



This Week in State Tax (TWIST)

1st April 2024



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Idaho: New Unclaimed Property Law Enacted

On March 11, 2024, Governor Brad Little of Idaho signed House Bill 471 into law. This bill repeals the existing unclaimed property statute and replaces it with a customized version of the 2016 Revised Unclaimed Property Act. The new Idaho law (IDRUPA) takes effect July 1, 2024, and makes many changes to the current law, including but not limited to, adding provisions extending the law's coverage to virtual currency and providing that the death of an owner triggers the running of dormancy periods.

Determining When Property Is Reportable to the State (Dormancy Periods and Triggers)

Idaho's new law modifies when particular property types become reportable and must be remitted to the Idaho state treasurer. For example, the new law limits the "rollover" of automatically renewable certificates of deposits (ARCD) by making them reportable five years after the initial maturity date "plus one annual renewal." Existing law provides that ARCDs are reportable on the initial maturity date unless the owner consents at or about the time of renewal by communicating in writing with the banking or financial organization. Under existing law, the property is matured upon the expiration of the last period for which consent was given.

In addition, health savings accounts are assigned specific treatment under IDRUPA; they are reportable three years after the earlier of the date the Internal Revenue Code requires distribution to avoid a tax penalty, the date the business holding the property (holder) confirms or receives confirmation of death, or 30 years after the date the account was opened. Existing law does not specifically mention health savings accounts.

The treatment of securities is also revised under House Bill 471. While the securities dormancy period remains the same as the previous law (five years), the trigger for the running of the dormancy period, for the most part, will become returned from the post office mailings as opposed to lack of owner activity AND returned from post office mailing as provided under existing law.

Consistent with the unclaimed property laws in about half of the other states, House Bill 471 makes Idaho a mineral interest "current to pay" state. This means that once a royalty in a mineral interest owner's account reaches the dormancy period of five years, that royalty payment and all other items in the account are reportable. Further, any other payments to that owner's account in the future become reportable on the next reporting deadline without having to be dormant for the five-year period.

Dormancy Periods Accelerated and Owner Contact Extended

For certain property types that normally have dormancy periods of two years or more, IDRUPA accelerates the dormancy period to two years after the date of last activity if the owner is deceased. This change applies to various types of property, such as mineral interests, cashier's checks, accounts receivables, savings and checking accounts, insurance proceeds and certificates of deposit. Further, IDRUPA includes a provision that changes the dormancy trigger for owner inactivity for particular property types if the dormancy period is greater than five years and an inactivity charge is imposed by the holder. Property such as traveler's checks and certain money orders could be impacted by this provision.

In addition, House Bill 471 provides that a recurring automated clearinghouse debit or credit previously authorized by the apparent owner in an account at a financial organization is not an indication of owner interest that would prevent the running of the dormancy period. On the other hand, IDRUPA broadens application of the concept of owner contact "linkage." In essence, contact linkage occurs when an owner indicates an interest in one account or property and that indication of interest is extended to other property held by the same business for the same owner, thereby preventing the running of the dormancy period on both items. Idaho's existing law permits such contact linkage only among certain types of banking or financial organization types of property (i.e., savings and checking accounts). The new law extends the concept to any type of property.

Due Diligence Requirements Modified

Prior to reporting unclaimed property, state laws typically require the holder to provide notice to the owner to prevent the property from being transferred to the state. These statutorily required notices, or "due diligence," usually must occur in a prescribed manner and timeframe. House Bill 471 provides that for property valued at \$50 or more the notice must:

- Be sent within 60 to 180 days prior to reporting.
- Include specific language at the top of the notice and include certain information.²
- Be delivered via both USPS mail and email (if the owner has consented to receiving emails from the holder and the holder does not believe the email address is invalid). Existing law does not include the email notice requirement.

IDRUPA does provide some relief from the due diligence requirement. If prior to providing the required notice, a holder attempts to provide email notice to the owner through an email address provided by the owner and the owner affirmatively confirms receipt of the notice or the owner otherwise indicates an interest, then due diligence is no longer required.

Record Retention and Statute of Limitations Expanded

The length of time and types of items that must be retained pertaining to unclaimed property compliance are expanded under IDRUPA. The record retention period increases from seven to ten years after the later of the date the report was filed or the last date a timely report was due to be filed. Further, House Bill 471 adds information that must be retained, including copies of due diligence letter responses, documentation of service charge deductions, and working papers documenting items that were not ultimately reported.

The bill also extends the statute of limitations. After a non-fraudulent report is filed, the statute of limitations for when the administrator may commence an action to enforce reporting payment or delivery of property is increased from three to five years. In addition, the new law increases from seven to ten years the time period during which the administrator may commence an action with respect to a duty of the holder.

“De Minimis” Exemption Eliminated / Retroactive Reporting of Exempted Amounts

The existing Idaho unclaimed property statute provides that property valued at \$50 or less is not subject to the law. IDRUPA does not include this \$50 “de minimis” exemption – effectively eliminating it. Further, the transition provision in IDRUPA provides that:

“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.”

The elimination of the de minimis exemption coupled with the aforementioned transition provision may be interpreted to require the holder to report any funds previously exempted due to the de minimis exemption on the next report due after the July 1, 2024 effective date of the new law.

Virtual Currency Covered and Requirements Set

As seems to be a recent trend by states, IDRUPA defines “virtual currency” and provides for its unclaimed property treatment. In IDRUPA virtual currency is defined as:

“a digital representation of value used as a medium of exchange, unit of account, or store of value that does not have legal tender status recognized by the United States. The term virtual currency does not include: (a) The software or protocols governing the transfer of the digital representation of value; (b) Game-related digital content; or (c) A loyalty card.”

Correspondingly, House Bill 471 prescribes that virtual currency must be liquidated prior to the holder filing the unclaimed property report and that the owner shall have no recourse against either a holder who has acted in good faith or the administrator for any gain in value after liquidation.

Conclusion

The enactment of House Bill 471 makes numerous changes to the law, including new provisions for such things as virtual currency and health savings accounts. The preceding information is just a sampling of some of the more significant modifications. For more information regarding IDRUPA and its potential impacts for your organization’s compliance, please contact a member of KPMG’s National Unclaimed Property Team:

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