginians

## \$87.1 million in unclaimed property paid out during fiscal year 2019

**RICHMOND**—Governor Ralph Northam today announced that the Virginia Department of the Treasury’s Unclaimed Property Program had another record-breaking year for unclaimed assets returned to Virginians. In fiscal year 2019, \$87.1 million was paid out, representing over 129,900 asset accounts. This dollar amount returned is a 9.5 percent increase over the previous fiscal year. The previous record, set in fiscal year 2018, was \$79 million. Any citizen who has had a Virginia address is encouraged to check the free search site for unclaimed property in their name.

“Every year, millions of dollars in assets are turned over to the Treasury Department as unclaimed property and this free service is designed to return money that is owed to Virginians,” **said Governor Northam**. “I encourage any individual who has lived or worked in our Commonwealth to go online and check whether there are any lost or abandoned items in their name.”

Over \$847 million has been paid out to Virginians since this program started in 1961. Unclaimed property is “abandoned assets of accounts” which are considered dormant due to inactivity. Unclaimed property can include utility deposits, customer refunds, unpaid wages, money from insurance policies, securities and investments, bank accounts, and tangible property.

Virginia’s Consumer Protection Law requires businesses to turn unclaimed property over to the state relieving the business of the financial liability. Virginia holds the property as the custodian until the rightful owner, or heir, files a claim.

“Our mission is to protect the property interests of citizens and return these assets to the rightful owner,” **said Secretary of Finance Aubrey Layne**. “Our program is a central ‘lost and found’ and every citizen should check our free search site at least once a year.”

Virginians can visit the free site [www.vaMoneySearch.org](http://www.vaMoneySearch.org) (<http://www.vamoneysearch.org/>) to search the Commonwealth’s unclaimed property database and download a claim form. It is important for consumers to be aware of fee-based unauthorized or unsolicited offers and make sure you are working with an authorized state representative.

“Reuniting owners with their unclaimed property is something we take very seriously,” **said Virginia Treasurer Manju Ganeriwala**. “We proactively attempt to locate owners through newspaper advertising, a free online search, and targeted outreach efforts. There is no deadline and no fees will be charged to claim your property.”

The Office of the Treasurer’s Unclaimed Property Program is a consumer protection initiative to benefit all citizens. No commissions or fees are charged through this free service.

# # #

# WEST VIRGINIA TREASURER'S OFFICE RETURNS \$14.7 MILLION TO CLAIMANTS

*Posted on August 8, 2019 by Tyler Barker*



CHARLESTON, WV (WOAY) – State Treasurer John Perdue’s Unclaimed Property Division returned \$14.8 million in claims to rightful owners in fiscal year 2019, with Kanawha County leading the county-by-county breakdown with \$2.2 million returned to residents.

Unclaimed property is any financial asset from which an individual has become unintentionally separated. Examples include a final paycheck, a forgotten safe deposit box, uncashed stock dividends, or life insurance. Real estate is not included.

The 2019 fiscal year total is similar to other recent years. In 2017, \$12.4 million was returned to rightful owners; \$13.8 million was returned in FY 2016. The office set a record with \$17.7 million returned to rightful owners in FY 2018.

“I’m proud that our office continues to return millions to rightful owners every year,” said State Treasurer Perdue. “Our unclaimed property staff actively works to return unclaimed money through various types of public outreach. Each year our goal is to return at least \$1 million a month, on average, and we’ve hit that mark again.”



After Kanawha's \$2.2 million total, the remaining top 10 counties in money returned consists of:

Monongalia, \$859,749; 546 claims  
Raleigh, \$503,196; 477 claims  
Cabell, \$453,658; 496 claims  
Harrison, \$400,926; 494 claims  
Marion, \$361,705; 358 claims  
Berkeley, \$336,980; 414 claims  
Putnam, \$290,403; 419 claims  
Ohio, \$257,123; 261 claims  
Wood, \$190,815; 411 claims

Below is a list of the remaining county totals of claims paid in FY 2019, in descending order:

- Fayette, \$155,110; 254 claims
- Mercer, \$139,907; 306 claims
- Preston, \$135,539; 196 claims
- Randolph, \$117,498; 138 claims
- Greenbrier, \$112,552; 160 claims
- Wayne, \$111,455; 165 claims
- Jefferson, \$104,775; 206 claims
- Logan, \$92,972; 159 claims
- Mingo, \$83,404; 107 claims
- Mineral, \$64,828; 133 claims
- Upshur, \$56,497; 117 claims
- Hardy, \$54,327; 68 claims
- Hancock, \$53,055; 172 claims
- Jackson, \$50,426; 159 claims
- Marshall, \$48,663; 127 claims
- Brooke, \$46,805; 93 claims
- Nicholas, \$43,899; 134 claims
- Braxton, \$41,426; 58 claims
- Boone, \$41,040; 161 claims
- Summers, \$37,679; 50 claims
- Barbour, \$34,894; 67 claims
- Hampshire, \$33,696; 87 claims
- Mason, \$31,277; 111 claims
- Gilmer, \$30,938; 29 claims
- Taylor, \$30,405; 79 claims
- Wetzel, \$27,089; 86 claims



