Guide to Unclaimed Property
Financial Institutions and Select Financial Instruments

Refer to North Carolina North Carolina General Statute §116B-53 — Presumptions of Abandonment.

Deposits and Other Funds Held by Financial Institutions
The following general overview addresses matters most commonly brought to the attention of our compliance staff. Though you should consider your own unique accounting systems, policies, and procedures, the following general information may be of assistance to you when reviewing your institution's compliance with North Carolina's Unclaimed Property law.

Definitions of Terms:
Positive owner contact: Any documented contact with an account owner is considered positive owner contact, including "owner directed" account activities initiated by the accountholder, such as deposits, withdrawals, or certain online banking transactions. In addition, it applies to documented owner contact via written correspondence, phone calls, or e-mail exchange. It does not include unreturned mail, automatic interest postings, automatic drafts, or service charges.

Inactive/dormant: These terms are typically used interchangeably. However, some institutions do create arbitrary definitions, such as "inactive" Demand Deposit Accounts (DDAs) and "dormant". Also, after no positive owner contact, some institutions consider accounts to be "inactive" after one year and "dormant after two years".

Abandoned Account: An account for which there has been no positive owner contact for at least five years following the last documented instance of owner interest is considered abandoned.

Savings and Checking Accounts
Regardless of the internal terminology used, the State of North Carolina considers savings and DDA accounts presumed abandoned five years from the date of the last documented instance of *positive owner contact*. Unless provided by contractual obligations to the contrary, interest should continue to accrue and be paid to the account until the date the property is remitted to the state.

Common Compliance Errors

- A computer system conversion causes the dates used to age dormant accounts to reset incorrectly.
- Account aging data is lost during mergers and acquisitions of financial institutions.
- Unclaimed property compliance software does not monitor beyond the current report year (i.e., program evaluates accounts with last activity dates between July 1, 2017 and June 30, 2018 for 2023 report). Accounts with last activity dates prior to July 1, 2017 will not appear on the report.

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- A financial institution makes modifications to its computer systems (erasing messages, adding new fields, and making other similar modifications) that cause customer contact fields to update when indeed no positive contact has occurred.

- A financial institution assumes non-returned mail is evidence of owner awareness, or only accounts with bad addresses need to be reported. Indirect evidence of owner contact, such as statements mailed but not returned by USPS, is not adequate evidence of positive owner contact.

- A financial institution fails to perform "due diligence" prior to reporting. All holders, including banks, are required to send letters to property owners prior to escheatment. According to North Carolina General Statute §116B-59 (a1), due diligence letters should be sent to owners owed $25 or greater for security related property and $50 or greater for all other property.

Certificates of Deposit (CDs)
Matured Certificates of Deposit (CDs) are presumed abandoned ten years from the date of initial maturity, or ten years from the date of the last indication of owner interest, as per North Carolina General Statute §116B-53(c)(2). CDs that automatically renew begin to age for abandonment on the first maturity date following instrument purchase.

TIP: Contact a CD owner before the maturity date (first maturity date for automatically renewing CDs) to prevent property from becoming abandoned.

If an automatically renewing CD reaches abandonment prior to a scheduled maturity date – and interest will be forfeited and/or early withdrawal penalties incurred – the reporting of the property may be postponed until the next maturity date. In practice, this means that several reports might need to be filed throughout the course of the year as abandoned CDs mature. Many financial institutions waive forfeitures and penalties when escheating CD property in order to avoid this problem.

Fees & Interest Cessation
North Carolina General Statutes §116B-57 and §116B-64 set the conditions for posting interest to, or assessing fees on, potentially escheatable property and dormant accounts.

A one-time reasonable service charge (to include minimum balance charges) may be deducted from property presumed abandoned, only if there is a valid, legally enforceable, written contract between the holder and the owner that so provides. For this purpose the depositor agreement signed by the accountholder at the time the account was opened will suffice, provided the assessed charge was included in the fee schedule in effect at that time, and is never waived.

Interest should be paid on inactive accounts until the account is escheated per North Carolina General Statute §116B-64.

Traveler's Checks and Money Orders
Traveler's checks and money orders are unique in that they are reportable to the state in which issued. If the state of issuance is unknown, then they must be reported to the State of the issuer's principal place of business. Traveler's checks are presumed abandoned 15 years from the date of issuance, and money orders seven years. Traveler's checks and money orders age for abandonment from the date of purchase provided the instrument has not been negotiated. As many financial institutions utilize services of third parties for processing and payment of such instruments, escheatment may be the legal responsibility of the third party. When in doubt as to escheatment responsibility, refer to the ASA (administrative service agreement) with your third party administrator.

Official Checks
Official checks are instruments issued by financial institutions for which they are directly liable. Such instruments may include: cashier checks, certified checks and registered checks. Such checks are presumed abandoned seven years from the date of issuance if not negotiated, or if the purchaser has not made contact with the issuer to arrange for cancellation or reissuance.

