

STATE ESCHEAT LAWS AS
APPLIED TO GIFT CERTIFICATES
September 15, 2003

- Alabama: Generally, Ala. Code § 35-12-20 *et seq.* Five years for gift certificates. Ala. Code § 35-12-29. Alabama law appears unsettled regarding whether an expired gift certificate would escheat to the state.
- Alaska: Generally, Alaska Stat. § 34.45.110 *et seq.* Five years for gift certificates. Alaska Stat. § 34.45.240. A gift certificate that expires before it is used 9escheats to the state.
- Arizona: Generally, Ariz. Rev. Stat. Ann. § 44-301 *et seq.* Gift certificates are specifically excluded from the definition of personal property subject to escheat. Ariz. Rev. Stat. Ann. §§ 44-301(15). Dormancy fees may be charged against property presumed abandoned, if they are pursuant to a valid and enforceable written contract between the holder and the owner, the holder regularly imposes the fee, the fee is not regularly reversed or canceled, and the amount of the fee is not unconscionable. Ariz. Rev. Stat. Ann. §§ 44-305.
- Arkansas: Generally, Ark. Code Ann. § 18-28-201. Gift certificates are not included in the definition of intangible property. Ark. Code § 18-28-201(13).
- California: Gift certificates are not subject to escheat. Cal Civ. Proc. Code § 1520.5 (Deering). Effective in 1997, gift certificates that are sold cannot contain an expiration date. Such gift certificates must be redeemable for their cash value or replaced with a new certificate at no cost to the customer. Cal. Civ. Code §§ 1749.5(a) and (b). Certificates may contain expiration dates, if they are received free (*i.e.*, not for money or any other thing of value) under an awards, loyalty, or promotional program, or they are sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes if the expiration date on those certificates is not more than 30 days after the date of sale. Cal. Civ. Code §§ 1749.5(c)(1) and (2). Gift certificates purchased before 1997, and which contain expiration dates, are still subject to escheat after three years. Cal Civ. Proc. Code §§ 1520(a) and 1520.5.
- Colorado: Generally, Colo. Rev. Stat § 38-13-101 *et seq.* Five years for gift certificates that are redeemable in cash. Escheat law does not apply to gift certificates that are redeemable for food, products, goods, or services. Colo. Rev. Stat. §§ 38-13-102(7)(a)(II) and 38-13-108.4.
- Connecticut: Generally, Conn. Gen. Stat. § 3-56(a). Effective on August 16, 2003, gift certificates may not contain expiration dates, and issuers may not impose

dormancy or any other fees that reduce a certificate's value. Conn. Pub. Act 3-1 (2003), §§ 83, 84. Even though gift certificates cannot contain expiration dates, they are still subject to escheat. The value of a gift certificate is presumed abandoned if the certificate is not redeemed within three years after the later of (1) its purchase or issuance date, or (2) the last date of a transaction that increased or decreased its value. Conn. Pub. Act 3-1 (2003), § 74. Anyone who sells a gift certificate must obtain the address of the owner of the certificate. If there is no record of the address of the owner, it shall be deemed to be the state Treasurer's address. Conn. Pub. Act 3-1 (2003), § 84(b).

- Delaware: Generally, Del. Code Ann. tit. 12, § 1197. Five years for gift certificates, although gift certificates with a face value of no more than \$5 are not subject to escheat. Del. Code Ann. tit. 12, § 1198(10). However, any provisions, including expiration dates of less than five years, are invalid as applied to the State escheator, if doing so would have the effect of defeating escheat. Del. Code tit. 12, § 1212. Effective July 22, 2002, the state has three years to determine any deficiency in reporting, unless there is a material omission, in which case the period is extended to six years.
- District of Columbia: Generally, D.C. Code Ann. § 42-201 *et seq.* Five years for gift certificates. D.C. Code Ann. § 42-214. A gift certificate that expires before it is used escheats to the District. D.C. Code Ann. § 42-229.
- Florida: Generally, Fla. Stat. ch. 717.001 *et seq.* Gift certificates are not subject to escheat. Fla. Stat. ch. 717.114. Florida law provides that contract provisions cannot be used to defeat its escheat statute. Fla. Stat. Ann. Ch. 717.129.
- Georgia: Generally, Ga. Code Ann. § 44-12-190 *et seq.* Five years for gift certificate. Ga. Code Ann. §§ 44-12-192(10)(B) and 44-12-205. Gift certificates cannot contain expiration dates. Dormancy fees are not permitted. *See* Ga. Code Ann. § 44-12-223.
- Hawaii: Generally, Haw. Rev. Stat. § 523A-1 *et seq.* Five years for gift certificates. Haw. Rev. Stat. §§ 523A-2 and 523A-14. Note, however, that the expiration date of a gift certificate must be stated on its face, and it cannot be less than two years. Haw. Rev. Stat. § 481B-13. Hawaii prohibits dormancy or any other fees that reduce a certificate's value for two years. A gift certificate that expires before it is used escheats to the state. Haw. Rev. Stat. § 523A-29(a).

