

Holder Responsibilities Under the Unclaimed Property Laws

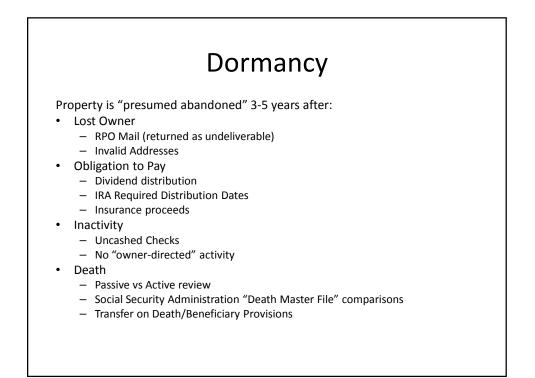
- Duty to file a report timely
- Duty to perform due diligence timely
- Duty to remit the property timely
- Duty to maintain copies of the reports and supporting documentation
- Duty to protect the funds until reported and transferred to the state
- Additional rules unique to insurance

Examples: Asset Types

- Benefit payments
- Accounts Receivable
- Accounts Payable
- Commissions/Comp
- Uncashed checks
- Gift Cards
- Unidentified deposits
- Refunds/Rebates
- Unapplied payments
- Business-to-Business

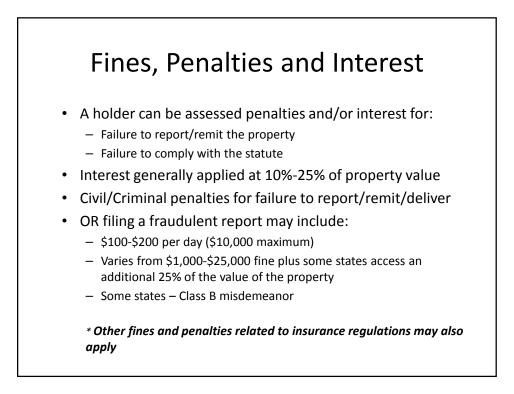
- Unpaid dividends
- Retirement Assets
- Customer credits
- Travelers' checks
- Matured bonds
- Securities shares
- Dormant Accounts
- Workers' Comp
- Other G/L items
- Tangible property

5



Where to Report

- 1. State of owner's last known address
- 2. State of holder's incorporation or domicile if address not known
- 3. State of holder's incorporation or domicile if address of apparent holder is in a foreign country <u>and</u> if holder is incorporated or domiciled in the U.S.



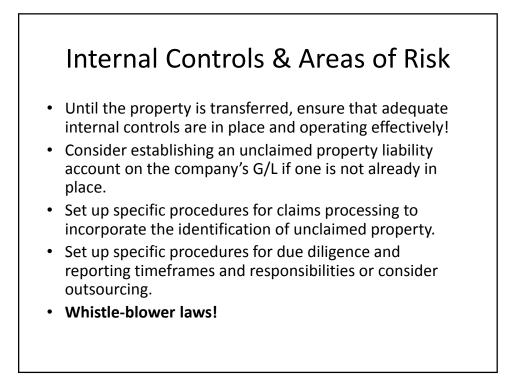
State Unclaimed Property Laws vs. Federal Laws

Sarbanes-Oxley

- Failure to properly account for an unclaimed property liability (FASB Statement No. 5) could be in violation of Generally Accepted Accounting Principles (GAAP)
- Sarbanes-Oxley Act
 - Section 302 requires that CEOs and CFOs include, with any periodic financial report filed at the SEC, a written statement certifying disclosure controls and procedures.
 - Internal control is a significant focus of Sarbanes-Oxley due to recent financial and accounting scandals
 - Section 404 review includes an assessment of the design and operating effectiveness
 of internal controls for significant accounts
 - Compliance by SEC registrants is non-negotiable

