

A Crash Course in Unclaimed Property Compliance







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LINKING ASSETS INC.



TODAY'S Agenda

-  Introduction
-  What is Unclaimed Property in the Banking Industry
-  Unclaimed Property Best Practices
-  Audit Overview
-  Mergers & Acquisitions
-  Mike's Crystal Ball



Introduction

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What is Unclaimed Property?

Simple Answer

- An asset that has gone unclaimed/uncashed for a period of time (dormancy period)

Complex Answer

- Depending on state and asset type, an asset that “MAY” be unclaimed/uncashed for a period of time

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Unclaimed Property

All 50 states, District of Columbia, Puerto Rico, Guam and the Virgin Islands have unclaimed property laws

- Banking property the number one asset reported
- No two states are 100% the same
- Outreach required prior to reporting
- Laws continue to change

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The History of Unclaimed Property

Many states model their laws after the Uniform Unclaimed Property Act (UP Uniform Act) which was adopted by the National Conference of Commissioners of Uniform Laws (NCCUSL). The Model Acts are the 1954, 1966, 1981 and 1995. The 1981 and 1995 Model Acts are the most popular.

In late 2016 the Revised Uniformed Unclaimed Property Act was finalized for state enactment.

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What is RUUPA?

RUUPA is the Revised Uniform Unclaimed Property Act, some key elements:

- Allows due diligence to be sent electronically
- Liquidation of securities
- Includes Crypto and new property types
- Cost of audits
- Move from Lost to Activity

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Take Unclaimed Property Seriously!

Unclaimed property compliance is not an option!

- Non-compliance puts your bank or credit union at risk
 - Interest and penalties
 - Bad press
 - Lawsuits
 - Potential criminal action if intentional
- Get management involved
 - Let them know what you do
 - Share amounts lost due to escheatment
 - Find money for them or your credit union/bank

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Management's Question?

What is the Cost of Compliance?

Should be What is the Cost of Non-Compliance?

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Banking Property Rules

Where to report?

- Report to the state of the owner's last known address
 - Even if mail has been returned as undeliverable
 - Safe Deposit Box contents are reported to where box is located
 - Money Orders are reported to state where they are issued

What is Activity?

- Activity must be made by the actual member/customer
 - Deposit or withdrawal
 - Online access
 - Wages
 - SSN not considered owner activity
 - Autopayments may not be considered activity (i.e. gym membership)

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Reciprocal Reporting

Reciprocal Reporting

- Process where you have a few accounts/items and you want report to your home state
 - Not every state allows
 - Not recommended and may not be allowed for safe deposit box contents
 - I.E. Weapons
 - You still must follow the owner's state rules
 - Dormancy
 - Due diligence
 - Cut off

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Reciprocal Reporting

Can I report all the unclaimed property I have to Massachusetts?

No. If you are a company located in Massachusetts, you can report for those states with which the Division has reciprocal agreements.

Those states are: Arkansas, Colorado, District of Columbia, Florida, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin

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Most Common Banking Property

Bank's reportable property

- Saving accounts
- Checking accounts
- Cashier checks
- CDs
 - When does the dormancy clock start?
- IRAs & Roth IRA's
 - When are they reportable?
- Safe deposit box contents
- Money orders

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Banking Property – IRA's

IRA's and Roth IRA's

- IR property type
- Secured Act - new RMD age is 73
- Will go to 75 in 2033
- Does law read actual age or RMD
- Most states don't mention ROTH IRA's – no required RMD
 - CA, NJ, UT do list ROTH IRA's
- Death is a trigger point
 - Usually by heir/beneficiary
 - During audits – may run DMF – Death Master File

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Banking Property – CD's

CD's

- AC property type (usually AC03)
- When does the clock start
 - After first renewal date if no contact
 - Linkage allowed
 - Some states don't want you to break cycle

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Safe Deposit Boxes

Safe Deposit Box Contents (SD property type)

- Costly and time-consuming process
- Clock starts when box not renewed
 - What about free boxes?
- Reported to state where box is located
- Liquidation of contents
 - Some states require banks/credit unions to manage
 - Lost of sentimental items and family history
 - Unique Items (16-digit number)

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Hot Items

Pre-paid Funeral Accounts

- Increased volumes and more states now focusing
 - I.E. Texas has TR06 property type
 - Dormancy varies
 - After death if known or state runs Death Master

Beneficiaries

- Do you have a beneficiary listed?
- Make sure you include beneficiary information
 - Failure could result in difference person claiming

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Best Practices

- Policy & Procedures are Key
 - Should be detailed
 - Unclaimed Property Calendar
 - Updated bi-annually
- Monitor Legislation
 - Changes often
- Fees
 - Be consistent and ensure states allow
 - Included in Fee schedule

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Best Practices

Sharing of Information

- Calendar of mailings to branch managers
- Examples of letters
 - Call center and Tellers
- Add to website

Using correct property types

- Joint Tenant vs. Tenants by Entirety
- Savings vs IRA

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Best Practices

Staying in touch with customers and members is the easiest way to prevent escheatment.

