



NATIONAL ASSOCIATION OF STATE TREASURERS

August 19, 2024

The Honorable Julie Su
Acting Secretary
U.S. Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

Dear Secretary Su,

We, the undersigned State Treasurers and state officials who oversee state unclaimed property programs, write to request that the Employee Benefits Security Administration (EBSA) undertake rulemaking that aligns with the recommendations set forth by the Advisory Council on Employee Welfare and Pension Benefit Plans (ERISA Advisory Council) regarding the permissive transfer of uncashed plan distribution checks to state unclaimed property programs.¹ Specifically, we ask that EBSA establish a regulatory safe harbor under ERISA to facilitate such transfer and, ultimately, the return by the states of these benefits to missing participants. This effort would complement the efforts currently undertaken by the Department of Labor through the development of a Retirement Lost and Found website and would proactively address the significant backlog of uncashed plan distribution checks that have been accruing since ERISA's adoption in 1974.

The ERISA Advisory Council's report and recommendations reflect its thorough study of this issue. The Council concluded that "transfers to state unclaimed property programs have an improved chance of helping to reunite Missing Participants with their retirement savings" and recommended that "the Department [of Labor] issue guidance confirming that a plan may elect to voluntarily transfer amounts attributable to uncashed checks to a state unclaimed property program."²

In response to the ERISA Advisory Council's report and concerns regarding potential technical complexities, states have collaborated to establish the States' Unclaimed Retirement Clearing House (SURCH) program. Through the SURCH program, states will provide a web-based platform for plans to voluntarily transfer unclaimed property to all state programs through a single streamlined reporting system. The states have already provided EBSA with detailed protocols concerning the eligibility of both retirement plans and state unclaimed property programs for participation in SURCH, as well as governance of the program. If granted authority through EBSA guidance, states would be permitted to leverage the SURCH program and their significant and

¹ ERISA Advisory Council Report – Voluntary Transfers of Uncashed Checks from ERISA Plans to State Unclaimed Property Programs (November 2019) at page 7. Available at:

<https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/about-us/erisa-advisory-council/2019-eac-voluntary-transfers-to-state-programs.pdf>

² *Id.*, page 47.

comprehensive unclaimed property infrastructure to proactively seek out and reunite Americans with their missing retirement funds.

As the number of retiring Americans continues to soar, so does the problem of uncashed retirement plan distributions. The amount of unclaimed retirement funds is estimated to be growing at a rate of over \$100 million annually³, and under the current regulations, those funds “are unlikely to be reunited with the beneficiary.”⁴

States have access to a number of resources that IRA providers and plan administrators do not, including earned and paid advertising, searchable individual state databases, a national searchable website, online claims forms, dedicated outreach and research staff, and access to other state records (such as state department of motor vehicle records and state income tax records) to locate property owners. Where a state successfully locates a missing participant or heir owed an uncashed distribution check, it can direct the claimant back to the retirement plan to recover any additional benefits owed.

We have found support in the retirement plan industry with respect to transferring uncashed distributions to states. Major plan record keepers have expressed strong interest, and retirement plans desire clear guidance on handling these distributions when their own efforts to locate missing participants are unsuccessful.

State officials who oversee unclaimed property programs are adept at reuniting individuals with various forms of lost property, including money, stocks, bonds, and IRA proceeds. In FY 2023 alone, these programs returned over \$5.4 billion in missing/unclaimed property to individuals across the nation. This involved the verification and processing of millions of individual owner claims, which has become a core competency of all state unclaimed property programs. The states utilize innovative data sources not available to the private sector (including current address information from state tax filings) and dedicate staff to find and proactively reunite individuals with their property. Each state maintains a searchable online database, and in addition, the national website Missingmoney.com⁵ allows individuals to search nationwide in a single search to locate their funds.

The SURCH program will reunite more Americans with their missing retirement funds. In furtherance of that goal, we request that EBSA initiate a rulemaking to establish a safe harbor for retirement plans to transfer unclaimed retirement distribution funds to state unclaimed property programs.

We appreciate your attention to this matter, which will help address the significant backlog of missing retirement funds and create an effective solution to the problem going forward. If you or your staff would like to discuss this matter further, please reach out to our CEO, Shaun Snyder, at 202-744-6663 or shaun@statetreasurers.org.

Sincerely,

Michael Frerichs, Illinois State Treasurer & NAST President
Thomas Beadle, North Dakota State Treasurer & NAST Senior Vice-President
Rachael Eubanks, Michigan State Treasurer & NAST Secretary-Treasurer

³ *Id.*, page 12.

⁴ *Id.*, page 38.

⁵ The states are currently engaged in efforts to obtain a .gov URL for the website.

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CC: Hon. Tom Perez, Senior Advisor and Assistant to the President and Director of the
Office of Intergovernmental Affairs
Hon. Lisa Gomez, Assistant Secretary, Employee Benefits Security Administration