

12/20/67

Memorandum 68-14

Subject: Study 26 - Escheat

Attached is a copy of the Commission's Recommendation on Escheat. The bills to effectuate this recommendation will be introduced at the 1968 legislative session in the form contained in the Recommendation.

Attached as Exhibit I (pink pages) is a letter from the Office of the State Controller suggesting revisions in the proposed legislation and comments. We have also distributed the printed recommendation to all persons and organizations that indicated an interest in this subject. It is possible that additional suggested revisions will be received. If so, we will transmit them to you as a supplement to this memorandum.

Page 1040 of printed Recommendation

The State Controller suggests that, in the Comment to Section 1530, the second sentence of the second paragraph should be revised to read: "The change makes the amount correspond with the minimum amount that the Controller must charge for servicing the property under Section 1540(c)." This is a desirable change and would make the Comment more precise. If approved by the Commission, we will make the change in the Comment when we prepare a special report for the legislative committee that hears this bill.

Section 1532, page 1043 of printed Recommendation

The State Controller suggests in substance that subdivision (c) of Section 1532 be revised to provide:

(c) In the case of sums payable on travelers checks or money orders escheated under Section 1513, such sums shall be paid to the State Controller not later than 20 days after the final date for filing the report at the time the report is filed.

Although subdivision (c) incorporates the substance of a 1967 revision of the Uniform Disposition of Unclaimed Property Act (see Comment to Section 1532), the change suggested by the State Controller appears to be a desirable one. We have written to the representative of American Express Company to determine whether American Express would object to this change.

Section 1564, pages 1051-1052 of printed Recommendation

The State Controller suggests that the following additional paragraph be added to subdivision (b) of Section 1564:

(9) For transfer to the Inheritance Tax Fund of the amount of any inheritance taxes determined to be due and payable to the state by any claimant with respect to any property claimed by him under the provisions of this chapter.

This is a technical change and conforms to subdivision (h) of Code of Civil Procedure Section 1325 which makes continuous appropriation of the Unclaimed Property Fund for various purposes. (Property that escheats to the state under other statutes is deposited in the Unclaimed Property Fund.) The amendment may be unnecessary, but is desirable in the interest of clarity.

Section 1571, page 1054 of printed Recommendation

The State Controller suggests the following revision of subdivision (a) of Section 1571:

(a) The State Controller may at reasonable times and upon reasonable notice examine the records of any person ~~if he has reason to believe that such person has failed to report property that should have~~ to determine whether all unclaimed property has been reported pursuant to this chapter.

The State Controller states: "The existing language gives the impression that we could examine the records only if we suspect

fraud. The language we are proposing would authorize us to examine records as a routine matter, similar to authorization contained in various tax programs." In connection with this change, it should be recognized that the proposed legislation can be a source of significant additional revenues to the state. See Exhibit II (yellow) attached.

Respectfully submitted,

John H. DeMouly
Executive Secretary

HOUSTON I. FLOURNOY
CONTROLLER



Controller of the State of California

SACRAMENTO

December 14, 1967

California Law Revision Commission
School of Law
Stanford, California

Attention Mr. John H. DeMouilly
Executive Secretary

Gentlemen:

This is in reply to your letter of November 20 with which you sent a copy of the page proofs of the Commission's report on escheat. Both Mr. Neuharth and myself have reviewed the proofs and have the following suggestions:

On page 1040, in the comments referring to Section 1530, we suggest that in paragraph 2, the second sentence be changed to read as follows: "The change makes the amount correspond with the minimum amount that the Controller must charge for servicing the property under Section 1540(c)." (Underscoring indicates suggested changes).

On page 1043, Section 1532(c) provides that sums payable on travelers checks or money orders escheated under Section 1513 shall be paid to the Controller not later than 20 days after the final date for filing the report. We believe that in connection with this type of item, it would be well to require the payment to accompany the report.

On page 1052, we suggest that Item 9 be added to read as follows: "(9) For transfer to the Inheritance Tax Fund the amount of any inheritance taxes determined to be due and payable to the State by any claimant with respect to any property claimed by him under the provisions of this chapter." This would be similar to the provision found in CCP, Section 1325(h).

On page 1054, we believe the language of Section 1571(a) should be softened to read as follows: "1571(a) The State Controller may, at reasonable times, and upon reasonable notice, examine the records of any person to determine whether all unclaimed property has been reported pursuant to this chapter." The existing language gives the

California Law Revision Commission
December 14, 1967
Page 2

impression that we could examine the records only if we suspect fraud. The language we are proposing would authorize us to examine records as a routine matter, similar to authorization contained in various tax programs.


We would like to obtain 100 copies of the report on escheat when it is published. Could you add this to your printing estimate and bill us for it?

If you have any questions, please let us know.

Very truly yours,

HOUSTON I. FLOURNOY, STATE CONTROLLER

By


S. J. Cord, Chief
Division of Accounting

F. Sunday Examiner & Chronicle, December 10, 1967 ☆☆☆ Section C Page 11

State Eyes Dividend Bonanza

By JACK MILLER
Staff Writer

The state is licking its chops over prospects of getting its hands on what may be a multi-million dollar unclaimed dividend hoard.

It's money held by many corporations because they can't find the rightful owners.

The state was given the right to seize these funds — and millions more in other valuables — by the Uniform Disposition of Unclaimed Property Act of 1959.

"But few corporations

have been reporting unclaimed dividends to the controller," John Barsell, deputy attorney general, told The Examiner.

The state, too, he indicated, has been sitting on its hands. "The controller never has enforced the law — only accepted what has been reported."

But victory of a little-known lawsuit over the statute of limitations is going to change this, Barsell explained, adding: "This is what the controller was waiting for."

The state is starting a pilot

program in July to canvass corporations and ferret out unclaimed dividends and stock.

"It may open up a Pandora's Box," Barsell said. No one knows how much is at stake — it could run into countless millions, he added.

The suit spurring the state into action was filed by the Bank of America which claimed the 1959 law didn't give the state the right to property prior to 1953.

The State Supreme Court recently upheld a decision giving the controller the

green light on unclaimed property going back as far as he wished. Barsell represented the controller.

The immediate result: The State recovered some \$3 million from Bank of America and other banks in the state.

The BA suit involved Christmas club accounts, cashier, traveler and certified checks, money orders and drafts as well as dividends.

Some feel this \$3 million is only a drop in the bucket compared with the stake if unclaimed dividends and

stocks are aggressively pursued.

An Assembly report on the abandoned property situation made for the Legislature in 1959 when the law was passed estimated the total hoard at up to \$100 million. This included the gamut — savings accounts, interest, etc.

Testimony then declared: "For the banks, life insurance companies, utilities and corporations holding this property, it proves a windfall. In a real sense, it is found money."

The report was one corpo-

ration held \$180,000 in unclaimed dividends and \$200,000 in uncashed dividend checks. In addition, there was the value of the stock involved.

The 1959 law requires the controller to advertise for missing stockholders twice a year in the area of the last address.

At any time, an heir or rightful owner can claim property taken over by the state which converts it into cash via public sale.

In the meantime, the state has the use of the funds.