

## Illinois Unclaimed Property Reform Webinar Q&A January 30, 2018

1. With respect to the definition of domicile - If an investment company has its home office in Illinois and is incorporated in Delaware. Which state has jurisdiction of unclaimed property with an unknown or foreign address?

A. The first priority rule is to escheat to the state of the owner's last known address. This question asks about the second priority rule which gives jurisdiction to the state of incorporation (i.e. Delaware).

2. Holders are concerned about compliance with the new deceased owner rules for the 2018 report because of the time it takes to update systems. Will Illinois grant any leniency for the 2018 reports?

A. The Treasurer's office is more interested in compliance than a "gotcha" approach. The Treasurer has the authority to waive interest and penalties if the holder is making "good faith" efforts to comply with the new rules. Additionally, the Treasurer is prohibited from assessing interest and penalties if the only reason a holder does not escheat deceased property is the lack of knowledge of death.

The Treasurer's office will publically announce how to proceed with extensions and working with the state to show "good faith" efforts to comply.

3. Historically, securities have had one dormancy period/trigger with one NAUPA property type code. How will the state determine the correct dormancy period used and will there be new property type codes to use?

A. This issue is broader than just securities. The National Association of Unclaimed Property Administrators (NAUPA) has plans to update their codes based on the RUUPA as well as modernization.

4. There has been a lot of industry concern and confusion regarding report deadlines. It was originally thought that all holders may be moved to the spring timeframe but it appears that SB 868 has banks remaining for the fall but brokerage/securities is changing to the spring. Is that correct?

A. Correct. The original intent of SB 9 was not to change the due dates for anyone. The trailer bill (SB 868) was intended to correct the due dates however investment companies did not get corrected and will therefore report in the spring going forward.

5. I want to verify now that the B2B Exemption is no longer in the Act that, for Vendor Checks, the state is still expecting a retroactive escheatment this year going back 5 report years (8 calendar years), so any checks dated between 1/1/2010 and 12/31/2014 are excepted to be included. With holder feedback, I was wondering the state's opinion with including this retroactive provision.

A. SB 9 did remove the B2B loophole in the prior law. The math in this example is correct – 5 years plus the dormancy period (which is generally 3 years). A version of the transitional provision has been in

every prior version of the uniform act. In the ULC version of RUUPA, it is a 10 year transitional period. Illinois shortened it to 5 years.

6. For Spring filers, does the “initial report filed under this Act,” as stated in the transitional provision found in section 15-1503, refer to 2018 or 2019? While not entirely clear, it seems to mean the initial report filed 2019 as “property required to be reported under this Act” would not be reportable until 2019?

A. 2018

7. For securities with a deceased owner, is there a trigger of inactivity along with 2 years after owner is deceased?

A. No response received.

8. For tax-deferred accounts, once a distribution is required (RMD), is the dormancy trigger RPO and owner interest or just RPO?

A. No response received.

9. For IRA accounts, is it true that RPO must be present before property is presumed abandoned? The language in this provision is a bit confusing.

A. Correct. The language in the statute refers to the “later of” the two conditions so the owner must reach age 70.5 and have a bad address in order to be escheated.

10. Is there a requirement to send the due diligence letter in hard copy if there is a known bad address on the account? Does the certified letter need to be sent to a known bad address?

A. No. The Act provides an exemption for sending due diligence letters to known bad addresses. This would apply to both the first class and certified letter.

11. If we are a firm that is moving to the spring due date; we have a tedious process to pull data for filing which would prevent us from giving adequate time for due diligence. Would you suggest requesting an extension?

A. Yes. But it needs to be a reasonable extension request, not one year.

12. How can Illinois retroactively apply the B2B exemption repeal on property arising from transactions governed by the UCC, which has a statute of limitations of 4 years. Because B2B transactions were exempt from the Act, it was also exempt from the record requirements and anti-limitations provisions of the Act.

A. No response received.

13. Regarding the statute of limitations: Is it your interpretation that the statute of limitations ONLY applies to property actually identified in a report? If so, this is not really a statute of limitations against enforcement of compliance with the unclaimed property statutes generally. Would you agree?

A. No response received.

14. Does the transition rule mean that no due diligence or reporting is required for property that was considered abandoned prior to the 8-year period?

A. No response received.

15. With respect to securities and the transitional period – if the account goes on a bad address status (RPO) in 2013 it would be escheatable under the new law in 2016, therefore it would be turned over in the first report filed in 2018. However, if the holder received contact from the customer between 2016 and 2018, does the state still expect to have the account turned over? In short, if an account would have been escheated based on the new 3 year RPO provision but has since had contact, does the state expect it to be turned over?

A. No response received.

16. With their changes to the definitions of stored-value, gift, and payroll cards, we are left trying to figure out how to treat one of our payroll type products that also allows for the cardholder to add other funds besides the payroll that is added by the employer. There are two other specific features to the card that cause us issues: 1) it is portable meaning that the cardholder keeps and can use the card if they leave an employer and 2) the cards have a savings account feature that allows the cardholder to move funds from the card's balance to an associated interest earning savings product and vice versa.

This type of product does not fit neatly into the State's new definition of payroll card. How do we age it? What if there are co-mingled funds? What about any funds in the savings feature? Wouldn't it be more appropriate to treat this as deposit property like an AC01 or AC02?

Additionally, with payroll cards being broken out in the Act, will they be reported as MS01 (wages)? If so, what about the cards that are issued by banks for employers? Who is the holder? The employers do not get bank statements on those cards and would have no idea if the funds they deposited were used or how much of what they deposited was accessed. If the cardholder can also deposit additional funds onto the cards, that raises financial privacy issues for anything reported back to the employer by the bank/issuer.

A. No response received.