- Idaho: Generally, Idaho Code § 14-501 *et seq.* Gift certificates with a prominently displayed expiration date are not subject to escheat. Idaho Code § 14-502(2)(b). Gift certificates with no expiration date escheat after five years. Idaho Code §§ 14-501(10)(b) and 14-514. Idaho law appears unsettled regarding whether an expired gift certificate would escheat to the state.
- Illinois: Generally, Ill. Rev. Stat. ch. 765, § 1025/1 *et seq.* Five years for gift certificates. Ill. Rev. Stat. ch. 765, § 1025/9. Apparently, state escheat laws do not apply to a gift certificate with no expiration date or those that have an expiration date but the issuer has a (written and posted) policy of honoring expired certificates. Ill. Rev. Stat. ch. 765, § 1025/10.6. A gift certificate that expires before it is used escheats to the state. *People ex rel. Callahan v. Marshall Field & Co.*, 404 N.E.2d 368 (Ill. App. Ct. 1980).
- Indiana: Generally, Ind. Code Ann. § 32-9-1.5-1 *et seq.* (Burns). Three years after December 31 of the year sold for gift certificates. For gift certificates that are redeemable only in merchandise, the amount presumed abandoned is valued at 60% of the face value of the gift certificate. Ind. Code Ann. §§ 32-9-1.5-20(c)(4) and 32-9-1.5-17(b)(2). A gift certificate that expires before it is used escheats to the state. Ind. Code Ann. § 32-9-1.5-42. Certain restrictions apply before dormancy charges can be imposed. Ind. Code Ann. § 32-9-1.5-22(a).
- Iowa: Generally, Iowa Code § 556.1 *et seq.* Three years for gift certificates. Iowa Code §§ 556.9(1) and 556.1(10)(b). Effective July 1, 2002, the issuer of a gift certificate may not impose any dormancy fees unless under a valid contract between the issuer and the owner of the gift certificate, and the issuer regularly imposes such charges and does not regularly reverse or cancel them. A gift certificate is defined as a merchandise certificate conspicuously designated as such “and generally purchased by a buyer for use by someone other than the buyer.” Iowa Code § 556.9(2). While Iowa law is unclear, it appears that a gift certificate that expires before it is used escheats to the state. Iowa Code § 556.16.
- Kansas: Generally, Kan. Stat. Ann. § 58-3934. Law amended to exclude gift certificates from the definition of personal property subject to escheat. Kan. Stat. Ann. § 58-3934(n)(2). Certain restrictions apply before the issuer may impose a dormancy charge. Kan. Stat. Ann. § 58-3935(c).
- Kentucky: No particular provisions. *See, generally*, Ky. Rev. Stat. Ann. § 393.010. Intangible property generally escheats to the state after seven years, however. Ky. Rev. Stat. Ann. § 393.090.

