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# Unclaimed Property Update: RUUPA, ABA Model Act, and MoneyGram

**NCSL Executive Committee Task Force on  
State and Local Taxation**

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# Unclaimed Property - Background

- Every state has an unclaimed property law
  - Goals of law
    - All states - return property to owner
    - Some states - generate revenue
- Prior Uniform Acts – not uniformly adopted
- ULC undertook new draft
- Not a tax

# Unclaimed Property - Examples

- Savings, checking, certificate of deposits, safe deposit box contents
- Uncashed checks
- Insurance proceeds
- Utility deposits
- Securities and related property
- Payroll
- Gift cards/certificates
- Mineral proceeds and interest
- Accounts receivable credit balances and refunds
- Rebates

# Business (“Holder”) Compliance

- Track unclaimed property
- Attempt to contact owner (“due diligence”)
- Determine proper jurisdiction
- File reports with the states
- Turn over property
- Defend actions during audit

# Audit Example – *Temple-Inland v. Cook*

- Post 2003
  - Records available
  - \$1.3M in unclaimed property
  - Only \$147.30 owed to DE
- 1981 – 2003
  - No records available – typical business retains records for 7 yrs. – IRS rules
  - \$2M assessment
- Why?
  - Contingent-fee auditors
  - No statute of limitations
  - “unique” sampling, extrapolation & sourcing

# COST Policy Position - Highlights

- Seek to unite owners with property in the manner that is least burdensome to owners, holders and state
- Clear definitions
- Statutes should exclude property types that primarily enhance state revenue and generally are not returned to owners (e.g. B2B credit balances, gift cards)
- State should not have more property rights than owners – derivative rights doctrine
- Administration should be fair and predictable
  - No contingent-fee auditors
  - Independent tribunal for appeals

# COST Scorecard - Criteria

- Business-to-business transactions
- Statute of limitations
- Independent appeals process
- Contingent-fee auditors
- Gift certificates
- Penalties
- Interest

# ULC Process

- Adoption by full ULC – July 2016
- Withdrawn from vote and approval by ABA
- Roll out to states
  - DE, IL, TN, UT



# ABA Process

- Working on draft model act prior to ULC process
- Ceased work during ULC process
- Resumed work after RUUPA withdrawn from ABA vote
- Currently on fourth draft of model act
- Final draft anticipated for 2018 legislative sessions

# MoneyGram Case

- Escheat of “official checks”
- 12 U.S. Code § 2503
  - Money orders, traveler’s checks, or other similar written instruments
- Arkansas v. Delaware



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***QUESTIONS?***

***THANK YOU!***

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