

UPDATE

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Primer on Canadian Unclaimed Property Laws

The unclaimed property laws related to U.S. reporting jurisdictions have long been robust, developed and enforced. Now, our neighbor to the north, Canada, is increasingly entering the unclaimed property fray. New Brunswick is the latest Canadian province to enact and implement an unclaimed property law bringing the total of four Canadian provinces with in-force unclaimed property laws: New Brunswick, Alberta, Quebec and British Columbia. The specific criteria underlying each province's law and when it applies to U.S. holders is complicated and varies by province.

To assist holders in understanding whether they are subject to the Canadian unclaimed property laws, we provide an overview of the main elements of each of the four provinces' laws.

Alberta

Alberta's Unclaimed Personal Property and Vested Property Act was implemented in 2008. The Act is modeled after the Uniform Unclaimed Property Act of 1995 and therefore contains provisions that look similar to those contained in some U.S. laws.

Scope

Alberta's law only applies to holders who "carry on business in Alberta." This means, to be subject to Alberta's law, a holder must maintain either a business presence or a registered agent for service of process in Alberta. If a holder carries on business in Alberta, they are required to report unclaimed property, as defined by the law, if the last known address of the owner of the unclaimed property is in Alberta. If the address is unknown, only holders located in Alberta are required to report that property to Alberta.

Property Covered

The Alberta law has a reporting threshold of \$1,000 or more for tangible personal property and \$250 or more for intangible personal property. Intangible personal property is defined broadly and includes, among other things, money, credit balances, uncashed cheques, interest and dividend payments, security deposits, unpaid wages, securities and security entitlements and amounts payable under an insurance policy. The regulations provide certain exclusions, including for loyalty program points, gift certificates and store credits.

Presumption of Abandonment

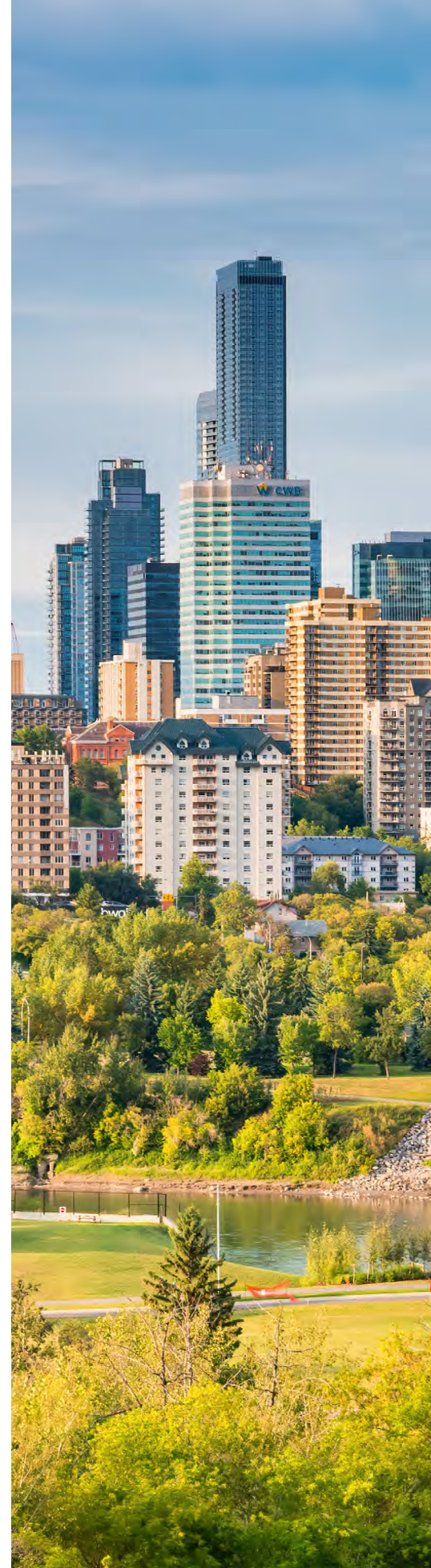
Dormancy periods vary depending on the type of property and can range between one to 15 years. The dormancy period is typically triggered by the date of last contact and is generally established based the lack of an indication of interest by the owner in respect of the property.