- Louisiana: Generally, La. Rev. Stat. Ann. § 9:151 *et seq.* (West). Three years after December 31 of the year sold for gift certificates. La. Rev. Stat. Ann. § 9:154(A)(6). A gift certificate that expires before it is used escheats to the state. La. Rev. Stat. Ann. § 9:171. Various restrictions apply before the issuer may impose a dormancy charge. La. Rev. Stat. Ann. § 9:157.
- Maine: Generally, Me. Rev. Stat. Ann. tit. 33, § 1951 *et seq.* (West). Three years after December 31 of the year sold for gift certificates. The amount presumed abandoned is valued at 60% of the face value of the gift certificate if the issuer does not impose a dormancy charge or a period of limitation on full redemption. Maine prohibits the use of dormancy fees as long as the gift certificate is used before it expires, but permits such fees after expiration. All issuers must obtain the address of the purchaser. If the gift certificate is less than \$50, however, issuers do not need to obtain the address as long as they have adopted a system for identifying the last known address of the purchaser that is acceptable to the state escheat administrator. Me. Rev. Stat. Ann. tit. 33, §§ 1953(1)(G) and 1952(13)(B). While Maine allows expiration dates, its attorney general has stated that an unreasonably short time limit may be unlawful as an unfair trade practice. Me. Rev. Stat. Ann. tit. 5, §§ 205-A *et seq.* A gift certificate that expires before it is used escheats to the state. Me. Rev. Stat. Ann. tit. 33, § 1970(1).
- Maryland: Generally, Md. Code Ann. Com. Law I § 17-101 *et seq.* Gift certificates are specifically excluded from the definition of personal property subject to escheat. Md. Code Ann. Com. Law I § 17-101(m)(1).
- Massachusetts: Generally, Mass. Gen. Laws ch. 200A, § 1 *et seq.* The definition of gift certificates has been expanded so that it clearly encompasses gift cards and merchandise credits as well as paper certificates. Mass. Gen. Laws ch. 255D, § 1; Mass. Gen. Laws ch. 93, § 14S. Gift certificates are specifically excluded from the definition of personal property subject to escheat. Mass. Gen. Laws ch. 200A, §§1, 5. Note, however, that the expiration date of a gift certificate or merchandise credit must be stated on its face, and it cannot be less than seven years. Mass. Gen. Laws ch. 200A, § 5D. Merchants selling gift certificates that impose a time limit of less than seven years or refusing to honor a gift certificate before it reaches its expiration date can be fined up to \$300. Mass. Gen. Laws ch. 266, § 75C. Massachusetts also prohibits dormancy or any other fees that reduce a certificate's value for seven years. Gift certificates not clearly marked with a date of issuance and a date of expiration shall be good forever. (For a gift card, the dates will be considered clearly marked if they are printed on the sales receipt, are available on-line, or can be obtained by calling a toll-free telephone number.) Ch. 510 of the Act of

2002, § 8. If 90% or more of a gift certificate has been used, the consumer may elect to receive cash for the balance. Mass. Gen. Laws ch. 200A, §5D.

- Michigan: Generally, Mich. Stat. Ann. § 26.1055 *et seq.* Five years for gift certificates. Mich. Stat. Ann. § 26.1055(15). A gift certificate that expires before it is used escheats to the state. Mich. Stat. Ann. § 26.1055(30).
- Minnesota: Generally, Minn. Stat. Ann. § 345.31 *et seq.* Three years for gift certificates. Minn. Stat. Ann. § 345.39. Minnesota law appears unsettled regarding whether an expired gift certificate would escheat to the state.
- Mississippi: Generally, Miss. Code Ann. § 89-12-1 *et seq.* Five years for gift certificates. Miss. Code Ann. §§ 89-12-15 and 89-12-3(f). Mississippi law appears unsettled regarding whether an expired gift certificate would escheat to the state. Miss. Code Ann. § 89-12-35.
- Missouri: Generally, Mo. Rev. Stat. § 447.500 *et seq.* (Vernon). Five years for gift certificates. Mo. Rev. Stat. § 447.535. Missouri law appears unsettled regarding whether an expired gift certificate would escheat to the state.
- Montana: Generally, Mont. Code Ann. § 70-9-801 *et seq.* Three years after December 31 of the year sold for gift certificates. For gift certificates that are redeemable only in merchandise, the amount presumed abandoned is valued at 60% of the face value of the gift certificate. Mont. Code Ann. § 70-9-803(1)(g). A gift certificate that expires before it is used escheats to the state. Mont. Code Ann. § 70-9-819.
- Nebraska: Generally, Neb. Rev. Stat. § 69-1301 *et seq.* Three years for gift certificates. Neb. Rev. Stat. § 69-1305.02. Nebraska law appears unsettled regarding whether an expired gift certificate would escheat to the state. Neb. Rev. Stat. § 69-1315.
- Nevada: Generally, Nev. Rev. Stat. Ann. § 120A.010 *et seq.* Three years for gift certificates. Nev. Rev. Stat. §§ 120A.095(2) and 120A.230. A gift certificate that expires before it is used escheats to the state. Nev. Rev. Stat. § 120A.150.
- New Hampshire: Generally, N.H. Rev. Stat. Ann. § 471-C:1 *et seq.* Gift certificates of less than \$100 may not have an expiration date and are not subject to escheat. This provision does not apply to gift certificates for which no monetary consideration is given or that are distributed to consumers for promotional purposes. N.H. Rev. Stat. §§ 358-A:2(XIII) and 471-C:16. Five years for all other gift certificates. N.H. Rev. Stat. §§ 471-C:1(XI)(b) and 471-

C:2(I). A gift certificate must expire when escheated to the state as abandoned property. N.H. Rev. Stat. § 471-C:33. Effective January 1, 2004, New Hampshire prohibits dormancy or any other fees that reduce a certificate's value. N.H. Rev. Stat. § 358-A:2(XIII).

