**Section 760.200 Tax-Deferred and Tax-Exempt Accounts**

a) Sections 15-202 and 15-203 of the Act indicate when "tax deferred" and "tax exempt" accounts are presumptively abandoned. Section 15-202 prescribes the rules for tax deferred and tax exempt retirement accounts and Section 15-203 prescribes the rules for other tax deferred accounts. These rules for tax deferred and tax exempt accounts generally have longer periods of abandonment than accounts covered by Section 15-201 of the Act.

b) A Roth IRA is covered under Section 15-202.

c) In some cases, federal law, specifically ERISA (29 U.S.C. 1001 et seq.), may preempt the Act and prevent reporting and remitting retirement accounts or other property representing a retirement plan asset that would otherwise be reportable under the Act. Concerning ERISA preemption and unclaimed property statutes, see Commonwealth Edison Co. v. Vega, 174 F.3d 870 (7th Cir. 1999). Nonqualified, government and church plans are not subject to an ERISA preemption, nor are uncashed plan distribution checks issued by a qualified plan that lacks, or has failed to exercise, a forfeiture or other reversionary interest.

d) If a holder is uncertain whether an account qualifies as tax deferred or tax exempt under the Act (i.e., whether the account is covered by Section 15-201 or by Sections 15-202 and 15-203), whether ERISA preempts the Act for a retirement account, or whether an account is covered by Section 15-202 or Section 15-203, the holder may specifically identify the property in a report filed with the administrator or give express notice to the administrator of a potential dispute regarding the property. Specifically identifying the property in a report or providing express notice to the administrator both ensures that the property will be covered by the limitations period of Section 15-610 of the Act and demonstrates that the holder is attempting to comply with the Act in good faith and without negligence. Specifically identifying the property in a report filed with the administrator indicating that the property is not being remitted because ERISA preemption allows a holder to satisfy both its fiduciary obligation under ERISA, which would generally prohibit remitting the property to the administrator, and any obligation under the Act.

e) Pursuant to Section 15-405 of the Act (property reportable and payable or deliverable absent owner demand provision) and Section 15-610(a) of the Act (anti-limitations provision) a nonqualified plan or plan not otherwise subject to preemption under ERISA is prohibited from forfeiting an account or other property.

f) The administrator will accept missing participants' account balances reported and remitted by an ERISA plan fiduciary for a terminated defined contribution plan. See United States Department of Labor Field Assistance Bulletin No. 2014-01 (available at www.dol.gov/agencies/ebsa/employers-and-advisers/guidance/field-assistance-bulletins), which indicates that, despite the ERISA preemption for ongoing plans, a plan fiduciary may report and remit "missing participants' account balances under a state's unclaimed property statute to complete the plan termination process".

(Source: Amended at 46 Ill. Reg. 16898, effective September 26, 2022)