Other Bank Checks
All other bank checks are presumed abandoned five years from the date of issuance. Such checks include, but are not necessarily limited to accounts payable, loan, interest, and refund checks, to include checks issued to close accounts. Dividend checks issued to shareholders are presumed abandoned after three years, and checks issued in settlement of payroll obligations are presumed abandoned after one year.

Advisory Comments – Common Compliance Errors:

- May not deduct any charges for failure to present the check or other written instrument for payment.

- Checks are to be escheated in accordance with the underlying obligation being extinguished, not the instrument itself. For example, if a financial institution uses Certified Checks (ordinarily seven years property) for general operating purposes such as payments to vendors or employees, these Certified Checks would be presumed abandoned after five years, not seven years. Payment to employees for wages, salary or other compensation is presumed abandoned after one year.

- If an institution provides third party payroll services, any uncashed disbursements or returned ACH transactions become escheatable obligations after one year. When in doubt as to escheatment responsibility refers to your administrative service agreement (ASA). It is your duty to either return such items to your client's account for escheatment or your duty to report them directly.

- "Buried" checks can go unreported when a check number sequence repeats. For example, if you expect the oldest checks to rise to the top of an outstanding check list sorted by check number, you may be surprised to find pockets of older checks "buried" deep in the report where the number sequence has repeated.

Individual Retirement Arrangements (IRAs) and Other Tax Favored Financial Accounts
Individual Retirement Arrangements (IRAs) are financial accounts created under the aegis of, and regulated by the U.S. Internal Revenue Code. For Traditional IRAs, IRS code currently provides that account balances may not be accumulated on an indefinite basis. An accountholder or taxpayer must begin taking taxable distributions by a date certain, as prescribed by federal law. For Traditional IRAs and most qualified retirement plan arrangements, distributions must begin by the end of the calendar year during which the taxpayer reaches the age of 70½. Separate account distribution rules apply to other tax qualified financial accounts typically such as Roth IRAs, Coverdale Educational Savings Accounts, and Health Savings Accounts (HSAs).

From a compliance standpoint all of the account arrangements described above are presumed abandoned three years from the date distributions must begin, according to North Carolina General Statute §116B-53(c)(15). In essence, state escheat law "piggybacks" federal provisions regarding the taxation and disposition of such accounts. As such "the date specified" will vary from account to account, and from case to case, as determined by individual fact pattern.

Safe Deposit Box Contents
All tangible and intangible property held in a safe deposit box is presumed abandoned two years after the box has been drilled for non-payment of rent per North Carolina General Statutes §53 C-6-13 and §116B-55.

The Department sells all remitted contents at public auction within five years after the property is reported.

Corporate and Personal Trust Departments
Larger financial institutions may have trust departments that serve both individual and institutional clients. There are several types of property under their management that may be subject to escheatment.

Equity
Transfer or paying agents that act on behalf of a corporation are subject to North Carolina General Statute §116B-53 – presumption of abandonment. While a corporate client is ultimately liable to report its abandoned stock or dividends, certain trust departments offer as part of their service agreement to report unclaimed securities and related property as a convenience.

Unclaimed dividend checks and undelivered stock certificates, outstanding dividend checks, and the underlying shares for which the dividends have been issued, as well as the unexchanged shares and fractional shares are presumed abandoned three years from the date of issuance, per North Carolina General Statutes §116B-53(c)(4) and (5a).

Debt
Unclaimed matured municipal bonds, and any associated unredeemed bond coupons or interest payments, are presumed abandoned one year from the date they become payable or distributable, per North Carolina General Statute §116B-53(c)(12). All other matured corporate bonds, and any associated unredeemed bond coupons or interest payments, are presumed abandoned three years from the date they become payable or distributable, per North Carolina General Statute §116B-53(c)(5) and (5a).

As with equity, the issuer is ultimately liable to report its abandoned debt property. Certain bond trustees and/or paying agents will report, unclaimed debt securities and related property as a convenience outlined in their service agreements. If in doubt as to escheatment responsibility, refer to your administrative service agreement (ASA).

Some Final Considerations – Internal Control

Maintaining adequate internal controls over inactive accounts is extremely important. Often, inactive accounts are under dual control, with other types of electronic security measures in place. Strong internal controls safeguard client accounts and prevent possible theft of escheatable funds.

Examples of good internal controls

- Require special authorization to view inactive accounts.
- Require dual authorizations for any postings to an inactive account.
- Maintain unclaimed property reports, due diligence notices, and work paper documentation in a locked file with limited access.
- Segregate employee duties between the reactivation or refund of customer accounts, and the unclaimed property reporting function.
- Subject inactive accounts to periodic internal audit.

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