
# Colorado enacts the Revised Uniformed Unclaimed Property Act – CO SB 88

On April 16, 2019 Colorado enacted the Revised Uniform Unclaimed Property Act which overhauls the prior Colorado Unclaimed Property Act. CO SB 88 was heavily inspired by the Revised Uniform Unclaimed Property Act (RUUPA) of 2016; with some deviations. The bill takes effect on July 1, 2020.

The list below includes some highlights of the bill but is not all inclusive.

**Presumption of abandonment.**

- Most dormancy periods are reduced from 5 to 3 years. Traveler's checks have a 15-year dormancy and money orders have a 7-year dormancy.
- Individual retirement accounts are presumed abandoned with a 3-year dormancy period using RPO (returned post office) and the age 70.5 as the trigger for living owners or 2 years after the confirmation of death. Additional electronic outreach is required for accounts that do not receive communications via first class mail.
- Other tax deferred accounts are presumed abandoned 3 years after the earlier of the date in which a distribution must begin to avoid a tax penalty or 30 years after the date the account was opened.
- Custodial accounts for minors are presumed abandoned 3 years after the later of the 2nd RPO (assuming it was sent within 30 days of the first RPO) or the date, **if reasonably determined by the holder** on which the custodian is required to transfer the property to the minor or their estate in accordance with the Uniform Act **of the state in which the account was opened**. Additional electronic outreach is required for accounts that do not receive communications via first class mail.

- Securities are presumed abandoned 3 years after the date of the 2nd RPO (assuming it was sent within 30 days of the first RPO). Additional electronic outreach is required for accounts that do not receive communications via first class mail.

**Oil and Gas.** Under the new law, Colorado will become a current pay state.

**Aggregate reporting**. Aggregate reporting threshold is reduced from $50 to $25.

**Due Diligence.** The threshold is reduced from $50 to $25. Under the new law, if the owner has consented to receive electronic mail delivery from the holder, the holder may send the due diligence by electronic mail and not by first-class mail; unless the holder has evidence that the email could not be delivered. Then the holder shall send the notice by first class mail. The due diligence mailing window is also expanded to not more than 180 days and no less than 60 days before filing the report. The new law provides for specifications of the due diligence letter.

**Payment or delivery of abandoned property to the administrator**. The act repeals Colorado's current de minimis reporting deduction which allows holders to deduct and retain 2% of the value of the property or $25, whichever is more, per item for most property types.

**Disposal and recovery of securities (or value by owner).** While the state left in the RUUPA language to not allow the administrator to sell or otherwise liquidate a security until 3 years after receipt of the security and providing proper notice to the owner, the language for recovery of securities did deviate from the RUUPA language. Section 38-13-703 states that "A person that makes a valid claim under this article 13 of ownership of a security is entitled to receive:

a. The security the holder delivered to the administrator, if it is in the custody of the administrator, plus dividends, interest, and other increments on the security up to the time the administrator delivers the security to the person; or
b. The net proceeds of the sale of the security plus dividends, interest, and other increments on the security up to the time the security was sold."

**Transitional Provision.** The new law provides for a transitional provision of 5 years. Therefore any property that would have been presumed abandoned under the new provisions during the 5 year period preceding July 1, 2020 is required to be reported under the new law immediately upon effective date.

**What does this mean to you?**

Holders should carefully review the full text of the new Colorado Revised Uniform Unclaimed Property Act (RUUPA) to determine the exact impacts on each holder type. It is likely that all holders and/or service providers will have system changes that will need to be updated and tested prior to the July 1, 2020 effective date.

Due diligence letter templates will need to be reviewed to ensure that letters meet the new language requirements.

The 5 year transitional provision leaves many questions to be answered by the state and is likely to prompt holder and industry action. This could be especially problematic if the transitional provision applies to the repeal of Colorado’s de minimis reporting deduction.

The full text of the bill can be found here.

This article is intended for informational purposes and is not to be considered legal advice. For additional questions concerning this alert, contact Dana Terry at dterry@georgeson.com or 201-539-1998.

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