



GLENN HEGAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

Unclaimed Property Division
P.O. Box 12019 • Austin, TX 78711-2019

April 24, 2017

Toni Nuernberg
Executive Director
Unclaimed Property Professionals Organization
8441 Wayzata Blvd., Suite 270
Golden Valley, Minnesota 55426

Dear Ms. Nuernberg:

Thank you for your December 2, 2016 letter regarding implementation of H.B. 1454, passed during the 84th Regular Session of the Texas Legislature.

Please be advised that the responses set forth below are intended to provide general guidance to your organization and its membership regarding these recent changes to Texas unclaimed property laws. As of the date of this correspondence, no changes have been formally adopted by the Texas Comptroller of Public Accounts (Comptroller). Questions regarding a specific entity's compliance with the law will be addressed on a case-by-case basis after consideration of the specific facts and circumstances involved.

What types of property types does H.B. 1454 cover?

H.B. 1454 covers funds deposited with a bank, savings and loan association, credit union or other banking organization in an interest bearing account, checking account or savings account. Mutual funds held in an IRA trust account are also covered by this provision, but would not be subject to abandonment until they would normally be reportable as unclaimed property.

Acceptable methods to obtain authorized "representative" information

Under the statute, the Comptroller must prescribe a form that a holder may make available to an owner to designate a representative for notice. The use of the form prescribed by the Comptroller is not obligatory, and therefore, is not the only acceptable method for collecting the information required by the Comptroller. We are finalizing the form to be used and anticipate making it available prior to September 1, 2017.

Criteria for becoming a designated "representative"

At this time, we anticipate that the designated representative must be an individual that is over the age of eighteen and who is not an owner of the account. We do not anticipate requiring that the designated individual have a legal relationship with an account owner. Finally, we do not anticipate requiring an account owner to gain the consent of their designated representative.

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Duration of the appointment for a designated “representative”

We anticipate addressing this issue in the form we are developing. Account holders will have the option to stipulate the duration of the designation. In the absence of an account holder stipulating a shorter period, we interpret H.B. 1454 as providing for a perpetual designation of a representative unless otherwise revoked by the account holder.

Under Texas Property Code Section 74.101(c) (as amended by H.B. 1454), holders are only required to report information about a designated representative when submitting a property report for property that is considered abandoned as required by Section 74.101(a). Therefore, holders do not need to inform the Comptroller of changes to a designated representative.

Informing account owners about the designated “representative” option

Because the designation of representative is elective, we anticipate that holders will inform their customers of the option to designate a representative.

Reporting “representative” information to Texas per the new law requirements

The Comptroller’s office is updating its electronic holder report format to accommodate representative information. The updated format will be made available prior to September 1, 2017.

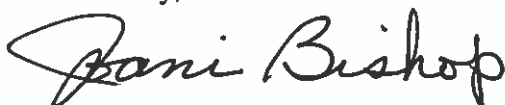
Multiple Accounts

The form being developed will allow account owners to specify the accounts for which the representative is being designated. It will also include an option for the account owner to choose all eligible accounts held by the institution.

Under Sections 72.1021(d) and 73.103(d), for the abandonment period to stop running on an account, the institution must receive a communication from a representative designated under the section. Therefore, if the institution receives a communication from an individual designated for a specific account, the abandonment period would not necessarily cease to run for accounts for which a representative has not been designated.

Thank you for raising these issues as it has given us the opportunity to further develop our plans for implementing the requirements of the new statutory language. If you have any additional concerns or comments please feel free to contact me.

Sincerely,



Joani Bishop
Director