

UPDATE

YOUR TRUSTED RESOURCE IN UNCLAIMED PROPERTY

3 Importance of Owner Location



5

Far Reaching Impact of Unclaimed Property within an Organization

Legislative Trend: States are Incorporating Death into the Unclaimed Property Analysis

8



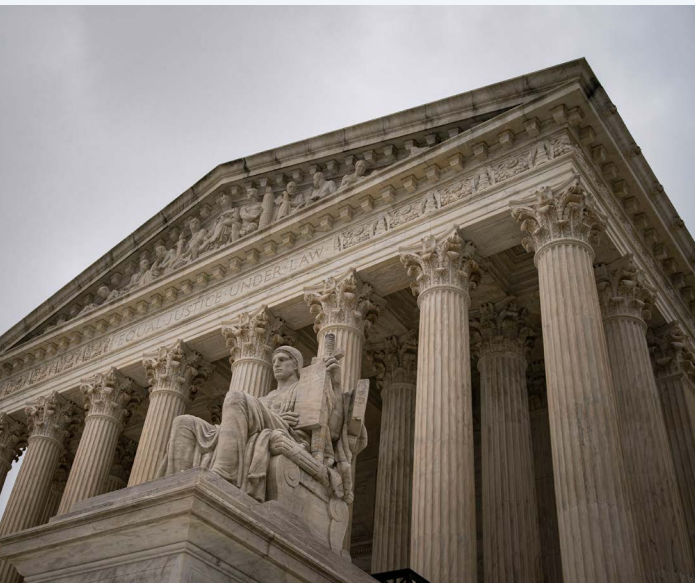


UPDATE

[Unclaimed Property
Tax Information Reporting
Statutory Reporting
Sovos Education](#)

Contact Us: <https://sovos.com/contact-us/>
taxregulatoryreporting@sovos.com

© 2024 Sovos Compliance, LLC.
SOVOS is a registered trademark of
Sovos Compliance, LLC



Contents

03 [The Importance of an Owner Location Program](#)

Learn the phases in the unclaimed property reporting process

05 [Far Reaching Impact of Unclaimed Property within an Organization](#)

Understand unclaimed property's significance and impact on the company

08 [Legislative Trend: States are Incorporating Death into the Unclaimed Property Analysis](#)

See how states are increasingly amending their specific unclaimed property laws



Michael Ryan
Director of Business Development at Linking Assets

Brian McCarthy
Senior Consulting Manager at Sovos

The Importance of an Owner Location Program

There are three critical phases in the unclaimed property reporting process. Each phase is as important as the next to ensure compliance with all state unclaimed property laws. But what if you want to ensure assets are reunited with the owner before being sent to the state? Or better yet, how can you find the owner and encourage them to transact on their account to keep the assets under management? We will examine those three critical phases at a high level and talk about what else a company can do to locate owners of unclaimed property.

Identification:

The first step in the unclaimed property process is to identify potential unclaimed property across the company. This requires a review of books and records to find property that may be subject to escheatment. Depending on your company and the industry your company is in, that could mean a review of your accounting records to determine if there are aged uncashed checks that meet the state dormancy periods in the bank accounts that disburse funds or reviewing accounts receivable detailed aging reports to identify customers

in a net credit. In some industries such as Banking, Brokerage, Securities, and Fintech, a review of your customer accounts is essential to determine if there are accounts that have met the dormancy requirements. Determining when property is potentially reportable can include factors such as the date of last contact with the owner, when mail was returned by the post office (RPO), the owner's date of birth or even their date of death. While there are other factors and other property types to consider, the main takeaway is that companies must identify any potential unclaimed property within their books and records by applying the appropriate triggers and dormancy periods established by each state. Employing owner location techniques early in the game provides the company with an opportunity to update the date of last contact to prevent an account from being considered escheatable. Owner location can also provide insight into the life status of account owners which can be used to safeguard accounts from potential fraud and initiate communications with beneficiaries.