- Morgan, \$23,904; 71 claims
- Roane, \$21,371; 55 claims
- Lincoln, \$19,199; 95 claims
- Pendleton, \$19,018; 35 claims
- Ritchie, \$18,537; 42 claims
- Clay, \$18,437; 69 claims
- Monroe, \$18,431; 70 claims
- Wyoming, \$17,565; 65 claims
- Lewis, \$15,992; 81 claims
- Doddridge, \$15,612; 22 claims
- McDowell, \$15,209; 52 claims
- Pocahontas, \$14,711; 40 claims
- Grant, \$12,880; 52 claims
- Webster, \$11,470; 37 claims
- Tucker, \$11,441; 18 claims
- Pleasants, \$9,592; 25 claims
- Tyler, \$8,678; 27 claims
- Calhoun, \$5,041; 35 claims
- Wirt, \$3,273; 25 claims

The county totals add up to \$7.9 million. Out of state payments make up the remainder of the fiscal year total.

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## State Reunites Wyomingites With Record \$6.827 Million in Unclaimed Property

By PRESS RELEASE -  
July 2, 2019



*The State of Wyoming has returned about 85% of an \$8 million windfall in unclaimed property over the past three years.*

CHEYENNE — Wyoming State Treasurer Curt Meier on Tuesday announced that more than \$6.8 million worth of unclaimed property was returned to businesses, citizens and former citizens of Wyoming during the fiscal year that ended June 30.

“One of our jobs in the Treasurer’s Office is to reunite citizens with their lost money,” Meier said. “The folks in the Unclaimed Property Division focus on this mission year-round, and the continued growth in the amount of money paid out is a result of their hard work.”

Meier said the state received a little more than \$8 million in unclaimed property during the past year. Thanks to some software upgrades and procedures implemented during the past administration, the state has been able to return approximately 85 percent of the money reported to unclaimed property over the past three years.

Advertisement - Story continues below...



Property is turned over to the state when a business, agency or governmental entity owes property, typically money or stocks, to someone and for whatever reason cannot locate the owner for a specified time period.

“We still have more than \$85 million in unclaimed property waiting for the rightful owner to step forward and make a claim,” Meier said. “We encourage all citizens to go to our website at [mycash.wyo.gov](http://mycash.wyo.gov) and see if they are entitled to any of these funds.”

To make a valid claim, owners need to provide documentation, as needed, depending on the type of property turned over to the state and the level of information provided about the owner.

Wyoming law requires the state to hold unclaimed property in perpetuity until the rightful owner is able to claim it.



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## Maryland Comptroller's Unclaimed Property Program Surpasses \$1 Billion in Claims

Posted on [July 9, 2019](#) by [Maureen O'Prey](#)

***From modest beginning in 1966, returning money and property  
to rightful owners has become major agency initiative***

**ANNAPOLIS, Md. (July 9, 2019)** - Comptroller Peter Franchot today announced that the Unclaimed Property section of the agency has surpassed a significant milestone – processing more than \$1 billion in claims since the program began in 1966.

"It's a testament to the hardworking men and women of our agency that so many Marylanders have reclaimed their money and property," said Comptroller Franchot. "From dormant bank accounts and forgotten security deposits to abandoned insurance claims and property left in safe deposit boxes, we have doggedly worked to identify the rightful owners and return what is theirs."

In its first year, the Unclaimed Property section paid out 12 claims with a value of \$711.48. More than 50 years later, the program disburses more than \$60 million annually.

Each year, the Comptroller's Office launches a public awareness campaign to promote the publication of the unclaimed property list. This year's theme, incorporated in the print insert distributed to newspapers throughout the state and a video titled "Unclaimed Property Brothers," features Comptroller Franchot and his previously **unknown** "twin" brother Pierre finding unclaimed property during a home renovation.

In addition, the list of 69,039 accounts worth more than \$59 million will be the highlight of the Comptroller's booth at fairs and festivals around the state this summer and fall.

Last year, 3,160 people at Maryland fairs and festivals stopped by the agency's Unclaimed Property display to peruse the published list. Of that total, 642 people (more than 20 percent of those who searched) discovered and received more than \$557,000 in unclaimed funds.

In total, the agency has more than 1.3 million accounts worth more than \$1.6 billion in its Unclaimed Property program. Individuals and businesses can also search the online Unclaimed Property database at [www.marylandtaxes.gov](http://www.marylandtaxes.gov).