Due Diligence Requirements

Written notice shall be sent to the owner at the last known address three to eight months before the property is due to be reported. Threshold value is \$250 for intangibles and \$1,000 for tangibles. Certain exceptions to this notice requirement may apply.

Reporting and Remittance

Alberta requires an annual report and remittance to the Alberta Tax and Revenue Administration (ATRA). Reports are due and must be delivered within 120 days (i.e. on or before April 29) when the property meets the presumption of abandonment as of December 31 of the previous calendar year.



New Brunswick

New Brunswick enacted the Unclaimed Property Act in March 2020 and became effective January 1, 2022. Like the Alberta Act, the New Brunswick Unclaimed Property Act is based on the Uniform Unclaimed Property Act.

Scope of Application

Like Alberta, the New Brunswick law applies to holders who maintain either a business presence or is based in New Brunswick. If a holder carries on business in New Brunswick, they are required to report unclaimed property, as defined by the law, if the last known address of the owner of the unclaimed property is in New Brunswick. If the address is unknown, only holders located in New Brunswick are required to report that property to New Brunswick.

Property Covered

The New Brunswick law applies to intangible personal property as defined. Intangible personal property is defined broadly and includes money, credit balances, customer's overpayment, trust or custodial fund, bonds, uncashed checks, retirement plans, interest and dividend payments, security deposits, unpaid wages, shares or other evidence of ownership in a business corporation, derivatives, unused tickets, amounts payable under an insurance policy and all income earned on such property. The law does not apply to gift cards, loyalty program points and safe

deposit boxes.

Presumption of Abandonment

Dormancy periods vary depending on the type of property, but most are 3 years. The dormancy period is typically triggered by the date of last contact and is generally established based the lack of an indication of interest by the owner in respect of the property.

Due Diligence Requirements New Brunswick holders to provide written notice to the apparent owners of property presumed to be unclaimed at least 90 days, but not more than 180 days, before the date on which the holder is required to submit a report. The notice is only required for property with a value of \$100 or more. Mailings are not required if the address of the owner is known to be bad. The law provides specific language that must appear on the due diligence notices.

Reporting and Remittance

Annual reporting is required by March 30 of each year for all property presumed abandoned as of December 31 of the prior year. All reports are submitted using Financial and



Consumer Services Commission's (FCNB) online portal.

Québec

Québec has had an unclaimed property law in place since 1999. The current Unclaimed Property Act was implemented in 2011 and sets out the rules for unclaimed property in the province.

Scope

Quebec law applies to unclaimed property of owners domiciled in Québec. An owner is deemed to be domiciled in Québec if their last known address is in Québec or, where the address is unknown, if the act establishing the owner's rights was made in Québec. Furthermore, property considered to be unclaimed property if it is situated in Québec and the law of the domicile of the owner does not have an unclaimed property law or does not provide for the escheatment of the property.

Property Covered

Québec's law applies to most property including deposits with a deposit institution authorized in Québec, checks, safe deposit boxes, retirement accounts, securities, shares or any other ownership interests and distributions and insured amounts due under a life insurance contract. Certain minimum thresholds apply depending on the category of the property.

Presumption of Abandonment

Dormancy periods vary depending on the type of property, but most are 3 years. The dormancy period is typically

triggered by the date of last contact and is generally established based the lack of owner generated contact.

Due Diligence Requirements

When financial assets become unclaimed, the holder must send the owner a written notice describing the property and give them three months to claim it. The notice must also explain that the property will be remitted to Revenu Québec if it is not claimed by the deadline and there are no eligible activities establishing a link between the holder and the owner. The notice must be sent within six months preceding the date by which the property must be remitted. Due diligence is not required if present whereabouts of owner cannot be ascertained by reasonable means, or if value of property is less than \$100.