Due Diligence:

Owner location is also beneficial in the second step in the unclaimed property process, which is to outreach to the owners of property identified as potentially reportable. This process is commonly referred to as due diligence. State statutes require companies to send a notice to the last known address of the owner. Each state's statute specifies its outreach requirements. Most states require the outreach to be performed within 60-120 days of the actual report date; however, there are a handful of states that require outreach earlier. Sending the notice to the last known address often does not yield a significant response rate because the property has sat dormant for up to 5 years, depending on the state, property type and dormancy period. Many times, the last known address for the owner is often a wrong or bad address, as evidenced by the receipt of returned mail.

Generally, if the address is already known to be bad due to previously received RPO, due diligence does not need to be sent. To improve the odds of due diligence reaching the property owner, Owner locations efforts can be used to provide current addresses to which due diligence can be sent to increase the likelihood of property owners engaging with their assets.

Reporting:

The final step in the unclaimed property process is to report the records and remit the property for the owners that did not respond to the due diligence outreach. Reporting unclaimed property is the byproduct of not being able to reunite the owner with their property. Detailed information is reported to the state along with the remittance of the sum of all property that includes such things as cash, and shares or even cryptocurrency. Reporting deadlines vary amongst the states and industries with many reports due on October 31st or November 1st, while other states have deadlines in March, April, May, July, and December.

Most companies think that their obligation to the owner ends when the property is reported and remitted to the states. However, if an owner attempts to claim their property from the state and the state is not able to properly identify the owner, or the records reported to the state are incomplete, the state may send the owner back to the company who reported the property for assistance. The state may request the company to confirm the claimant is entitled to the property. Depending on the volume of property each company reports, this can cause an undue burden on the reporting company and its internal resources, potentially creating customer service issues.

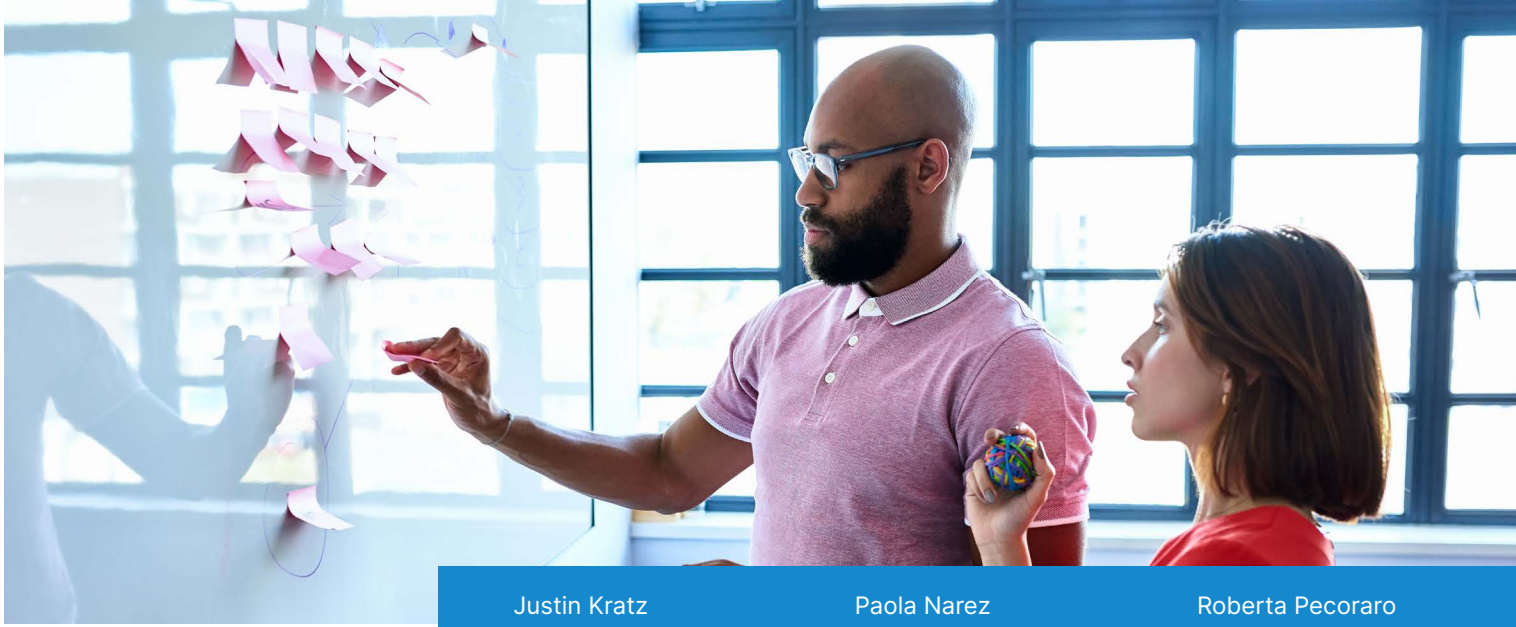
Value of Owner Location:

Performing enhanced outreach has many benefits to both the companies who are required to report these properties and the rightful owners who forgot or are unaware of these assets.

In the financial sector (Banks, Credit Unions, Brokerage Firms, and Insurance Companies) retaining assets under management is key. The cost of attracting new customers/members is high, while reactivating inactive owners also provides cross-sell opportunities.

If you determine that you have property that is past-due, locating and activating owners of dormant/lost property can also reduce potential interest and penalties for late filings or audit findings. In addition, the cost of implementing an owner location and reengagement program may be offset by cost savings related to other escheatment requirements including certified mail, advertising, and administrative costs related to escheatment.

Companies like Linking Assets, Inc. specialize in locating owners or heirs of dormant and lost accounts by performing enhanced research and outreach. For more information about this or any of the critical phases in reporting unclaimed property, reach out to your Sovos Representative.



Justin Kratz
Senior Consulting Manager

Paola Narez
Senior Consulting Manager

Roberta Pecoraro
Consulting Manager

Far Reaching Impact of Unclaimed Property within an Organization

Unclaimed property exposure can potentially arise in various areas within your organization. While managing unclaimed property may not be the primary responsibility of every employee, it is important for everyone in the company to understand its significance and impact on the company. Here are some strategies to help each department, business unit, or division contribute to maintaining compliance with state unclaimed property laws:

Establish a Review Process:

Implement a system where aged outstanding items are transferred to an unclaimed property liability account. This allows for effective monitoring and reporting of these items to the appropriate reporting jurisdictions once the dormancy period has been met.

Assign a Team Member

("Specialist"): Designate a team member in each area known to hold unclaimed property to identify and remediate potential unclaimed property. The most common property types are discussed below.

Provide Training: Offer unclaimed property training and overviews for team members to ensure all staff is well-informed.

Additionally, appointing a dedicated Unclaimed Property Administrator (UP Administrator) to oversee the reporting process is highly beneficial and recommended. The UP Administrator plays a vital role in ensuring compliance by performing the following tasks:

Data Collection: Gather data from the various departments twice a year, in June for the Fall reporting cycle and in November for the Spring/Summer reporting cycle. The data parameters should be specific to each business unit since different property types have different requirements and dormancy parameters.

Internal Outreach: Ensure all departments respond to the outreach. If a business unit has no unclaimed property, we recommend implementing a process where an

attestation must be provided in writing to the UP Administrator.

Note that, with minimal exceptions, there is no de minimis amount for unclaimed property reporting.

Data Review: Review the collected data for completeness and accuracy. For instance, maintaining complete address information ensures that the property is escheated to the correct jurisdiction within the state's dormancy period, thereby avoiding potential interest and penalties. This also helps mitigate the risk of potential fraud.

Past Due Property Review: Examine past due property for duplicate transactions or records that were remediated through due diligence but have not been appropriately reissued or removed from the liability due to the states if not owed. Any penalties and interest assessed on past due property could be charged to the specific business unit that did not follow the procedures and process in place.

Key Compliance Factors for Unclaimed Property

When reviewing data for potential unclaimed property exposure and ensuring compliance, the UP Specialists and the UP Administrator should keep several critical factors in mind:

Comprehensive Reporting: Ensure that all relevant property types are reported and included in the review process.

Tracking Dormancy Trigger Dates: It is essential to track appropriate dormancy trigger dates meticulously. This reduces the risk of missing deadlines and the potential for property to become past due.