This year, the Unclaimed Property booth will be set up at the following fairs and festivals:

### **Allegany County Fair**

**July 13-20**

11490 Moss Ave.  
Cumberland, MD

### **Howard County Fair**

**August 3-10**

2210 Fairgrounds Road  
West Friendship, MD

**Montgomery County Fair**

**August 9-17**

501 Perry Pkwy.  
Gaithersburg, MD

**Maryland State Fair**

**August 23-September 2**

2200 York Road  
Timonium, MD

**Prince George's County Fair**

**September 5-8**

Show Place Arena  
14900 Pennsylvania Ave.  
Upper Marlboro, MD

**Anne Arundel County Fair**

**September 12-15**

1450 Generals Highway  
Crownsville, MD

**Great Frederick Fair**

**September 13-21**

797 E. Patrick St.  
Frederick, MD

**Master Aging Expo**

**October 19**

Howard Community College  
10901 Little Patuxent Parkway  
Columbia, MD

**Power of Age Expo**

**October 30**

Maryland State Fairgrounds  
2200 York Road  
Timonium, MD

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This entry was posted in [2019 News Releases](#), [News Releases](#) by [Maureen O'Prey](#). Bookmark the [permalink](#)  
[[http://comptroller.marylandtaxes.com/Media\\_Services/2019/07/09/maryland-comptrollers-unclaimed-property-program-surpasses-1-billion-in-claims/](http://comptroller.marylandtaxes.com/Media_Services/2019/07/09/maryland-comptrollers-unclaimed-property-program-surpasses-1-billion-in-claims/)]

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## LOCAL NEWS

## Millions in unclaimed property waiting for Michiganders

by: [Ashley Graham](#)

Posted: Aug 2, 2019 / 05:02 PM EDT / Updated: Aug 2, 2019 / 05:30 PM EDT

DIMONDALE, Mich. (WLNS)– The state of Michigan has hundreds of millions of dollars of unclaimed property right now, and officials want to put it back with the rightful owners.

On average, there's enough money in the state's Unclaimed Property division of the treasury to give \$20 to every state resident. Some Michiganders have thousands of dollars waiting for them.

The division gave out more than \$400 million over the last five years, according to its website. Most of it came from the state's Unclaimed Property division of the treasury. The division also has a website where residents can check for unclaimed property. The division also has a website where residents can check for unclaimed property.

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before they have to be auctioned away.

“Every now and then we get some oddities,” manager Terry Stanton said. “We do have a deceased person’s ashes. We did have some dresses. I believe that was a wedding shop that had closed down.”

If the division can’t track down a rightful owner for an item or money within three years, or if no one comes forward in that time with a claim, it goes into their annual auction.

“If it came to us in 1968 and you claim it in 2019,” Stanton says, “it’s always claimable.”

All it takes is a few minutes on the [division’s website](#) to make a claim—which they’ve tried to make as simple as possible.

“Under the old system they had to send in an inquiry form, and if we believed that they were the right person we would send them a claim form,” Stanton says of the old system. “It was a rather lengthy, U.S. Mail kind of process.”

The division hopes the new system will help them reach their goal of giving back \$100 million a year.

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## Illinois State Treasurer's Office Sets Record For Money Returned

April 29, 2019

BY ANNA CASEY

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Illinois State Treasurer Michael Frerichs in an office meeting.

*Illinois State Treasurer's Office*

Illinois State Treasurer Michael Frerichs announced Monday that his office has distributed a record \$200 million in unclaimed cash to Illinois residents in the last 10 months.

The State Treasurer's Office is the custodian of assets until the rightful owners can be found. Those assets often come from forgotten stocks, final paychecks from an employer or the proceeds from a life insurance policy that were never collected, for example.

"We still have over two billion dollars we'd love to return to people in the state," Frerichs said.

The Illinois State Treasurer's Office has an online database, known as I-CASH (<https://icash.illinoistreasurer.gov/>), that allows residents to see if they have any unclaimed property. About a quarter of people who check the database find that they have unclaimed assets, according to the Treasurer's Office.

Nearly 200,000 claims were fulfilled this fiscal year, with an average value of \$1,000, an increase from the 116,000 claims fulfilled in Fiscal Year 2018.

Frerichs attributed the increase to changes he's made since taking office in 2015, including the Money Match program, which automatically matches residents with their lost assets under \$2,000 without them initiating the process of filing a claim.

"By taking a different approach, by doing things differently than we had before, we've been able to return record amounts of money to people in Illinois," Frerichs said.

According to the State Treasurer's website, another reason for the increase in unclaimed property and money returned has been the demutualization of several large life insurance companies, including Prudential, John Hancock and Metlife. Many Illinoisians purchased life insurance policies from the companies decades ago, not realizing that it made them shareholders.

Illinois holds more than \$3 billion in unclaimed property. Property is generally considered abandoned if it has not had activity in a certain number of years, and the holder is not able to locate the property owner.

Story source: WILL