- New Jersey: Gift certificates are not specifically included in the detailed definition of intangible property that is subject to the state's escheat laws and, therefore, are not subject to escheat. Generally, N.J. Rev. Stat. § 46:30B-1 *et seq.* (N.J. Rev. Stat. § 46:30B-6); *New Jersey v. Sperry & Hutchinson Co.*, 157 A.2d 505 (N.J. 1960). It is state public policy that contract provisions cannot be used to defeat its escheat statute. *In the Matter of Unclaimed Property Office*, 706 A.2d 1177 (N.J. Super. Ct. App. Div. 1998), *aff'd*, 722 A.2d 536 (N.J. 1999). Gift certificates must remain valid until presented by the holder, or they must have all conditions and limitations disclosed to the buyer at the time of purchase and printed conspicuously on the gift certificate. N.J. Rev. Stat. § 56:8-110.
- New Mexico: Generally, N.M. Stat. Ann. § 7-8A-1 *et seq.* (Michie). Three years after December 31 of the year sold for gift certificates. For gift certificates that are redeemable only in merchandise, the amount presumed abandoned is valued at 60% of the face value of the gift certificate. N.M. Stat. Ann. § 7-8A-2(a)(7). A gift certificate that expires before it is used escheats to the state. N.M. Stat. Ann. § 7-8A-19.
- New York: Five years for gift certificates. N.Y. Aband. Prop. Law § 1315 (McKinney). The terms and conditions of a gift certificate must be conspicuously placed on its face, and gift certificates must be honored in accordance with such terms. N.Y. Gen. Bus. Law § 396-i (McKinney). New York law appears unsettled regarding whether an expired gift certificate would escheat to the state.
- North Carolina: Generally, N.C. Gen. Stat. § 116B-51 *et seq.* Three years for gift certificates. The amount presumed abandoned is valued at 60% of the face value of the gift certificate. N.C. Gen. Stat. §§ 116B-52(11)(B) and 116B-53(c)(8). Gift certificates with no expiration date are not subject to escheat. N.C. Gen. Stat. § 116B-54(b). A gift certificate that expires before it is used escheats to the state. N.C. Gen. Stat. § 116B-71.
- North Dakota: Generally, N.D. Cent. Code § 47-30.1-01 *et seq.* Gift certificates are not included in the detailed definition of intangible property subject to escheat. N.D. Cent. Code § 47-30.1-01(9). Contract provisions cannot be used to defeat North Dakota's escheat statute.

- Ohio: Generally, Ohio Rev. Code Ann. § 169.01 *et seq.* Gift certificates are specifically excluded from the definition of personal property subject to escheat. Ohio Rev. Code Ann. §§ 169.01(B)(2)(d) and 169.02(P). Ohio law is unclear on whether an expired gift certificate would escheat to the state.
- Oklahoma: Gift certificates are not specifically included in the detailed definition of intangible property. Generally, Okla. Stat. tit. 60, § 651. However, Oklahoma takes the position that gift certificates escheat after three years. Okla. Stat. tit. 60, § 658. Credit memos for more than \$50 escheat after 5 years. Okla. Stat. tit. 60, § 657.1(a). Contract provisions cannot be used to defeat Oklahoma's escheat law. Okla. Stat. tit. 60, § 666.
- Oregon: Generally, Ore. Rev. Stat. § 98.302 *et seq.* Gift certificates are not subject to escheat. Ore. Rev. Stat. §§ 98.302-9(a) and 98.338. Contract provisions cannot be used to defeat the escheat law of Oregon. Ore. Rev. Stat. § 98-342.
- Pennsylvania: Generally, Pa. Stat. Ann. tit. 72, § 1301 *et seq.* (Purdon). Gift certificates unredeemed for two years after the expiration of their redemption period, or five years from the date of issuance if they contain no expiration date, are presumed abandoned and escheat to the state. Pa. Stat. Ann. tit. 72, § 1301.6(1). Pennsylvania law appears unsettled regarding whether an expired gift certificate would escheat to the state. Pa. Stat. Ann. tit. 72, § 1301.16.
- Rhode Island: Generally, R.I. Gen. Laws § 33-21.1-1 *et seq.* Three years for gift certificates. R.I. Gen. Laws § 33-21.1-14. Record keeping can be quite onerous for certificates valued at more than \$50. Gift certificates issued by eating establishments cannot have expiration dates or other time limits on redemption and are not subject to escheat. R.I. Gen. Laws § 6-13-12. A gift certificate that expires before it is used escheats to the state. R.I. Gen. Laws § 33-21.1-29.
- South Carolina: Generally, S.C. Code Ann. § 27-18-10 *et seq.* Five years for gift certificates. S.C. Code Ann. § 27-18-150. A gift certificate that expires before it is used escheats to the state. S.C. Code Ann. § 27-18-300.
- South Dakota: Generally, S.D. Codified Laws Ann. § 43-41B-1 *et seq.* Five years for gift certificates. S.D. Codified Laws Ann. § 43-41B-15. A gift certificate that expires before it is used escheats to the state. S.D. Codified Laws Ann. § 43-41B-30.

