

Policy Guidance Frequently Asked Questions:

Q: Are notifications that are required after two years of the owner being inactive (i.e. “no indication of interest”), required to be sent electronically or is U.S. mail acceptable, so long as the holder believes the mailing address to be valid?

A: Regarding the presumption of abandonment under §1301.8, if the owner does not receive communications from the holder by United States mail, the holder is required to attempt to contact the owner by email, two (2) years following the owner’s last indication of interest in the account. If there is no response to the email or the email is not successfully delivered (i.e. “bounces back”), the holder is required to contact the owner by first class mail. If the first class mail is returned as “undeliverable,” the holder shall be deemed to have “lost contact” with the owner at the date of the owner’s last indication of interest in the property. 1301.8(c). For customers who have chosen to receive account information by email, holders are required to attempt to contact the owner via email.

Treasury would like to emphasize that this is the *minimum* standard, and that nothing prevents the holder from also sending first-class mail, at any time, as a best practice. A visual representation of these requirements is attached to this document.

Q: Please clarify whether the communications referred to in Section 1301.8(b) and elsewhere include generic marketing materials or are limited to account-specific communications.

A: The communications referred to throughout the guidance are limited to account-specific communications and do not include marketing or other generic materials.

Q: Does the new rule for retirement accounts (non-reportable for 3 years from Sept 10, 2016) apply to IRA’s invested in a CD or just IRA’s invested in a savings account product?

A: The new rule applies to various fiduciary accounts, which may include savings, deposit, investment or other accounts held by a financial agency or institution, or its agent, for the benefit of another. Section 1301.8 applies to all non-ERISA fiduciary retirement accounts, including traditional IRAs, simplified employee pension plans (SEPs) and savings incentive match plan for employees (SIMPLE IRA plans) established by individuals or self-employed individuals.

Q: What is PA Treasury’s definition of a fiduciary account?

A: The new legislation has not changed the definition of “fiduciary” or “fiduciary account.” All that has changed is the treatment of fiduciary accounts in unclaimed property. “*Fiduciary*” includes a trustee, under any trust expressed, implied, resulting, or constructive, executor, administrator, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the

benefit of creditors, partner, agent, officer of a corporation, public or private, public officer, or any other person acting in a fiduciary capacity for any person, trust, or estate. Fiduciary accounts may include savings, deposit, investment or other accounts held by a financial agency or institution, or is agent, for the benefit of another. *See* 7 P.S. § 6351

Q: Please clarify that no reporting for IRAs will occur until the 2019 holder report?

A: Correct, if you only have IRA accounts then you would have nothing to report until April of 2020 for the 2019 report year. However, in order to ensure there are no negative tax implications for owners, holders and consumers of any escheated retirement assets, until such time as Treasury issues a new policy guidance on this matter, **Treasury will neither demand nor accept any retirement account that is presumed abandoned and unclaimed, except as follows:**

- (1) Individual retirement accounts (including retirement plans for self-employed individuals) of which the beneficiary cannot be located for a period of three (3) years following the death of the owner and that is not subject to a mandatory distribution requirement, or**
- (2) Individual retirement account (including retirement plans for self-employed individuals) of which the owner has attained seventy and one-half years of age and is not subject to a mandatory distribution requirement.**

Q: Do "Retirement Savings Accounts" include 401(k) accounts or does it refer to other specific type of accounts?

A: Section 1301.8 (a)(2) applies to all non-ERISA fiduciary retirement accounts including traditional IRAs, simplified employee pension plans (SEPs), and savings incentive match plan for employees (SIMPLE IRA plans) established by individuals or self-employed individuals.

Q: How does PA Treasury define "agent-in-fact"?

A: The new term "agent-in-fact" applies the provisions of this section to accounts held by persons acting pursuant to a power-of-attorney agreement.

Q: Please clarify whether the amendments apply to both UGMA and UTMA accounts.

A: For these accounts, dormancy is triggered when the minor turns 21.

Q: No dormancy trigger is articulated for minor accounts once the age of 21 is reached. Please clarify whether holders should apply the two (2) return mail "lost contact" standard and/or a three (3) year period of inactivity following once age 21 is reached.

A: As to minor accounts that are fiduciary accounts, once the beneficiary reaches the age of 21 both standards would apply in the same way they both apply to all other fiduciary accounts. Thus, the earliest these accounts would be reportable would be once the beneficiary reaches the age of 24, following three (3) years of inactivity (no indication of interest) and two return mail (lost contact). This is the same dual threshold that applies to all fiduciary accounts.

Q: Does the email outreach required at 24 months following an owner's last indication of interest apply only to fiduciary accounts?

A: Yes, however it is a best practice for all accounts.

Q: The draft states that both "lost contact" (commonly referred to as return mail) and no activity must be present for fiduciary accounts to be eligible for escheatment. How should non-fiduciary accounts be treated?

A: The treatment of non-fiduciary accounts remains the same as it was prior to the new legislation with the exception of the new notice requirements under Section 1301.10-A.

Q: The draft states that both "lost contact" and "no activity" must be present for fiduciary accounts to be eligible for escheatment. Does that mean that both return mail and inactivity must be present for the full three (3) year period?

A: Yes. The dual threshold for fiduciary accounts means that both inactivity (no indication of interest) and lost contact must occur before the property is reportable.

Q: How should Section 1301.10-A be applied to the properties governed by Section 1308?

A: The due diligence under Section 1301.10A is required for all property presumed abandoned, where notice must be sent to the owner 60 – 120 days prior to the date in which the report is to be submitted to Treasury, including any property presumed abandoned under Section 1301.8.