Key dates to monitor include:

- **Checks:** Original date of issuance
- **Customer Fund Balance:** Date of last contact
- **Accounts Receivable Credit:** Date of overpayment
- **Commissions:** Date earned
- **Attention to Detail:** Do not overlook items that are not immediately obvious, as this can create significant risks in the event of an audit.

Items to consider include:

- **Unidentified or Unapplied Cash:** Funds that have not been allocated to a specific account.
- **Write-offs to Bad Debt or Income:** Amounts written off that should be considered unclaimed property.
- **Rejected Electronic Payments:** Such as ACH transfer or wires payments that were not successfully processed.
- **Property Issued by a Third-Party Administrator (TPA):** Including uncashed checks that are returned to the company or offset against future amounts owed to the TPA.

Common Types of Unclaimed Property

The potential for abandoned property within your organization will largely depend on your industry and the types of products/services you offer. While the areas or business units to include in your review process will vary, there are three main areas that typically apply to all businesses: payroll, accounts payable, and accounts receivable. Each of these areas can present risks that extend beyond the normal process.

Payroll

Payroll presents various challenges, mostly related to the shortened dormancy period (1 -2 years) employed by most states. If your company uses a third-party administrator for payroll payments, you might also assume that this area does not need to be included in your unclaimed property review process, as the TPA would handle any compliance obligations. While this may be true, it is not always the case. Many companies who assume that the TPA is handling the unclaimed property responsibilities are surprised to learn that funds related to checks that remain outstanding greater than 180 days are being returned to the company via an offset to the amount deemed due to the TPA to fund the upcoming payroll distribution. As such it's important to verify the following:

- Does your agreement with your vendor specify who has legal responsibility for escheatment reporting?
- What happens to any uncashed payroll or commission checks issued by the TPA that remain uncashed?
- Is there a process in place if one of your employees changes banks, does not update their information internally, and the electronic payment fails?

Contracts with third party administrators should clearly delineate each party's responsibilities. You should also confirm that you are provided with documentation for your records such as copies of outgoing due diligence letters, any due diligence responses received, and copies of the state filings. Additionally, third-party administrators can assist with more than just payroll, so review other outsourced functions to identify any exposure for your company.

When reviewing your payroll process, also consider the company's benefit and workers' compensation plans. Are the benefit plans ERISA protected, with outstanding checks deposited back into the plan, and exempt from being remitted to the states as unclaimed property? Are the benefit plans self-insured or fully-insured? Similar to payroll, there are some questions you need to address to determine the level of unclaimed property risk and how to incorporate it into your overall review process.



Accounts Payable

This area requires a regular review process for aged transactions that could flow into your unclaimed property process. With any effective process, proper documentation is always recommended and with the number of payments the accounts payable team is likely processing, documentation will be extremely important. We recommend that the Unclaimed Property Coordinator or AP Specialist confirms that the AP department requires that voided payments are accompanied by documentation specifying the reason for the void, such as an incorrect vendor or amount not owed, along with any related documentation demonstrating the disposition of the liability. If a check is voided and reissued, the documentation should include a way to link the checks to show their relationship and explain any difference in amounts – perhaps a vendor was issued payments for multiple invoices and requested the payments be consolidated into one.

Documentation doesn't stop there. For any situation you will want to have the support that shows the final disposition of the amount previously owed. This could include a copy of the cleared check or bank statement, internal documentation for any amounts applied incorrectly, or correspondence with the payee confirming the debt has been satisfied or is no longer owed.

Another consideration is the type of payments processed by the accounts payable team. While most payments are likely traditional vendor payments, there could be other property type classifications that should be tracked and reflected in your unclaimed

property process. For instance, the team might also handle customer refunds, credit balance refunds, or commission checks which could carry different compliance requirements.

Accounts Receivable

Credit balances can result from customer overpayments, invoice adjustments, billing system updates, duplicate payments, payments of the same bill by multiple sources, payments that cannot be matched to a specific invoice, and reimbursement processes. It is crucial for your company to understand the specific causes of credit balances and have a standard procedure in place to review and resolve the credits before the items become unclaimed property. All general ledger accounts holding unidentified remittances (also known as unapplied cash) should be reviewed to identify any receipts that are stale-dated and have not yet been applied to a customer's invoice. If a payment cannot be applied to a customer's account within a specified period, it should be returned to the sender. If unable to return to the sender within the specified dormancy period, it should be considered potentially escheatable.

