

1972 S.C. Op. Atty. Gen. 30 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3246, 1972 WL 20393

Office of the Attorney General

State of South Carolina

Opinion No. 3246

January 14, 1972

***1 (1) Abandoned property over which more than one state has jurisdiction should be remitted to the state of the creditor's last known address.**

(2) The twenty-five dollar minimum prescribed for the applicability of the Disposition of Unclaimed Property Act refers to the aggregate amount held by any one holder and not to specific items of less than twenty-five dollars.

Director of Corporation Income Tax Division
South Carolina Tax Commission

This is in reply to a memorandum from your office dated January 12, 1972, in which you requested an opinion on two questions concerning the Disposition of Unclaimed Property Act contained in Section 14 of Part II of Act 410, Acts of 1971.

The first question is whether a tobacco stabilization cooperative organized and existing under the laws of North Carolina should remit a portion of unclaimed funds to the South Carolina Tax Commission. Although the principal place of business of the cooperative is in North Carolina, it purchases and stores tobacco in South Carolina. The unclaimed funds represent patronage dividend checks which were never cashed.

Section (E) of the Disposition of Unclaimed Property Act states that any dividend held or owing by a business association to a patron of a cooperative who has not claimed it or corresponded in writing with the business association concerning it within seven years is presumed abandoned, if the business association is doing business in South Carolina and the records of the association indicate that the last known address of the person entitled to the property is in South Carolina.

The facts indicate that the tobacco stabilization cooperative is doing business in South Carolina. It, therefore, appears that both North Carolina and South Carolina have jurisdiction over the intangibles involved.

The South Carolina Act is in line with the United States Supreme Court decision of *Texas v. New Jersey*, 379 U. S. 670 (1965) which held that where more than one state has sufficient connections with an intangible to escheat it, the state of the creditor's last known address as shown by the debtor's books and records should take precedence.

It is, therefore, the opinion of this office that the abandoned funds representing unclaimed dividend checks should be remitted to the South Carolina Tax Commission when the patron's last known address as shown by the books and records of the cooperative is South Carolina.

Secondly, you ask for an opinion concerning subsection (BB) of the Act which provides:
'The provisions of this Section shall not apply to any property in an amount less than twenty-five dollars.'

It is the opinion of this office that the twenty-five dollar minimum set by subsection (BB) has reference to the aggregate amount held by any one holder and not to specific items of less than twenty-five dollars. To find otherwise would be to negate other provisions of the Act which specifically refer to the treatment of items of a value less than twenty-five dollars. See subsections (K)(2)(a); (K)(2)(c); (L)(3) and (L)(4) of the Act.

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