



Unclaimed property. Uncompromising performance.

Unclaimed Property Proposed Amendments to California Reporting Regulations

Unclaimed Property Legislative Alert from Keane - December 6, 2011

Please note: On December 2, 2011, the California State Controller's Offices proposed amendments to California Regulations 2 CCR §§ 1155.250 and 1155.350 and the repeal of §1175.

As currently adopted, California Code of Regulations, title 2, section 1155.250 incorporates two forms by reference: SCO EFT-1 (03/98) and SCO EFT-3 (01/98). This rulemaking action will amend Section 1155.250 by updating the two forms incorporated by reference to SCO EFT-1(01/11) and SCO EFT-3(01/11). The revised forms accommodate changes in statutory requirements, administrative needs, and technological changes. The proposed amendment to Section 1155.250 will also delete the language requiring prior approval to remit funds by Fedwire.

As currently adopted, California Code of Regulations, title 2, section 1155.350 incorporates two forms by reference: UFS-1(02/98) and Form UP 27 (2/98). This rulemaking action will replace UFS-1 (02/98) with UFS-1 (04/09), and it will delete the reference to Form UP 27 (02/98).

This rulemaking action will also repeal California Code of Regulations, title 2, section 1175. As currently adopted, Section 1175 requires any person or holder to retain records pertaining to property for a period of seven years after such property is reported, or would have been reported. The repeal of this regulation will remove this affirmative recordkeeping requirement. The repeal of this regulation does not impose any additional reporting or recordkeeping requirements. The State Controller's Office believes that the current regulation is contrary to statutory authority. As stated in the State Controller's "Initial Statement of Reasons," the Unclaimed Property Law (CCP 1500 et seq.) does not provide any records retention period or place any limitation on record keeping requirements. Moreover, the Court of Appeal indicated that there is no limitation on the time in which the Controller may bring an action to enforce the Unclaimed Property Law in *Bank of America v. Cory*, (1985) 164 Cal.App.3d 66, 74-77. The insertion of the records retention period by regulation may limit the Controller in his duty to enforce the Unclaimed Property Law. Therefore, the State Controller's Office believes this regulation should be repealed.

PUBLIC HEARING

The State Controller has not scheduled a public hearing on this proposed action. However, the State Controller will hold a hearing if a written request for a public hearing is received from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed regulatory action to the State Controller's Office. Comments may also be submitted by facsimile at (916) 322-1220 or by email to dbrownfield@sco.ca.gov. The written comment period closes at 5:00 p.m. on January 16, 2012. The State Controller will only consider comments received at the State Controller's Office by that time. Submit comments to:

Dave Brownfield
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, CA 95814