



Economic Impact Analysis Virginia Department of Planning and Budget

1 VAC 75-40 – Unclaimed Property Administrative Review Process Department of the Treasury August 20, 2003

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

Pursuant to Section § 55-210.27C of the Code of Virginia, the Treasury Department (department) proposes to outline the process by which persons who have been required to pay or deliver abandoned property pursuant to the Uniform Disposition of Unclaimed Property Act (act), or who assert ownership of property remitted to the Commonwealth pursuant to the act, may file an application to appeal department administrator decisions.

Estimated Economic Impact

The Uniform Disposition of Unclaimed Property Act (act)¹ dictates that “all tangible and intangible property, including any income or increment thereon, less any lawful charges, that is held, issued or owing in the ordinary course of the holder's business and has remained unclaimed

¹ The Uniform Disposition of Unclaimed Property Act is Chapter 11.1, Sections § 55-210.1 through § 55-210.30.

by the owner for more than five years² after it became payable is presumed abandoned ...” The act provides further specifics on when various financial instruments and funds are to be considered abandoned. Per Section § 55-210.12 of the act, every person (or entity) holding funds or other property, tangible or intangible,³ that have been determined to be abandoned, must report and remit the property to the State Treasurer (treasurer).

If the administrator,⁴ as agent of the treasurer, ascertains that any person or entity (holder) has failed to pay or deliver abandoned property in accordance with the provisions of the act, he issues a written notice demanding remittance of the property and payment of any penalties and interest prescribed by law. The department employs inspectors who seek to find persons and entities who have failed to deliver abandoned assets to the treasurer.

Holders are notified that they have the right to secure an administrative or judicial review (file an appeal) of the administrator’s decision. In addition, individuals whose claims to abandoned property held by the Commonwealth have been denied may also file an appeal. These proposed regulations describe how the appeal process is conducted. Currently no regulations describe this process. For the most part, the appeal process remains unchanged from how it has occurred for at least twenty years.⁵ The appeal applicant notifies the administrator that he wishes to appeal. The administrator contacts the applicant to schedule an administrative review meeting. Prior to the review meeting, the applicant submits evidence and pertinent information supporting the basis for the Application for an Administrative Review, etc. The only change in process brought about by the proposed regulations is the introduction of an application form for appeal applicants to fill out and submit. Currently, there is no set form for applicants to fill out. The form is one page and requests the same information that the department currently requires.

² Under some circumstances, certain financial instruments are deemed abandoned after being unclaimed for seven or fifteen years. See Section § 55-210.3:02.

³ Per Section § 55-210.2 of the Code of Virginia, “Intangible property” includes, by way of illustration, (i) moneys, checks, drafts, deposits, interest, dividend income; (ii) credits, customer overpayments, gift certificates, security deposits, refunds, unpaid wages, and unidentified remittances; (iii) stocks and other intangible ownership interests in business associations; (iv) moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions; (v) amounts due and payable under the terms of insurance policies; and (vi) amounts distributable from a trust or custodial fund established under a plan to provide any health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefit.”

⁴ The treasurer designates an administrator. The administrator is typically the Director of the Unclaimed Property Division at the Department of the Treasury.

The proposed regulations are beneficial in that the public may become better informed on the existence and procedures of the appeal process. The introduction of the application form will provide some additional clarity to the process. The set form may reduce the frequency that applicants are unsure of the department's required information.

Businesses and Entities Affected

The proposed regulations affect the individuals, businesses, and other entities who appeal Treasury Department decisions concerning abandoned property. Appeals are relatively rare. There have been approximately six to ten appeals over the last fifteen years.⁶

Localities Particularly Affected

The proposed regulations affect all Virginia localities.

Projected Impact on Employment

The proposed regulations will not have a significant impact on employment.

Effects on the Use and Value of Private Property

The proposed regulations may reduce wasted time due to confusion over the appeal process. Otherwise, the use and value of private property will not likely be significantly affected.

⁵ Source: Department of the Treasury

⁶ Ibid