- Track activity
 - Transactions
 - Online Access
 - Linkage
 - Update DOC – Date of Contact across accounts
- Start outreach early
 - Work with marketing department
 - Use to cross sell services
 - Be creative

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Benefits of Implementing Location Programs and Partners

- Retain accounts/assets
- No selling - Already a member or customer
- Simple contact to reactivate
- Helps with return mail
- Cost of retaining an owner verses obtaining a new one
- Identify deceased owners quickly
- If publicly traded – shareholders are searched if lost
- Many firms go after post escheated property
 - Florida Sunshine Laws allow firms to buy list
 - Pennsylvania has over 150 Post Escheat Firms

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Best Practices Self Audit

- Do you have unclaimed property Policies & Procedures
 - Yes – review and tighten up where needed
 - No – create one immediately (need help?)
- Conduct a mini risk assessment
 - Do you report all property types
 - Common omissions: IRA's, Safe Deposit Boxes, Accounts Receivable
 - Do you have the right dormancy?
 - Record Retention – Best Forever or Dormancy + 10 years
- Check your customer/member activity records
 - What is activity?
 - Linkage

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Best Practices Self Audit Issues

Completed self audit and areas of concern

- Implement detailed due diligence to reduce out of compliance accounts
- Hire search firm
- Hire Unclaimed Property Advocate
 - Review state VDA Programs
 - Compare cost of penalties to VDA
- Fix issue and update Policies and Procedures

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Best Practices – Post Escheat

- The report and property has been sent to the state. Here are some final steps:
 - Ensure copies of reports are filed in a secured setting
 - Record retention is usually ten years + dormancy (a best practice is to keep records longer)
 - Verify reports were received
 - Verify payments were cashed (if paid by check)
 - Create a letter for member/customer if they come forward
 - Your account/asset was reported to XXX on the 20XX report
 - States may take up to six months to upload the report

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Audits 101

Revenue generator for many states

Unpredictable; can last 3 to 5 years (often longer)

Typically conducted by contract audit firms

- Contingent fee - does not decrease the property available for the owner, the amount reported

May touch every part of a business

Voluminous requests (10-to-15-year lookbacks)

- Battle of record retention
- Burden of proof

New theories of liability (NCOA, DMF,)

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Audit Phases

Phase I

- Audit Notice
- Getting Non-Disclosure Agreement (NDA) in Place
- Opening Call – Discuss Scope of the Audit

Phase II

- Document request
- Review of financial source documents
- Development of Audit Populations and Sample Populations

Phase III

- Remediation of Liability and Due Diligence
- Final Report
- Appeals and Negotiations
- Submission of reports and property

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Audit Triggers

Why am I being audited?

- Early or late escheatment
- Media events or publicity (good or bad)
- Claiming unclaimed property from the states but not compliant with unclaimed property reporting laws
- Reporting a limited population of property types
- No history of reporting unclaimed property in your state of incorporation
- Merger and acquisition history
 - What did you buy/acquire?
- Filing only negative/zero-dollar reports
- Filing less property than a similarly sized company in your industry

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Post Audit

States not included in Audit

- Remediation
- Voluntary Disclosure Agreements
- Include in next report cycle

Update current process

- Ensure findings are part of unclaimed property process going forward
- Update policy & procedures

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Merger & Acquisitions

What to ask **before** a Merger or Acquisition?

- What is their reporting history?
 - In compliance?
 - Reciprocal reporting?
 - In-house or outsource?
 - Do they have any previous acquisitions?
 - Are they under audit?
- Get copies of reports before staff is gone
- What if they are in compliance, but you are not?
 - States will be looking for reports
- Inform states to expect only one report going forward, and under what name and EIN

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Merger & Acquisitions

What to do if they have not reported or out of compliance?