Reporting and Remittance

Under Québec law, holders must generally remit unclaimed funds during the quarter that follows the end of the fiscal year (in the case of a legal person) or calendar year (in the case of a natural person) in which the financial assets became unclaimed. Québec's website contains various forms and detailed instructions for submitting unclaimed property.

In addition, holders must keep a list of unclaimed property remitted to Québec in the previous ten years. It must include the following information about the owner:

- first and last name
- last known address
- date their property was remitted to Revenu Québec
- date of birth, social insurance number and, if applicable, date of death



British Columbia

British Columbia's Unclaimed Property Act became effective on July 1, 2000. The law applies only to property that became unclaimed after July 1, 2000. Holders with gross annual revenue of \$250,000 or less are exempt from the law. Unlike the other provinces, reporting under British Columbia's law is not mandatory. However, there are exceptions. Credit unions based in British Columbia, companies in liquidation, government holders and certain other entities are required to report.

Scope

British Columbia's law applies to a holder of property if, according to the holder's records, (1) the last known address of the owner is in British Columbia or (2) if the owner's address is unknown. In both circumstances, all contact must have occurred in British Columbia. Holder's exempt from the requirements of the law includes a holder whose gross annual revenue is \$250,000 or less and holders of any item of unclaimed property the value of which is less than \$50.

Property Covered

Most property is covered under the law of British Columbia including certain banking property, securities, money orders and insurance property. Various thresholds apply to each property type.

Presumption of Abandonment

Dormancy periods vary per property type. In general, either a three- or five-year dormancy period applies. Unlike the other provinces, returned mail is often required before certain property is presumed abandoned.

Due Diligence Requirements

Written notice must be sent to owners of unclaimed property not more than six months before property is presumed abandoned. Holders must make reasonable efforts to locate owner if the present whereabouts of the owner are unknown. Notice is not required if value of property is less than \$200. Unlike the other provinces,

holders must establish written policies and procedures detailing what constitutes reasonable efforts to locate and notify owners and make the policies and procedures available to the public.

Database

British Columbia requires a holder of unclaimed property to maintain a database of all unclaimed property held by the holder. In the database, the holder must include the particulars each item of unclaimed property. Also, the holder is required to do the following:

- Make reasonable efforts to ensure that the existence of the database and the means by which it may be accessed are known to the public.
- Make the database available to the public, subject to any restrictions imposed by regulation for the purpose of protecting the privacy of owners.
- Meet the standards, set by regulation, respecting the collection and recording of information concerning the unclaimed property, and the retention of records containing that information.
- Meet the standards, set by regulation, respecting the processing of claims, and the management or control of the unclaimed property.

Voluntary Reporting and Remittance

Except for the holders noted above that are required to report, most other holders are not required to remit unclaimed property. However, if a holder does not want to maintain the required database, it may voluntarily transfer property to British Columbia Unclaimed Property Society (BCUPS), if the unclaimed property is money, the holder provides BCUPS with any information about the property that it reasonably requests and BCUPS consents to the transfer.





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The Essential Guide to Unclaimed Property Compliance and California's VCP

In today's digital age, the complexities of unclaimed property compliance remain a significant challenge for businesses across all industries.



For those that may be out of compliance and have a potential population of past due property to report to California, a state known for the automatic assessment of its 12% per annum interest penalty, California's Voluntary Compliance Program ("CA VCP") is designed to offer relief for businesses (holders) willing to enroll in the CA VCP. For holders that take advantage of this opportunity and program, they will receive the benefit of an interest waiver which can amount to significant savings.

The goal of the CA VCP is to equip holders with the knowledge to navigate California's unclaimed property laws and come into and stay in compliance.

Navigating the complexities of unclaimed property compliance

Holders of unclaimed property are responsible for tracking, monitoring and attempting to locate the rightful owners. If unsuccessful, the holder must report the property to the state as unclaimed. Importantly, unclaimed property is not a tax, and the concept of nexus does not apply, meaning that businesses may have reporting obligations in states where they do not actively operate.

Considering the importance of compliance, businesses must be aware that failure to adhere to unclaimed property laws could lead to significant financial implications, including underreported liabilities, penalty and interest assessments and overstated revenues.