- Tennessee: Generally, Tenn. Code Ann. § 66-29-101 *et seq.* A gift certificate is presumed abandoned on the earlier of (1) the expiration date of the certificate, or (2) two years from the date it was issued. Tenn. Code Ann. § 66-29-135(a). A gift certificate issued after 1998 is not subject to escheat in Tennessee if no dormancy fee is imposed and the certificate states that it does not expire, it bears no expiration date, or it states that the expiration date does not apply in Tennessee. Tenn. Code Ann. § 66-29-135(c). Tennessee law appears unsettled regarding whether an expired gift certificate would escheat to the state.
- Texas: Not covered specifically. Generally, Tex. Prop. Code Ann. § 72.101 (Vernon). It appears, however, that Texas takes the position that gift certificates escheat after three years.
- Utah: Generally, Utah Code Ann. § 67-4a-101 *et seq.* Five years for gift certificates of more than \$25. Utah Code Ann. §§ 67-4a-102(14)(a) and 67-4a-211. Detailed record keeping is required. Dormancy fees are not permitted.
- Vermont: Generally, Vt. Stat. Ann. tit. 27, § 1208 *et seq.* Five years for gift certificates. Vt. Stat. Ann. tit. 27, § 1218. Vermont law appears unsettled regarding whether an expired gift certificate would escheat to the state.
- Virginia: Generally, Va. Code Ann. § 55-210.1 *et seq.* (Michie). Gift certificates redeemable in merchandise, for future services, or through future purchases are exempt from escheat. Va. Code Ann. § 55-210.8:1(B). Five years for other gift certificates issued in the ordinary course of business. Va. Code Ann. § 55-210.8:1(A). Virginia law appears unsettled regarding whether an expired gift certificate would escheat to the state. Va. Code Ann. § 55-210.17.
- Washington: Generally, Wash. Rev. Code § 63.29.010 *et seq.* Five years for gift certificates. Wash. Rev. Code §§ 63.29.140 and 63.29.010(10)(b). A gift certificate that expires before it is used escheats to the state. Wash. Rev. Code § 63.29.290.
- West Virginia: Generally, W. Va. Code § 36-8-1 *et seq.* Three years after December 31 of the year sold for gift certificates. For gift certificates that are redeemable only in merchandise, the amount presumed abandoned is valued at 60% of the face value of the gift certificate. W. Va. Code § 36-8-2(a)(7). A gift certificate that expires before it is used escheats to the state. W. Va. Code § 36-8-19.

Wisconsin: Generally, Wisc. Stat. § 177.01 *et seq.* Five years for gift certificates. Wisc. Stat. § 177.14. A gift certificate that expires before it is used escheats to the state. Wisc. Stat. § 177.29.

Wyoming: Generally, Wyo. Stat. § 34-24-100 *et seq.* Three years for gift certificates of more than \$100. Wyo. Stat. § 34-24-114(a). Apparently, escheat does not apply to gift certificates that are \$100 or less. Wyoming does not prohibit expiration dates on gift certificates, but it does have detailed record keeping requirements. Wyo. Stat. §§ 34-24-114(d) and 34-24-118.