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Linking Assets Inc. UPdate periodically provides articles and information regarding legislation, regulatory, compliance, and/or associated developments. Keeping you informed about unclaimed property, search and location, owner outreach, and related areas of interest.

Seasonal Greetings and a Happy New Year from The Linking Assets Team



AUP Policies and Procedures Are Important

By Christa DeOliveira, CIA, CCEP

Does your organization have documented abandoned and unclaimed property (AUP) policies & procedures? There is a need for having solid policies and procedures in conjunction with strong internal controls as they fit into an organization's overall governance of aligning its affairs to meet business objectives and goals.

A key aspect of governance is to address risks. There are multiple risks related to AUP that should be considered and mitigated.

- Strategic- risk that would prevent an area from accomplishing its objectives/meeting its mission
- Regulatory/Compliance- risk that could expose the organization to fines, penalties, or criminal prosecution from a regulatory agency due to non-compliance
- Operational- risk that could prevent a department from operating in the most effective and efficient manner or be disruptive to other operations of the organization
- Fraud- risk of an unexpected loss due to (internal or external) fraudulent activity, including expenses associated with managing/remediating fraud
- Financial- risk that could result in a negative monetary impact to the organization
- Reputational- risk that could expose the organization to negative publicity

When developing and accessing policies and procedures, it is common to look at whether the policies and procedures are designed adequately and then to assess whether they are followed.

Internal Control may be broadly defined as a process, effected by an entity's board of directors, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with laws and regulations

Controls can help provide reasonable assurance operations, compliance, and business objectives are being met. The complete approach of incorporating directive, preventive, and detective controls is optimal. For the most robust approach, multiple types of controls should be implemented and built into policies, procedures, practices, and systems.

When designing and updating policies and procedures the specifics of the environment and circumstances must be considered or they will be ill-fitting. Many aspects can impact design needs, including:

- What type of holder classification your organization is in i.e., banking, securities, insurance, retail, etc.
- Whether operations, accounting/share services, UP reporting are centralized or decentralized
- If your organization is large or small, simple, or complex
- How many holders you are ~~you~~ reporting for and if multiple, are there different states of incorporation

If your organization finds itself being audited by a state, it is common to be asked to supply a copy of your organization's policies and procedures. Naturally, this is not an optimal time to be building and/or documenting procedures. Although it could be an opportunity to reassess existing policies and procedures. This can also have operational benefits, if someone is suddenly out of the office on leave, is there a contingency plan? Is it documented or is everything in someone's head? Furthermore, it is good to know which department and role is supposed to manage which specific steps of the AUP process.

Incidentally, pursuant to 12 Del. C. § 1170(a) Delaware's Department of Finance has sent out notices requesting organizations to provide a verified report showing evidence a 2022 report was filed, the list of legal entities included in such report, and a copy of their AUP policies and procedures. Organizations that do not respond or did not report property in 2022 could receive a

compliance review request to join the voluntary disclosure program or an examination.

If circumstances change, then it is prudent to reflect on any impacts of the changes and adjust, as needed. For example, if a new line of business is developed, there could be new types of unclaimed property associated with it. Environments are not static: organizations evolve; statutes, regulations, and requirements evolve; case law evolves; business operations, practices, and decisions evolve, etc. It is a best practice to update procedures when there is a significant change and review at least annually for continued relevance, accuracy, and appropriateness.

It is optimal to develop and design policies and procedures to address your organization's specific environment, business objectives and goals, operations, risks, controls, and circumstances. Linking Assets, along with its strategic partners, can work with you to address your organization's policies and procedures whether they are undocumented or mature. Contact us to discuss the details of your situation.

NAUPA III Continues to Move Forward

NAUPA III continues to move forward, albeit slowly. During December 2022, Linking Assets reported on the background, current status, observations, and anticipated next steps for NAUPA III (<https://www.linkingassets.com/blogs/12202022/>). Here is an updated view.

Current Status: The NAUPA III rewrite was developed and published for feedback. Since the initial feedback from NAUPA and holder community, NAUPA has reached out to the holder community through UPPO for additional information on securities and virtual currency.

The most recently published NAUPA III information is viewable online at <https://unclaimed.org/naupa3/>.

Next Steps: Revisions are being incorporated from the feedback for the rewrite that was received. The timeline for this is currently unknown. Then there will need to be review processes at NAUPA and likely NAUPA will work

with the holder community and software providers on this. NAUPA will need to formally adopt the new standard. How time-consuming this will be is currently unknown.

Also, it remains to be seen how quickly State and holder systems can be programmed and tested once the final NAUPA III format is approved by NAUPA. Appropriations legislation requirements for States to secure funding through budgetary processes is a necessary hurdle and will take time.