Furthermore, non-compliance might trigger audits resulting in penalties and interest, often exceeding the actual amount of the unclaimed property. Some states impose interest rates as high as 18% annually, underscoring the need for strict compliance. Taking advantage of voluntary disclosure programs, such as California's, helps to mitigate the risks of penalties and interest charges.

Navigating California's Voluntary Compliance Program for unclaimed property

The CA VCP is designed to encourage holders to comply with the state's unclaimed property laws. This program offers significant incentives, including a waiver of the annual 12% interest assessment on late-reported property. California has said that the goal of the CA VCP is to increase holder compliance and facilitate the return of property to the rightful owners. California welcomes anyone to enroll, including holders who have filed in the past. California suggests that holders should consider when it is best for them to apply, because once the application is approved, the holder has six months to submit the Notice Report. While an extension may be available, it is helpful to have a sense of the potentially reportable property by reviewing books and records prior to submitting an application. Sovos can assist in performing a risk assessment to determine what property may be reportable. Eligible holders can leverage this program as an opportunity to report and remit property without penalties and interest. The CA VCP is not limited to a fixed amnesty period, allowing businesses to enroll at a time that suits their readiness to comply. Additionally, the program does not involve a state examination but includes an internal review process to ensure quality control.



The eligibility criteria for a holder to participate in the CA VCP, at the time of application, includes:

- The holder is not the subject of an unclaimed property examination, or has not received notice of an upcoming examination;
- The holder is not the subject of a civil or criminal prosecution involving compliance with the Unclaimed Property Law;
- The holder does not have unpaid or unresolved interest assessments from within the past five years; and,
 - Holders with any outstanding interest assessment at the time of application may refile an application after resolving the outstanding interest assessment.
- The holder has not had interest waived under the VCP within the past five years or is applying to resolve unclaimed property related to an acquisition or merger.

By participating in the CA VCP, holders can avoid large interest assessments while establishing a foundation for future compliance. It is important to note that while you are participating in the CA VCP, holders should also continue with their regular reporting cycle for current property not subject to interest. California feels their program presents a 'win-win-win' scenario for holders, the state and the public, ensuring businesses remain compliant and receive significant interest relief, the state secures funds for rightful owners, and the public can reclaim their assets more efficiently.

A glimpse into the historical context of CA VCP

The CA VCP marks a significant advancement in how holders can report past due unclaimed property, fostering an environment that encourages entities to report past due property in exchange for relief from interest assessments. The program's journey began with a 2001 amnesty initiative, which was extended to allow entities sufficient time to review their records and report unclaimed property.

However, the program's limited duration led to only marginal success. Fast forward to 2018, a bill was proposed to establish a five-year program, mirroring the previous amnesty's intent, but it too was restricted by time. Recognizing the need for a more enduring solution, AB 2280 was introduced and passed in 2022, laying the groundwork for the current CA VCP, which became effective on January 1, 2023, and fully operative on July 1, 2023.

The CA VCP distinguishes itself from prior initiatives in California by offering a continuous opportunity for entities to come into compliance when they are ready, rather than within a constrained timeframe. This approach has already shown promise, with applications being approved on a weekly basis since its introduction in March 2023. The VCP is designed to waive the 12% annual interest on late reported property, delivering substantial savings for compliant entities and reinforcing the importance of ongoing adherence to unclaimed property reporting obligations.

Understanding the benefits of the CA VCP

One of the primary benefits of the VCP is the relief from the 12% annual interest assessment on late-reported property. In addition, the CA VCP is not synonymous with a state examination or assisted review; instead, it fosters a partnership between the state, holders, advisors and property owners, aiming to promote ongoing compliance and reunite owners with their unclaimed property. Another aspect of the CA VCP is the training provided on California reporting procedures by California.

It's worth noting that the program is not an examination tool and does not involve a state review of the report contents. However, quality control and reasonableness reviews are conducted internally on the reports received.

With the CA VCP, holders are encouraged to conduct a thorough review of their books and records to ensure complete reporting in order to maximize the benefit of the interest relief offered.

