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Charles A. Trost, Esquire
Waller Lansden Dortch & Davis, LLP
Nashville City Center
511 Union St, Suite 2700
Nashville, TN 37219-1760

Sent via email: charlie.trost@wallerlaw.com

Re: UPPO submission regarding the 1995 Uniform Unclaimed Property Act Revision

Dear Mr. Trost:

In our continuing effort to support you and your colleagues on the Uniform Law Commission Drafting Committee to Revise the Uniform Unclaimed Property Act (Drafting Committee), UPPO identified outstanding issues that are critical to the holder community which have not received extensive discussion by the Drafting Committee.

We appreciate this opportunity to share our additional recommendations on these very specific and important issues, and thank you in advance for the continued consideration you and the Drafting Committee give to our input.

Please do not hesitate to contact me with any questions, which I will pass along to the UPPO Board of Directors.

Sincerely,



Toni J. Nuernberg, CAE, CBA, CGA
Executive Director
Unclaimed Property Professionals Organization
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cc: Commissioner Blackburn and Commissioner Houghton, Uniform Law Commission
Katie Robinson, staff liaison, Uniform Law Commission
Unclaimed Property Professionals Organization Board of Directors

Foreign address property

Section 103

Summary:

UPPO recognizes that the Drafting Committee will not exclude foreign address property; but would urge the committee to consider excluding property with military addresses.

Proposed language as new Section 102 (22) (B) (v):

For Purposes of the Act, the term “Property,” shall not include any tangible or intangible property described above that is owed to a person whose last known address as shown on the records of the holder is an Air/Army or Fleet Post Office (APO/FPO).

UGMA/UTMA accounts

Section 202(e)

Summary:

UGMA/UTMA custodial accounts are not specifically addressed in the RUUPA. UPPO urges the drafting committee to consider adding a specific dormancy provision for UGMA/UTMA accounts that triggers the running of a state dormancy period on the date when the minor who is beneficial owner of the UGMA/UTMA account reaches the statutory age of majority pursuant to the state statutes which establish such accounts. The UGMA/UTMA account does not become fully payable and distributable at the option of the minor until that date, and hence such date is a proper dormancy-period trigger date.

Proposed language for new section on UGMA/UTMA:

(e) Property held in an account that was established under the State’s Uniform Gifts to Minors Act or Uniform Transfers to Minors Act, is presumed abandoned if it is unclaimed by the owner, which shall be the minor on whose behalf the account was opened, three years after the later of:

(1) the date a second consecutive communication sent by First-Class United States mail to the owner is returned as undelivered by the United States Postal Service. The second communication must be made within thirty (30) days after the first communication is returned, or the date the first communication is returned undelivered by the United States Postal Service applies; or

(2) the date upon which the owner reaches the statutory age of majority in accordance with the State’s Uniform Gifts to Minors Act or Uniform Transfers to Minors Act, pursuant to which the account was opened.

(f) If the apparent owner of an account described in subsection (a) does not receive communications from the holder by First-Class United States mail, the holder shall attempt to re-establish the apparent owner’s interest in the property by sending the apparent owner an electronic mail communication not later than two years after the apparent owner’s last indication of interest in the property to the holder. If the holder receives notification that the electronic mail communication was not received or if the apparent owner does not respond to the electronic mail communication within 30 days, the holder shall promptly attempt to contact the apparent owner by First-Class United States mail. If the mail is returned undelivered by the United States Postal Service, the property is presumed abandoned three years after the later of:

(1) the date a second consecutive communication to contact the apparent owner sent by First-Class United States mail is returned as undelivered by the United States Postal Service. The second communication must be made within thirty (30) days after the first communication is returned, or the date the first communication is returned undelivered by the United States Postal Service applies; or

(2) the date established by subsection (e)(2).

Indication of owner interest, addition of 1099 or regular tax statement to be considered contact

Section 208(a)

Summary:

UPPO proposes that the non-return of Federal tax forms or regular tax statements be considered contact. Many states today consider the non-return of a 1099 as contact.

Proposed language:

208(a)(8): the non-return of federal tax forms, or other regular tax statements delivered to the owner either via US Mail or through electronic delivery.

Evidence of unpaid debt or undischarged obligation

Section 309(c)(8)

Summary: We had requested substitution of “90 days” for “a reasonable time”, and deletion of the language requiring a contemporaneous record indicating the reason for the voiding of the check, the idea being that voids made within 90 days of issuance should be presumed to have been made in the ordinary course of business. We recognize that the Drafting Committee rejected our suggestion to delete the requirement for a contemporaneous record. That being the case, we do not think there should be any time limit within which the check must have been voided, and propose that the Committee return to the language “was voided within a reasonable time after issuance for a valid business reason set forth in a contemporaneous record that indicates the valid reason for the voidance; or”

Proposed language:

was voided within a reasonable time after issuance for a valid business reason set forth in a contemporaneous record that indicates the valid reason for the voidance; or

Confidentiality issues

Article 14

Summary:

During the February 2016 drafting committee meeting, Co-Chair Blackburn raised valid concerns related to confidentiality of owner data. UPPO fully supports the inclusion of those recommendations in the final RUUPA draft. This is specifically related to additional and robust indemnification language imposed on the states and their agents for data protection and data breach notification. This language should mirror that to which the holder community is held related to documented policies and procedures and insurance requirements, among other

attributes. There would also have to be a parallel waiver of states' sovereign immunity in the context of these data security issues.