- Determine your exposure
- How many states involved?
- Implement an in-depth outreach program
- Consider Voluntary Disclosure Agreements (VDA)
 - In-house or hire an Unclaimed Property Advocate
 - Late penalties could be substantial

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A Little More Detail

State	Dormancy	Due Date	Due Diligence	Due Diligence Mailing Requirements	Negative Report
CT	3 Years	March 31st	\$0	Within one year before presumption of abandonment (not to mailed between January 1 - March 31st).	Yes
ME	3 Years	October 31st	\$50	Not more than 180 days and not less than 60 days prior to filing the report	Yes
MA	3 Years	November 1st	\$100	At least 60 days prior to filing the report	Yes
NH	5 Years	October 31st	\$50	No more than 120 days prior to filing the report	No
NY	3 Years	March 10th	\$50	At least 90 days prior to filing the report	No
			\$1,000	At least 60 days prior to filing the report (2nd mailing if 1st has no response)	
RI	3 Years	October 31st	\$50	Not more than 120 days prior to filing the report	Yes
VT	3 Years	April 30th	\$50	Not more than 180 days and not less than 60 days prior to filing the report	No
FL	5 Years	April 30th	\$50	Not more than 120 days and not less than 60 days prior to filing the report	Yes

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Multiple Escheat Example

Rudy (59) lives in Tolland, MA and has four accounts with his bank where he works in Waterbury, CT:

- Single Savings Last date of contact 7-22-2021
 - Jt Savings with spouse Last date of contact 7-22-2021
 - Safe Deposit Box Box not renewed 7-14-2022
 - IRA Last date of contact 12-28-2019
-
- Single Savings and Jt Savings escheatable to MA in 2025
 - Safe Deposit Box escheatable to Connecticut in 2026
 - IRA escheatable to MA in 2044 (When 75+3)

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An IRA Example

Mike (65) lives in Nashua, NH and has four accounts with his bank:

- | | |
|---------------------------|---------------------|
| ▪ Single Savings | Lost date 7-22-2020 |
| ▪ Jt Savings with sibling | Lost date 7-27-2020 |
| ▪ Single Checking | Lost date 7-27-2020 |
| ▪ IRA | Lost date 3-24-2018 |

- Single Savings, Jt Savings, Jt Checking escheatable 2025
- IRA escheatable 2038 (unless deceased)

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Linkage Example

Ryan (59) lives in Bethel, ME and has five accounts with his Credit Union:

- | | |
|-----------------------------|---------------------------------|
| ▪ Single Savings | Last date of contact 4-14-2018 |
| ▪ Jt Savings with spouse | Last date of contact 5-22-2019 |
| ▪ Jt Checking with spouse | Last date of contact 2-2-2024 |
| ▪ IRA | Last date of contact 12-28-2020 |
| ▪ Membership Account | Last date of contact 3-14-1994 |

- No accounts escheatable as Jt checking with spouse is active
- Should update date of last contact for all to 2-2-2024 with point to Jt Checking with spouse

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Mike's Crystal Ball



The Unclaimed Property "F" Word - Fraud

- By Employees
 - Aware that assets are abandoned
 - Dual control is key
- By States
 - Multiple stories
- Bad actors trying to claim on behalf of owner

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Mike's Crystal Ball



More audit firms are popping up

- Banks and Credit Unions can expect to be audited by multiple firms for different states with different rules

There will be an increased focus on crypto property

Continuance of shorten dormancy periods

- 5-year dormancy to a 3-Year dormancy
- Traveler checks – 15 Years?

Be prepared if cashier checks become escheatable to state where issued

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Mike's Crystal Ball



Continued lawsuits against:

- States
- Holders i.e. Banks and Credit Unions
- Transfer agents, brokerage firms and mutual fund companies
 - As states liquidate securities, there could be tax consequences and loss of capital gains

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Mike's Crystal Ball



New rules on activity

- Member or customer driven activity
- RPO no longer required

New rules on outreach

- Run DMF
- Database searches (already required for transfer agents, mutual funds, brokerage)

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Questions



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UP Info

www.linkingassets.com

- Owner Location Services
- Estate Care Center
- Unclaimed Property Compliance Toolbox

www.Ryan.com

- Go to Practice Areas then Abandoned and Unclaimed Property
- Audit Support, VDAs, Reporting Software or outsourcing

www.scripta.llc

- Unclaimed Property Compliance Resource

www.yellowtagauctions.com

- Auction support for Safe Deposit Contents

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UP Info

www.UPPO.org

- Unclaimed Property Professionals Organization
- Holder educational organization
- Webinars, Annual Conference, and Industry Calls

www.Unclaimed.org

- Website for National Association of Unclaimed Property Administrators
- Links to each state's unclaimed property page
- Link to MissingMoney.com, website to look for property across states

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UP Info

www.assetfynd.com

- Recovery for assets belonging to bank or credit union

www.DMAinc.com

- Unclaimed Property Reporting, Compliance Support

www.SOVOS.com

- Go to Products then Unclaimed Property
- Unclaimed Property Reporting support, Audit and VDA support