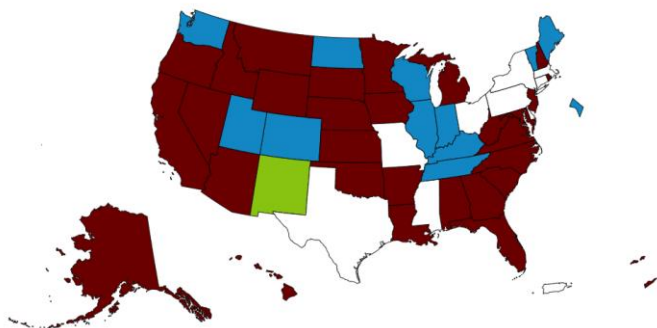
Holders will need new software to meet the needs of the requirements of the new format. The information pulled from source systems will likely become more comprehensive and there could be a need for additional processes.

It is important to note specific details on transitioning to NAUPA III will be on a State-by-State basis. NAUPA does not dictate this process. Additionally, the timing when old and new formats may be concurrently accepted will be up to each State. NAUPA has indicated it will encourage States to accept both formats for about a year and then fully transition to NAUPA III.

Linking Assets will continue to monitor and provide updates on this seminal change.

RUUPA Watch

States and jurisdictions with enacted versions of Uniform Law Commission’s (ULC) *2016 Revised Uniform Unclaimed Property Act* (RUUPA) are shown below.¹ These are according to the ULC. (We have seen States enact legislation named as RUUPA; however, they have not been listed on the ULC’s website as having enacted RUUPA or substantially similar legislation.)



¹ <https://www.uniformlaws.org/committees/community-home?CommunityKey=4b7c796a-f158-47bc-b5b1-f3f9a6e404fa>

In this Enactment Map:²

- Blue = RUUPA has been enacted
- Green = RUUPA has been introduced
- Maroon = a prior uniform act is in place
- White = States that have unclaimed property laws not based on any version of a uniform act

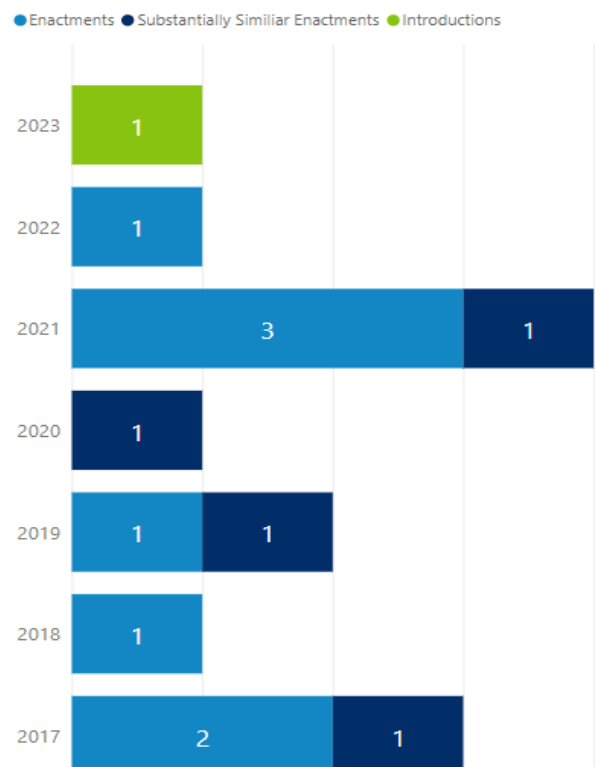
Additionally, the ULC site provides the following lists of bills and year of enactments on the bill list tab:³

Current Version Legislation

Jurisdiction	Year	Bill Number	Status
New Mexico	2023	HB 165	Introduced
Washington	2022	SB 5531	Enacted
District of Columbia	2021	24-373	Enacted
Indiana	2021	SB 188	Enacted
North Dakota	2021	SB 2048	Enacted
Wisconsin	2021	AB 325	Enacted - Substantially Similar
Vermont	2020	HB 550	Enacted - Substantially Similar
Colorado	2019	SB 88	Enacted
Maine	2019	LD 1544	Enacted - Substantially Similar
Kentucky	2018	HB 394	Enacted
Illinois	2017	SB 9	Enacted - Substantially Similar
Tennessee	2017	HB 420	Enacted
Utah	2017	SB 175	Enacted

Enactments continue but are occurring slowly.

Current Version Enactments by Year



² Ibid

³ Ibid

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LINKING ASSETS INC.



It is time; don't roll the dice.

It is time to start sending Abandoned and Unclaimed Property due diligence letters, depending on your industry, for late winter, spring, and summer reporting.

Is it frustrating to turn so much property over to states' unclaimed property divisions? Don't roll the dice on the percentage of owners that respond to due diligence; increase it. Speak to Linking Assets; we can customize a property owner reengagement program to meet your specific needs.

There are many benefits to reengagement, and it facilitates your company to reactivate, reconnect, and reunify with more owners, instead of reporting and remitting their property to states.