Understanding California's unique unclaimed property reporting process

California has a distinctive approach to unclaimed property reporting, employing a two-part process consisting of a Notice Report followed by a Remit Report. This allows a pre-scheat window for rightful owners to reclaim their assets before they are finally remitted to the state. While participants in the CA VCP must adhere to assigned deadlines that diverge from the standard reporting cycles, it is still necessary to complete the Notice and Remit Reports within the timeframes stipulated.

Unique to California, due diligence notices are sent by California to property owners after submission of the Notice Report. Any property remaining unclaimed after California's notice period is reported to the state.

Conclusion

Should you have out of compliance property due to California, you should consider taking advantage of this unclaimed property reporting, relief and compliance opportunity. In addition, if you are already participating in a state voluntary disclosure or compliance agreement program with another state, you may want to take advantage of the review by applying for the CA VCP and other voluntary programs at the same time.

Sovos can help you identify any potential past due property and navigate the CA VCP, as well as other state voluntary disclosures.





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Unclaimed Property Analysis: Returned Mail and Death of Owner in Banking and Securities

In today's regulatory environment, financial institutions and broker-dealers ("Holders") face complex challenges in complying with state unclaimed property laws.

These laws vary by state but require businesses to report and remit dormant or unclaimed assets to the state after a specified period of time based on the lack of owner generated contact or activity, mail returned by the post office ("RPO") and/or death of the owner. Leveraging the owner's date of death and RPO date as part of the unclaimed property analysis poses challenges, but also opportunities for holders to safeguard customer assets. In this article, we contemplate best practices to ensure compliance with unclaimed property laws.

Capturing date of death and knowledge of death

Some states are adopting legislation that requires holders to leverage the date of owner's death or knowledge of death as a trigger for unclaimed property dormancy, with some even shortening dormancy periods when the owner has died. In an effort for holders to comply with these recently adopted laws, holders like financial institutions and broker-dealers should invest in system updates to effectively

the date of death and knowledge of death. This data should be accessible for use in dormancy calculations.

A holder may be notified of an owner's death in a variety of ways. For example:

- Receipt of death certificate
- Phone call from a spouse, relative or other person notifying holder of owner death
- SEC 17AD-17 search results
- Another department or line of business within the holder
- The death master file or another database search that provides knowledge of death

Sovos recommends establishing protocols to update this information once the holder receives notification of death. For instance, a designated area of the company should have access to update the date of death and/or knowledge of death fields across the enterprise.

Updating the date of death on all accounts owned

After receiving notification of a customer's passing, it is essential to update the date of death fields on all accounts owned by the deceased across the entire enterprise if this information is housed individually on each account. Sovos is aware of some holders that only incorporated the date of death on certain products and services but not others. As an example, a bank may use the knowledge of a customer's death to close a credit card but not notify the customer deposit team to update records related to the customer's savings or checking accounts. By standardizing the process, having an initiative-taking approach, and having the necessary system updates in place, holders will minimize risks such as fraud, litigation or reputational risk.

Proactive outreach to co-owners and beneficiaries

Having a proactive approach when it comes to accounts with a deceased owner is critical. This includes reaching out to surviving joint owners, potential beneficiaries or heirs. Proactive outreach may prevent these accounts from becoming dormant and reportable as unclaimed property.

Preventing fraud

Holders may consider placing restrictions on a deceased owner's accounts across the board as part of risk mitigation strategies. By restricting online access, trading and other financial activities, holders can prevent unauthorized transactions on the deceased owner's accounts.