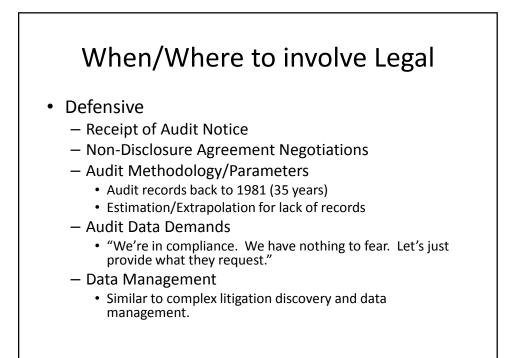
ERISA

Various case law – in most cases the state's have agreed that ERISA federally preempts state unclaimed property laws



When/Where to involve Legal

- Preventative
 - Review of Policies/Procedures
 - sufficiency with the legal requirements
 - · consistency with legal requirements
 - Evaluation of Organizational readiness for audit
 - Proper identification and tracking of UP
 - Proper record keeping and record retention
 - Proper reporting
 - Identify/Resolve gaps
 - Voluntary Disclosure Agreements



When/Where to involve Legal

- Challenging the Audit
 - Scope of Audit
 - Dormancy Triggers
 - Appropriate Data Constitutional Limits
 - Audit Findings Evaluation & Negotiations
 - Closing/Settlement Negotiations

Suggested Best Practices

- · Centralization over the governance of policies and procedures
 - Compliance Department
 - Internal Audit Department
 - Individual Life & Annuity Departments
 - Claims Department
 - Finance Department
 - IT Department
 - Unclaimed Property Department
- · Preparation for an unclaimed property audit
 - Unclaimed property policies and procedures
 - Insurance industry high-risk areas of audit focus

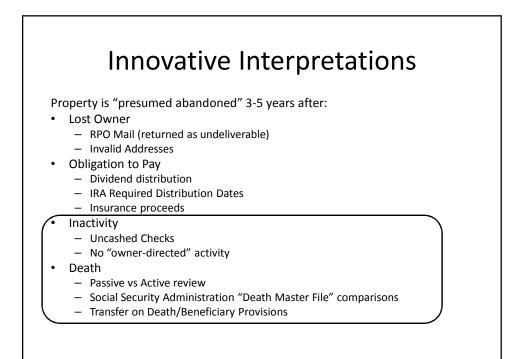
Suggested Best Practices

- Laws
 - Am I holding unclaimed property beyond the dormancy period?
 - Am I following best practices and demonstrating valued customer expectations
- Accounting issues: Contingent liabilities, the snowball effect you want to avoid
- TPA agreements
 - Define responsibility for reporting unclaimed property
- How to be proactive and not reactive in identifying property to be escheated
 - Establish an unclaimed property compliance committee
 - Use of the Social Security Death Master File
 - Policies in force due to their non-forfeiture provision
 - Engage an independent specialist to assist



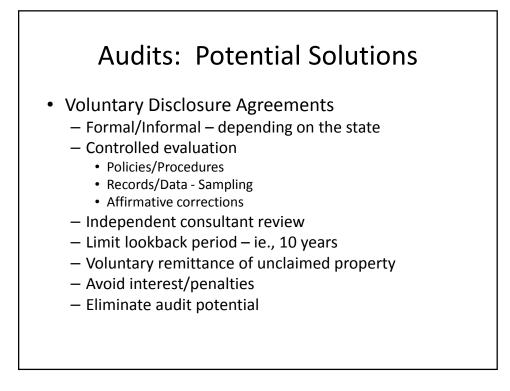
Benefits of Compliance and Best Practices

- Strengthens relationships with state regulators
- Avoid assessment of penalties and fines
- Decreases your reputational risk and increase consumer confidence
- Location owners/beneficiaries can lead to long term marketing opportunities
- Maximize asset retention
- Accurate financial data
- Greater efficiencies that ultimately result in increased revenues, time and resources



Inactivity: Potential Solutions

- Tracking owner-initiated activity
 - Website log ins
 - Customer Service call authentications
 - Receipt of written communications
 - Payment/Withdrawal request (excl. auto-transactions)
 - Cashed dividend/distribution checks
- Affirmative Contact Programs
- Handling Owners with Multiple Products
 - Activity on one asset sufficient to satisfy other assets?
 - Consolidated Account Statements



Questions??

David L. Westmark

Sr. Counsel Thrivent Financial <u>david.westmark@thrivent.com</u>