

Lynden Lyman on

Why Is There So Much Unclaimed Property, Anyway?

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Part II of II: Assessing the Effectiveness of State Owner Unification Efforts

Last month's commentary discussed the origins of unclaimed property, and why so much of it ends up being reported to the state. In summary, every dollar that finds its way to the state in the form of unclaimed property is a dollar that the holder of the property was unable to return to the rightful owner. The states indeed "get the leftovers" when a company fails to find or otherwise pay its customer, vendor, employee, or shareholder.

The inability of a holder to reunite an owner with an unclaimed asset, however, does not relieve the state from this responsibility. Although the origins of unclaimed property law were focused on shifting the windfall represented by lost property from its holder to the state (or, "the general good"), over time there has evolved a clear public expectation that states should proactively undertake unification efforts. Many states and elected officials have enthusiastically accepted this challenge. In recent years, the states have paid out billions in unclaimed property claims. Unclaimed property programs are no longer a government secret and more and more people have personal stories about finding money through the state. Still, critics abound and discontent is frequently heard. Is this criticism of state unclaimed property program unification efforts fair? This month's commentary will attempt to find answers to this question.

The frequent theme of media reports is that states should be returning more property (e.g., a higher percentage of collections) than is currently the case. To determine whether this is a reasoned position, there are four points to consider. The quality of owner information received by the states; the "true" national rates of return for unclaimed assets; state success stories in owner unification; and a consideration of whether states can — and should — be doing more.

1. Owner Locating is Directly Related to the Quality of Data Received by the States. Successful owner location is largely a function of data quality. When the state

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receives complete and accurate owner information, the ability to find a missing individual, and confirm ownership, is greatly enhanced.

Realistically, however, it is impossible for the states to even attempt to locate owners of at least one-quarter of the property reported. In virtually all states, at least 25 percent of the property is received without an owner name or address. Some of this property is below the state's aggregation amount, which represents a threshold amount (on average, \$50) under which owner information is not required. Other "no address" property includes assets where no owner name or address is ever recorded (the most common examples include money orders and travelers checks), accounts for which the holder has simply failed to maintain a name and address, settlement differences, or other "breakage" from financial transactions. This latter category can produce tens of millions of dollars in unclaimed funds, most of which typically end up with the states in which major corporations and financial services companies are incorporated. This "no address" phenomenon explains in part why Delaware, where so many holders are incorporated, has a much lower return rate than other states.

With respect to unclaimed properties where an owner is identified, the state's success in locating that owner will be dependant in large part on the completeness of the supporting report detail. For instance, the ability to locate a lost owner is greatly enhanced where the state is provided with the owner's social security number. Accurate and correctly formatted joint account owner, beneficiary, and address information is also critical. "Finding" an owner is only half the battle; the state must still make sure it is paying the correct individual. When the state receives an owner name and no other supporting information—a frequent occurrence—the state has little to work with.

In short, the absence of meaningful owner information, as well as insufficient or inaccurate owner detail, creates significant and understandable challenges to the states in locating lost owners. Where states do not receive sufficient information from holders, it is not possible for a state to successfully reunite owners with their property.

2. The True National Return Rate. To simply consider the raw percentage of unclaimed property collections that a state returns as the measurement of a state's reunification success is misleading. Several other factors need to be taken into account. First is the "due diligence" impact, as discussed in last month's commentary. State laws mandate that holders must send final notices to owners prior to transferring unclaimed assets to the states. Although no official statistics exist, it is estimated (by both states and holders) that 25 to 30 percent of owners respond to a holder due diligence mailing

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that has been properly performed. States do not—but certainly should—receive credit for this return of property as required by state unclaimed property law. Second, it is important to consider the amount of “no address” property received by a state, since such property is rarely returned to an owner. Third, there are state-specific factors that need to be reviewed. For instance, a state with a three-year abandonment period will find more missing owners than a state with a five-year timeframe, simply because the shorter the period, the “warmer” the missing owner’s trail. Because smaller, agrarian states have lower rates of transience and stronger social networks than larger, industrial states, these states frequently return higher rates of property to their citizens. And, as discussed below, the diligence and creativity of an individual unclaimed property program has a major impact on owner unification.

