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Montana Department of
REVENUE

Senate Bill 192

Remove Gift Certificates from Abandoned Property

Testimony in Opposition

Senate Business, Labor, & Economic Affairs Committee

Neil Peterson

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SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
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BILL NO. SB 192

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Purpose of Unclaimed Property Laws

- Allow states to act as the custodian for an owner who has lost contact with their property
- States in turn hold the property in perpetuity for the owner or the owner's heirs
- Holders of unclaimed property should not benefit from an owner losing contact with their property
- If the owner of unclaimed property can't be found the benefit should go to all citizens of a state rather than to the holder of the property
- Provides for a central clearinghouse for citizens to search for their property
- Relieves holders of unclaimed property of the responsibility to track and account for property in their accounting records and financial statements and indemnifies them against claims by an owner if property is reported to a state
- Montana's Unclaimed Property Law
  - First Adopted in 1963, updated in 1997 to the 1995 Uniform Unclaimed Property Act
  - Property reported is deposited in the General Fund and refunds are paid out of the General Fund
  - Gross collections in FY04 were approximately $4.9 million
  - Refunds paid in FY04 were approximately $1.3 million
  - Audit Collections in FY04 were approximately $67,000 (Audit Collections for FY05 will be substantial - $3-4 million)

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National Statistics – Gift Cards

- $55 billion – projected sales of gift cards in 2004
- $223 – average amount that gift-card purchasers were expected to spend on gift cards during the 2004 holiday season
- $42 average amount loaded onto a gift card
- 67% -- percentage of consumers who are likely to use their holiday gift cards by the end of January, 2005
- 12% -- percentage of a retail gift card's value that is never spent
- 7 in 10 – number of shoppers who spend more than the value loaded on a card when they use it at a store
- $2.50 – monthly account maintenance fee some banks charge on their gift cards
- $2 – monthly dormancy fee charged by some retailers if a card isn't used up within two to three years

Source: January 2005 Kiplinger Report

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Montana's Law Regarding Gift Cards

- Gift cards are considered abandoned 3 years after December 31st of the year in which the card was sold
- If redeemable in merchandise only, the amount abandoned is considered to be 60% of the certificate's face value
- Unclaimed property is reported to the state based upon the last known address of the owner
- If there is no address or if the owner is not identified, unclaimed property is reported to the state of commercial domicile of the holder
- Receipt of funds from gift cards is $31,000 to-date

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Reasons for Opposition to SB192

- Exempting property from being subject to unclaimed property laws erodes the very purpose of these laws
- Exempting property makes it extremely difficult or impossible for owners to ever be reunited with their property
- Exempting property unjustly enriches holders of unclaimed property by merely having an owner lose contact with their property, thus the exemption might encourage some retailers to promote the sale of gift cards and certificates as a way of earning profits from never having to deliver a product in a certain percentage of cases
- Exempting property will only encourage others to seek exemptions for property that is typically unclaimed with regard to their operations
- Continued property exemptions will ultimately result in the demise of unclaimed property laws
- Exempting property will not promote uniformity across the states making it harder for multi-state businesses to comply with reporting requirements