Impact of Mergers and Acquisitions

Companies acquired via mergers and acquisitions could introduce out of compliance unclaimed property exposures to your organization. It's important to fully vet the potential for unclaimed property exposure during the due diligence period. It is equally important to ensure that records needed to identify potential

exposures, and to defend those that are not unclaimed property from being considered escheatable, are transitioned to the acquiring company and maintained in a format that can be accessed and understood by those that need to review them.

The property types mentioned above are not inclusive of all potential unclaimed property that may be present within your company. Each sector has its own unique areas of exposure and therefore it is important that companies apply a holistic, global unclaimed property compliance process that incorporates its entire business portfolio. By embracing comprehensive reporting, meticulously tracking dormancy trigger dates, and addressing even the most subtle of overlooked items, organizations can navigate the complexities of unclaimed property with confidence. The role of UP specialist and an UP Administrator is paramount, as the process owners help safeguard the financial health of the organization and uphold a culture of compliance. Through these dedicated efforts, businesses not only fulfill regulatory obligations but also fortify their reputation for operational excellence and trustworthiness.

Sovos Consulting practice can help simplify the unclaimed property process, educate personnel regarding unclaimed property obligations, develop formal policies and procedures, and provide best practices. Learn how Sovos Unclaimed Property Consulting solutions can help you meet your compliance needs. Talk to an Expert



Freda Pepper
General Counsel

Legislative Trend: States are Incorporating Death into the Unclaimed Property Analysis

Over the last few years, a clear trend has emerged in the world of unclaimed property. States are increasingly amending their state's unclaimed property law to include the death of an owner as a component for the escheatment of unclaimed property. This is a curious change given that, but for an obvious connection to life insurance property, death has not been contemplated by any of the uniform acts adopted by the states and thus, presumably, was never considered a reliable indicator of whether property was truly lost. Instead, states are moving away from returned mail as a loss indicator and moving towards the concept that a deceased person cannot have an active account.

Background

The trend of using death as a component of escheatment was undoubtedly started by third party audit firms that began using external databases in connection with unclaimed property audits. Audit firms would request personally identifying information about owners of active property and run the data against the Social Security Administration's Death Master File (DMF). The auditors' theory was that a deceased owner could not have contact with his or her property. Therefore, any "hits" on the DMF

that indicated that an owner had died would result in shifting the burden the holder to provide evidence that activity on an account was valid.

It was not until the most recent uniform act, the Revised Uniform Unclaimed Property Act of 2016 (RUUPA), that a death component was introduced, but only with respect to tax deferred retirement accounts. RUUPA changed the long-standing presumption of abandonment provisions relating to retirement property to add a returned mail component and to compare the age of the owner to two years after the confirmed death of an owner. It also introduced an affirmative obligation for a holder to confirm the death of a retirement account owner within 90 days of receiving an indication of death in the ordinary course of business. Accordingly, most states that have adopted a version of RUUPA have included the new retirement account provision, but they are not stopping there.

State laws incorporating "death"

States are adding other non-RUUPA provision related to the death of the owner. The new provisions include: (1) the reduction of the dormancy period for property with a deceased owner by one or two years; (2) changing the dormancy trigger in the event of the death of an owner to either to the date of death or the date of the confirmation of death; and/or (3) an affirmative obligation of the holder to confirm death within a certain time period for any property where the holder learns of the death of the owner. To complicate matters, the property types to which changes apply differ dramatically. A review of the current laws addressing death illuminate the disparity amongst the states.



Maine was one of the earlier adopters of the death component. Indeed, the RUUPA provision regarding tax deferred accounts was adopted. However, an additional requirement to confirm death within 90 days after learning of the death of an owner of a tax deferred account was also adopted.