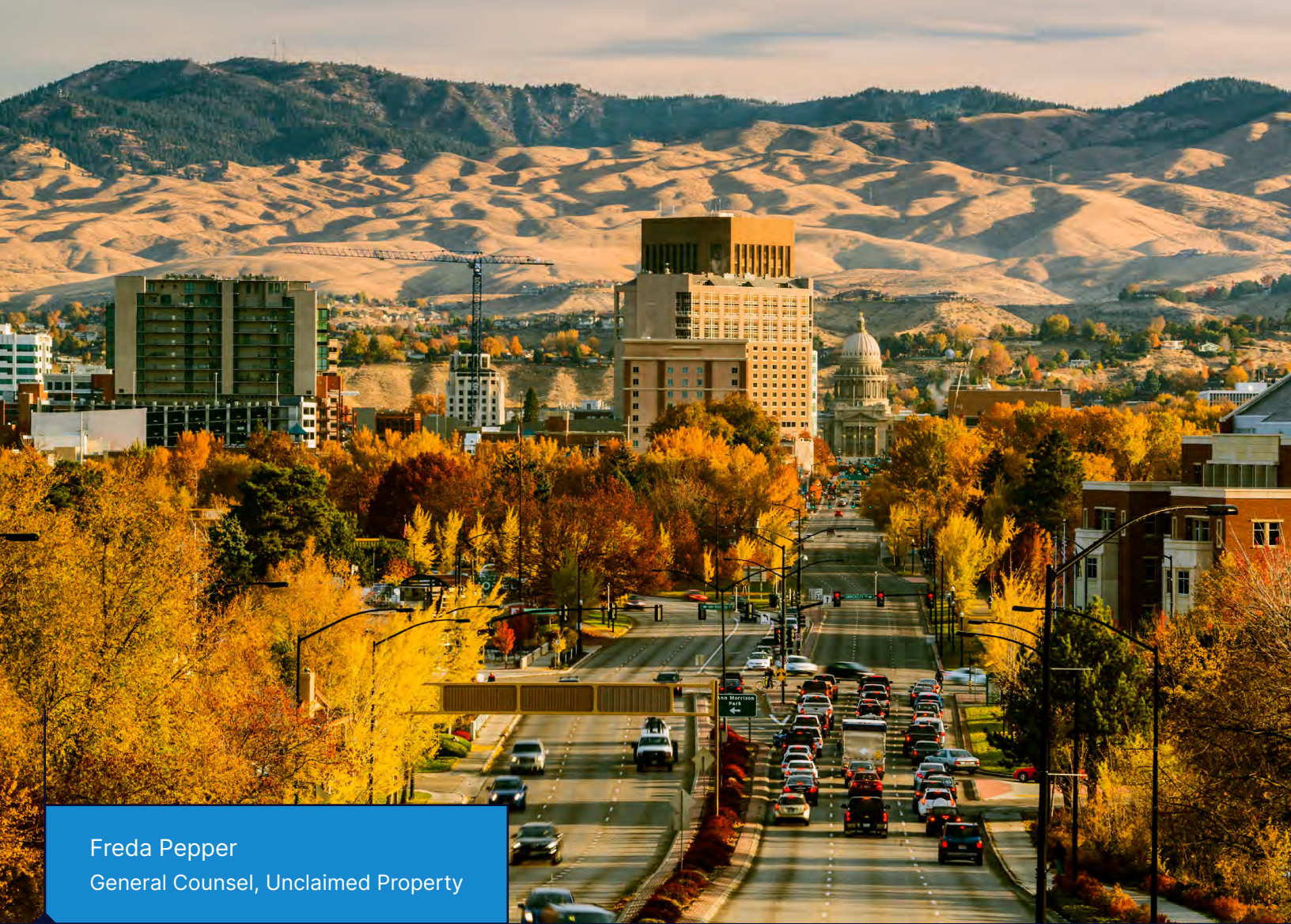
Consideration of returned mail

The receipt of undeliverable mail serves as a trigger to start the dormancy period for certain industries and/or asset types. Holders should incorporate the RPO date into their systems so that RPO can be factored into the dormancy calculation as required to ensure compliance with unclaimed property laws.

Capturing the RPO date is especially important for retirement accounts. Holders should be aware that the requirements to comply with retirement accounts and other age restricted accounts, like 529 and minor accounts, are complex and vary by state. It is recommended to engage third parties like Sovos who specialize in monitoring and tracking these complex requirements for assistance with building a robust unclaimed property program that takes into consideration these and other complex property types.