According to information compiled by the National Association of Unclaimed Property Administrators (from data provided by virtually all of its member states), in Fiscal Year 2006, the states collectively returned \$1.8 billion, or an amount representing 38 percent of value of the total unclaimed property collected (\$4.7 billion) that same year. The collection figure includes property received by the states for which there was no owner detail reported. Backing out this “no owner” property would increase the return rate to more than 50 percent. Factoring in the large number of owners reunited with their property as a result of pre-reporting due diligence by holders would increase the return rate even further.

Considering that states receive only the accounts where the holder was unable to reunite an owner with the property, this return rate appears very respectable.

3. State Success Stories. Although most media coverage has been negative, the press sometimes recognizes state accomplishment. In March 2008, the Associated Press reported that Oklahoma State Treasurer Scott Meacham’s office had successfully located a retired Tulsa school teacher who was entitled to nearly \$1 million, who “thought that her property was lost forever after stock certificates she had inherited from her father were destroyed.” Although the claimant had an unlisted telephone number, the treasury staff, with considerable effort, was able to locate her.

The media rarely reports on the states’ expanding use of tools to locate lost owners. Many states now use databases such as Accurant to track down owners, through prior address history and other data elements. States also utilize state information databases, such as tax, driver’s license, and employment records to find the current whereabouts of lost owners. A few states have begun undertaking “data cleansing” after real-

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izing that address correction and standardization increase the effectiveness of database matching by up to a third.

Perhaps the most significant development in state owner outreach in recent years has been the development and expansion of state unclaimed property websites. States have found the websites to be so successful in attracting attention and locating lost owners that a number of states have discontinued the traditional newspaper advertising of missing owner names in favor of expanded promotion and investment in their websites.

Each of the 50 states, as well as the District of Columbia, Puerto Rico, and the Canadian province of Quebec, maintain internet search sites. NAUPA and each of the states have explored and instituted means to make these sites more user-friendly, and more effective in the matching of users to assets potentially owing to them. The national trend is for states to allow for the filing of online claim forms, and unclaimed property programs are beginning to link to third-party databases (i.e., social security number verification) to help expedite claimant validation and payment.

More than 40 of the states now participate in the national unclaimed property website, MissingMoney.com. This website, which is provided by the states as a public service at no charge, allows the user to simultaneously search the unclaimed property databases of all participating states. Since its inception in 1999, more than 180 million searches have been conducted on the website—including more than 48 millions searches in 2007 alone.

4. Could — and Should — the State be Doing More? It is difficult to argue with the proposition that the states should return every dollar of unclaimed property collected to owners. However, this is an unrealistic notion. When the owner of lost property cannot be identified, unification is largely impractical. Similarly, where an owner has passed away, has moved out of the country, or is simply lost, there are limitations as to what can be done.

There is also a legitimate issue concerning cost. Is it reasonable for the state to spend \$500 to return \$100? Most people—certainly, most taxpayers—would think not. And it also seems plausible that many of the owners owed this property would understand the need for a cost-benefit approach. The federal courts in California, in reviewing and approving the state's new approach for contacting missing owners, recognized the fact

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that neither the Constitution nor any other authority required the state to go to reasonable lengths—that simply, “fair notice” was needed.

It is likely that the continued process improvement within state unclaimed property programs will continue because, in most states, the responsibility for operation of the unclaimed property program is the responsibility of a publicly elected official. Such officials are highly motivated to operate successful programs.

About the Author. Lynden Lyman is the managing director of the [ACS Unclaimed Property Clearinghouse](#) in Boston, serving as chief executive of the Clearinghouse since 1999. Lynden is a licensed attorney with 20 years experience in unclaimed property law, administration and auditing. Formerly, as an assistant attorney general with the state of Iowa, Lynden participated in state-initiated audits of banks, insurance companies, utilities, and publicly traded companies. From 1986 to 1993, he was associate special counsel/consultant for the Clearinghouse. In this capacity, he coordinated and participated in the examination of records, preparation of reports, and the reporting and collection of property from more than 12,000 different companies. Additionally, Lynden worked with more than 30 states in the drafting and adoption of unclaimed property statutes and regulations. From 1993 to 1998, during which time the Clearinghouse operated as a unit of State Street Bank, Lynden held various management positions, culminating in senior vice president and division executive. As contributing editor of the five-volume legal treatise [Unclaimed Property Law and Reporting Forms](#) (published by Lexis/ Matthew Bender) over the last 16 years, Lynden has reviewed and annotated every state unclaimed property law.

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