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Update: Uniform Law Commission Draft of Revised Uniform Unclaimed Property Act

**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 Grade

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Using COST Scorecard and Methodology

ULC Treatment of Minority Positions

Issue	Minority Position	Minority Supported by:	Option to Adopt Minority Position?
Gift Cards	Not Exempt	NAUPA	Yes
B2B	Exempt	Business	No
Contingent-Fee Auditors	Banned	Business	No

ULC Process

- Drafting Committee
- National Association of Unclaimed Property Administrators (NAUPA)
- American Bar Association
- Who represents business?

ULC Next Steps

- Adoption by full ULC – July 2016
- ABA vote – Spring 2017
- Roll out to states



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QUESTIONS?

THANK YOU!

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