

## Department of Finance Canada-Consultation on Unclaimed Balances

There is a flurry of activity around the world with unclaimed property laws but in Canada, such change seems slower than **slow** and is long overdue. Only 2 Provinces in Canada (Alberta and Quebec) have any sort of comprehensive and mandatory legislation in place relating to Unclaimed Financial property. On the federal side, as someone who has been advocating for unclaimed property legislation for a number of years, I am only aware of Canadians being able to search for

- unclaimed bankruptcy dividends (amounting to \$22.6 million as of August 2018)
- unclaimed Canadian dollar chequing and savings accounts that have been transferred to the Bank of Canada after 10 years of no activity (amounting to \$742 million as of December 2017)

The fact of the matter is that no one loses their hard earned (and often tax paid) financial assets on purpose. Typically it's the result of a death or illness or forgetfulness that hard earned financial assets remain unclaimed for a period of time which supports the idea that consumer protection in the form of Unclaimed Intangible Property Legislation should be in place across all Provinces & Territories. Further, there should be no reason that Canadians cannot also search for the following assets under federal jurisdiction:

- unclaimed foreign dollar chequing and savings accounts
- unclaimed matured Canada savings bonds (which in 2015 amounted to over \$400 million)
- unclaimed pension balances related to federal employment
- unclaimed Canada Child Benefit/HST rebates
- unclaimed Canada Revenue Agency tax refunds

Therefore, if the Government of Canada is seriously committed to helping Canadians achieve a safe, secure and dignified retirement, there is no question that there are steps needed to modernize the Bank of Canada's administration of unclaimed balances which should include expanding the types of assets held and the promotion of the database as well.

The fact that the Federal Government and the majority of our provinces and territories are so far behind other jurisdictions around the world like the US and the UK as well as Australia and New Zealand with respect to comprehensive unclaimed financial asset legislation is sadder still given that 15 years ago the Uniform Law Conference of Canada (ULCC) developed a **Uniform Unclaimed Intangible Property Act (UUIPA)**. The Act proactively outlined fairly comprehensive guidelines/rules for the benefit of Canadian jurisdictions which could be followed; making the process of actually implementing a program a lot easier. These rules as outlined mirrored to a great extent, what has been in place for 50+ years in the United States.

Indeed, the **UIIPA** specified guidance/rules relating to some of the questions that this consultation has requested input on. I believe the UIIPA has provided reasonable guidance as follows:

- Provisions around owner notification process by holders are typically by mail but given that the guidelines were written 15 years ago now, I believe it is only reasonable to consider additional ways to communicate to owners
- A public registry of unclaimed property would be established for all unclaimed property
- Amounts under \$100 could be excluded
- Holders would not charge a fee for sending notices to owners unless the fee is 1) authorized by a contract previously established or 2) the fee is reasonable or 3) the holder regularly imposes a fee and the fee is not directly the result of the owner failing to communicate
- Ceasing to make payments of interest is deemed to be a charge per above
- Voluntary payment or delivery of unclaimed property should be allowed with written consent of the administrator before the property would typically be considered unclaimed.
- The report accompanying the unclaimed property being transferred would include the following if known: name, last known address, SOCIAL INSURANCE NUMBER and date of birth. It is obvious to me that all of this information be included and I am beyond surprised that it may not have been previously.

As written, the UIIPA applies to credit balances, shares, cash, bonds, amounts due and payable under insurance policies, trust funds, distributions from retirement or **pension plans**, gift certificates, etc. The dormancy periods are generally 3-5 years depending upon the property type.

Read more about UIIPA at <http://www.ulcc.ca/en/uniform-acts-en-gb-1/545-unclaimed-intangible-property-act/1114-unclaimed-intangible-property-act>

I would again like to emphasize that the United States has had **Unclaimed Property Legislation** in place for **50+ years** and has approximately \$68 billion listed on state endorsed searchable online databases. The majority of State treasuries proactively look and search for legal owners as they look upon such legislation as an important component of consumer protection legislation. This is a win for legal owners or their families that have become separated from their financial assets.

However, unclaimed financial assets are also seen as a win for State treasuries as a significant amount of unclaimed financial assets remain unclaimed and help to support state budgets in the interim until those assets are claimed. Indeed, unclaimed financial assets for many US states are a top 3 revenue generator.

### So WHY NOT IN CANADA?

Our best guess is that Canada has most likely somewhere between **\$5 - \$6 Billion** in Unclaimed intangible assets which would include a variety of assets including bank and credit union accounts, trust accounts, insurance policies, education and retirement accounts, prepaid funerals etc. That's significant amount for a country with a population of some 36 million and a lot of economic action in waiting.

Unfortunately, for a variety of reasons, unclaimed financial assets are growing at an increasing rate as supported by the increase in the Bank of Canada unclaimed bank balances in recent years. The balance of unclaimed bank balances at the Bank of Canadas have been increasing by a net amount of almost 9% (net) per year over the last 10 years. The amount returned to legal owners on the other hand appears fairly marginal (\$10 million in 2017)

YE Balance	Unclaimed Accounts	Unclaimed Balance	1 Yr Net Incr	1 Yr Net Incr	5 Yr Net Incr	5 Yr Net Incr	Claimed Amount	1 Yr Gross Incr	1 Yr Gross Incr
Dec-17	1,900,000	\$742,000,000	9.44%	\$64,000,000	\$246,000,000	49.60%	\$ 10,000,000	\$ 74,000,000	10.91%
Dec-16	1,700,000	\$678,000,000	8.31%	\$52,000,000	\$213,000,000	45.81%	\$ 15,000,000	\$ 67,000,000	10.70%
Dec-15	1,700,000	\$626,000,000	8.49%	\$49,000,000	\$193,000,000	44.57%	\$ 10,000,000	\$ 59,000,000	10.23%
Dec-14	1,500,000	\$577,000,000	8.46%	\$45,000,000	\$182,000,000	46.08%	\$ 11,000,000	\$ 56,000,000	10.53%
Dec-13	1,400,000	\$532,000,000	7.26%	\$36,000,000	\$181,000,000	51.57%	\$ 14,000,000	\$ 50,000,000	10.08%
Dec-12	1,300,000	\$496,000,000	6.67%	\$31,000,000	\$176,000,000	55.00%	\$ 17,400,000	\$ 48,400,000	10.41%
Dec-11	1,300,000	\$465,000,000	7.39%	\$32,000,000					
Dec-10	1,300,000	\$433,000,000	9.62%	\$38,000,000					
Dec-09	938,000	\$395,000,000	12.54%	\$44,000,000					
Dec-08	1,023,000	\$351,000,000	9.69%	\$31,000,000					
Dec-07	938,000	\$320,000,000							
Dec-98	770,000	\$132,000,000							

In summary, we think that all Canadians deserve to have their financial assets safeguarded by Unclaimed Property Legislation. Indeed, it seems rather UnCanadian that Canada is not currently being more proactive in helping Canadians find and locate their unclaimed financial assets. Therefore the idea of an expansion and modernization of unclaimed financial asset procedures and systems relating to unclaimed balances and unclaimed pensions is long overdue and would be greatly beneficial and very welcome. A small step forward on a long path.

Regards

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