In summary, by implementing system updates to capture RPO, date of death and knowledge of death separately in your company's source systems, holders will reduce compliance and reputational risk while also increasing compliance with unclaimed property laws. By updating the date of death at the enterprise level, taking a proactive outreach approach to notify the surviving owners and heirs of deceased owner accounts and by reaching out to the customers for a better address after receipt of undeliverable mail, holders will fulfill their obligations to their customers and comply with unclaimed property laws successfully.





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Idaho Adopts New Unclaimed Property Law

Idaho is the latest state to adopt a version of the Revised Uniform Unclaimed Property Act of 2016 (RUUPA). The law, enacted on March 11, 2024, becomes effective on July 1, 2024. Because the effective date of the new law is after the cut-off date for Fall 2024 reporting, Sovos reached out to Idaho to clarify when the state expects compliance with the new law.

According to Ingrid Bolen, the Idaho Unclaimed Property Administrator, the new law will cover future reporting starting October 31, 2025, and thereafter. In the interim, the Idaho State Treasurer will be updating its reporting instructions. However, a

holder who voluntarily elects to follow the new law in filing the report due October 31, 2024 is free to do so. A holder that files their report due October 31, 2024, following the new law, will be afforded all of the holder protections included in the new law.



Like most states adopting laws inspired by RUUPA, Idaho's law strays a bit from the model act. Idaho has adopted some provisions that are not holder friendly. Consistent with other states, Idaho has now made it clear that recurring ACH debits or credits are not considered owner-interest. Another trend Idaho has joined is the death accelerator. Under the new law, if the owner is deceased and the abandonment period for the owner's property is greater than two years, the property will be presumed abandoned two years from the date of the last owner generated contact. Finally, Idaho has adopted a new head-scratching record retention provision. In Idaho, holders are now required to retain documents related to items NOT reported to the state. Essentially, Idaho is telling holders to keep all documents for seven years.

On the positive side, Idaho has retained its 5-year dormancy for most property types. It has adopted an expanded linkage provision providing that if an owner has two or more accounts with the same holder, activity on one account is considered owner-interest on all the owner's accounts. With respect to securities-related properties, fortunately Idaho adopts the RUUPA provision required that an account be on returned mail status (RPO) before being presumed abandoned. This is a welcome provision as we see more states removing RUUPA's RPO criteria.

With respect to due diligence, Idaho adopts the 60 to 180 days timeframe for sending the notices. This is a change from the 60 to 120 days timeframe. The required RUUPA content for due diligence notices is also adopted.

Of particular note is the removal of Idaho's \$50 threshold exemption. It no longer appears in the law. However, what does appear is RUUPA's transitional provision which provides:

An initial report filed under this chapter for property that was not required to be reported before July 1, 2024, but that is required to be reported under this chapter must include all items of property that would have been presumed abandoned during the seven (7) year period preceding July 1, 2024, as if this chapter had been in effect during that period.

This "claw back" provision will require holders who took advantage of the threshold exemption over the last seven years plus the dormancy period to go back and include those amounts in their next report. When asked about this provision, Ms. Bolen clarified that the state is aware that this seven-year lookback may conflict with items subject to the five-year statute of limitations contained in the law. According to the state:

In order to avoid disputes over the constitutionality of the seven (7) year + dormancy lookback where the statute of limitations has already run, the Idaho State Treasurer is agreeable to a straight five (5) year lookback for previously unreported property, provided that Idaho Code § 5-216 is in fact applicable. In such instances, a floor date of July 1, 2019 would be applicable. The Idaho Treasurer of State notes that not all contracts are subject to a statute of limitations, including fiduciary arrangements and ongoing account relationships. A holder will need to make a determination as to whether Idaho Code § 5-216 is in fact applicable to the previously exempt property it holds.

Holders need to take note of these new requirements. Fortunately, you have until the fall of 2025 to make any necessary changes.



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Ensuring unclaimed property compliance is critical for businesses of all sizes.
Reach out to our team of experts to see how we can help.

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