Furthermore, in Maine, Health Savings Accounts, Education Savings Accounts, 529 Accounts and other accounts that qualify for tax deferral have a three-year dormancy period. However, if the owner of such accounts is deceased the dormancy period is reduced to two years

Illinois was another early adopter of the death criteria. Illinois adopted the RUUPA provision relating to retirement accounts for both tax deferred and tax-exempt property. Also added is a statement that a deceased owner cannot indicate interest in his or her property. Illinois has also reduced the dormancy period to two years if the owner is deceased and the abandonment period for a living owner's property is greater than two years. Finally, with respect to

securities-related property, Illinois requires holders to confirm death within 90 days of learning of a death.

Nevada changed its law effective July 1, 2023. The new law changes the dormancy trigger for securities, bonds, savings accounts, demand accounts, time deposits, IRAs and miscellaneous unclaimed property not specifically addressed in the Unclaimed Property Act. Such property is presumed abandoned 3 years after the date described in each of those paragraphs or the date on which the holder has knowledge of the death of the owner, whichever is earlier.

Oregon recently updated its law to incorporate death into the analysis of securities related property. In particular, the trigger for dormancy for securities related property has changed. In Oregon, a security or distribution is presumed abandoned on the earliest of the following dates:

- Three years after the date of the owner's last communication to the holder indicating the owner's interest in the property.

- Three years after the date of the death of the owner.
- One year after the date that the holder receives notice under paragraph (b) of this subsection if the notice is received two or more years after the owner's death and the holder lacked knowledge of the owner's death during that period of two or more years.

Last year, the state of New York finalized new regulation 2 NYCRR 126.1. Per this regulation, if a holder, in the ordinary course of business, receives notice or an indication of the death of an owner, the holder must attempt to confirm death within 90 days. "Notwithstanding any provision of the abandoned property law and any other law to the contrary," once the death is confirmed, the dormancy period will commence on the date of death.

Florida is the latest state to amend the unclaimed property law to factor in death of an owner. Florida now has a dormancy accelerator along with

a new trigger date. Under Florida law, if a holder learns or receives confirmation of an apparent owner's death, the property shall be presumed unclaimed 2 years after the date of death, unless a fiduciary appointed to represent the estate of the apparent owner has made an expression of interest in the property before the expiration of the two-year period.

Compliance challenges

The new and inconsistent provisions related to death pose a variety of compliance challenges. For example, the handful of states that have changed the trigger for the dormancy have either changed the trigger to the date of death or to the date when death was confirmed. What that state considers a confirmation of death or knowledge of death is not always defined leaving holders to determine what that means.

For those states like New York that have changed the dormancy trigger to date of death, property will often be considered late when reported. Indeed, Holders often learn of and confirm death years after an owner has died, particularly when the mail is not returned as undeliverable.

In several states that apply the change of the dormancy trigger due to death, there is often a conflict with another provision that already addresses the analysis of that property. The states rarely identify which property type the change applies to. Therefore, we are left to ask, should the trigger date for an uncashed check change to the date of death? It seems that the uncashed check will eventually escheat making the change to date of death meaningless.

There are also property types where death is already contemplated causing a conflict. For example, the death accelerator provisions can contradict a state's IRA provisions. Applying the new standard can cause an account to be presumed abandoned due to an owner's death long before distribution of the account is required. This could ultimately result in taxable consequences to the owner and perhaps an action against the holder.

Finally, States applying a shortened dormancy period running from the owner's death puts holders in a difficult position if they are working with a beneficiary who has not yet finalized an estate, for example. The Holder has no control over the beneficiary and thus an account may escheat even though a beneficiary is actively involved with an account.

As with most unclaimed property compliance issues, it is evident that the changes have not been applied uniformly across the states. Therefore, it is important to review and understand the nuances relating to death for each state that has added it in as a factor for escheatment.





UPDATE

YOUR TRUSTED RESOURCE IN UNCLAIMED PROPERTY

Learn more about common issues organizations face with unclaimed property reporting.

Reach out to our team of experts.

SOVOS

Contact Us: <https://sovos.com/contact-us/>
taxregulatoryreporting@sovos.com

© 2024 Sovos Compliance, LLC.
SOVOS is a registered trademark of Sovos Compliance, LLC