G A O
Accountability * Integrity * Reliability

Comptroller General
of the United States

United States General Accounting Office
Washington, DC 20548

Decision

Matter of: District of Columbia Courts Unclaimed Deposits

File: B-286687

Date: April 13, 2001

DIGEST

The District of Columbia Courts are required, pursuant to the National Capital Revitalization and Self-Government Improvement Act of 1997 (Revitalization Act), to deposit unclaimed deposits, currently held in the District of Columbia Treasury, in the United States Treasury, and should use the mechanism provided by 31 U.S.C. §§ 1321 and 1322 (dealing with trust funds and payments of unclaimed trust fund amounts), in consultation with the United States Treasury, to enable lawful owners to file claims for the unclaimed deposits.

DECISION

The District of Columbia Courts request an advance decision on the proper disposition of unclaimed deposits currently held in the accounts of the Courts in the District of Columbia Treasury, and if current legislation requires the unclaimed deposits to be deposited in the United States Treasury, what the proper mechanism is for lawful owners to file claims upon these funds. We conclude that the Courts are required to deposit the unclaimed deposits in the United States Treasury and should use the mechanism provided by 31 U.S.C. §§ 1321 and 1322 (dealing with trust funds and payments of unclaimed trust fund amounts), in consultation with the United States Treasury, to enable lawful owners to file claims for the unclaimed deposits.

BACKGROUND

The District of Columbia Court Reform and Criminal Procedure Act of 1970 (Court Reform Act) transferred jurisdiction over all local judicial matters to a unified court system for the District. The Court Reform Act required fiscal officers in the District of Columbia court system to deposit in the United States Treasury all fines, forfeitures, fees, unclaimed deposits, and other moneys. Pub. L. No. 91-358, title I, § 111, 84 Stat. 511 (1970) (now codified as D.C. Code § 11-1723(a)(2)). In 1973, the District of Columbia Self-Government and Governmental Reorganization Act (Home Rule Act) established that all money received by any agency, officer, or employee of the District in its or his official capacity belonged to the District government and had to be paid promptly to the Mayor for deposit in the appropriate fund. Pub. L. No. 93-

198, 87 Stat. 774 (1973), D.C. Code § 47-130. The District of Columbia Courts interpreted this as effectively suspending D.C. Code § 11-1723(a)(2) and began depositing all receipts, including fines, fees, forfeitures, and unclaimed deposits, with the District of Columbia government. The District of Columbia Courts periodically deposited the unclaimed deposits, resulting, for example, from unclaimed escrow funds in civil, family and criminal cases and inheritance of heirs and legatees, into special accounts established by the District of Columbia Treasury. These funds currently remain available for distribution to claimants who establish a right to the funds.

In 1981, the District of Columbia enacted a Uniform Disposition of Unclaimed Property Act. D.C. Code §§ 42-201–42. Under the District's Unclaimed Property Act, property held by public officers that remains unclaimed by the owner for more than one year is presumed abandoned, D.C. Code § 42-212, and must be paid and delivered to the Mayor. D.C. Code § 42-219. Rules issued by the Mayor under the authority of the Unclaimed Property Act provide that "[for] the purposes of [D.C. Code § 42-112], … unclaimed property shall include, but is not necessarily limited to, escrow funds, condemnation awards, and missing heir funds." The District of Columbia assumes custody and responsibility for the safekeeping of the property, and pays claims made thereon. D.C. Code § 42-220. The act gives the District of Columbia custody in perpetuity of unclaimed funds, but ownership of the property does not transfer to the District of Columbia government. Rightful owners can file a claim for the funds or property without time limitation.

As noted earlier, prior to enactment of the Unclaimed Property Act, funds coming into the Courts were already going into the District of Columbia Treasury pursuant to D.C. Code § 47-130. Since D.C. Code § 47-130 required that all money received by any agency, officer, or employee of the District shall be paid promptly to the Mayor for deposit in the appropriate fund, the Courts did not address the application of the Unclaimed Property Act to the District of Columbia Courts. However, in 1997, the National Capital Revitalization and Self-Government Improvement Act of 1997 (Revitalization Act) amended D.C. Code § 47-130. Section 11243 (c) of the Revitalization Act provides that all money received by the District of Columbia Courts must be deposited in the United States Treasury or the Crime Victims Fund. Pub. L. No. 93-198, 87 Stat. 774 (1973), as amended by Pub. L. No. 105-33, 111 Stat. 251 (1997). Accordingly, the Courts would like clarification as to whether the Court's unclaimed deposits should be deposited in the United States Treasury pursuant to the Revitalization Act, or remain with the District of Columbia pursuant to the District's Unclaimed Property Act.

Further, if the unclaimed deposits should be deposited in the United States Treasury, the Courts ask what procedures are appropriate for rightful owners to make claims upon the funds. The Revitalization Act is silent as to the reclamation of unclaimed deposits; however, according to the District of Columbia Courts, it is not clear that Congress intended to preempt a valid claimant's right to unclaimed property.

DISCUSSION

The Revitalization Act requires the District of Columbia Courts to deposit all funds it receives into the United States Treasury or Crime Victims Fund. See Pub. L. No. 105-33, § 11243 (c), 111 Stat. 251 (1997). The language of the act clearly supports the conclusion that the Congress intended the Courts to include unclaimed deposits with the other funds they are required to deposit in the United States Treasury. As noted earlier, D.C. Code § 11-1723 (a)(2) required the District of Columbia Courts to deposit in the United States Treasury all fines, forfeitures, fees, unclaimed deposits, and other moneys. The District of Columbia government interpreted D.C. Code § 47-130 as effectively suspending D.C. Code § 11-1723 (a)(2), and accordingly deposited all receipts, including fines, fees, forfeitures, and unclaimed deposits with the District of Columbia government. Now, with the amendments to D.C. Code § 47-130 made by the Revitalization Act, the United States Treasury again became the depository for all Court funds (except for fines and fees that are deposited in the Crime Victims Fund). The unclaimed deposits, therefore, should be deposited in the United States Treasury pursuant to the Revitalization Act and not in the District of Columbia Treasury.

While the Revitalization Act requires the Courts to deposit unclaimed deposits in the United States Treasury, we do not believe that a valid claimant's right to file a claim is automatically preempted once the funds are deposited with the United States. All 50 states have some form of an abandoned property act; however, today, most state "escheat" statutes are custodial and title to the property or funds never vests in the state.[1] Similarly, lawful owners of unclaimed deposits retain the right to file a claim after funds are deposited in the United States Treasury. In addition, the United States Supreme Court held that the transfer of funds from a district court to a general account in the United States Treasury does not extinguish valid claims. United States v. Klein, 303 U.S. 276, 282, 58 S. Ct. 536 (1938). In effect, the United States has no beneficial interest but holds money as statutory trustee for rightful owners when and if they are determined by the court. See United States v. 8.0 Acres of Land, 197 F.3d 24, 30 (1st Cir. 1999), In Re Moneys Deposited in and Now Under the Control of the United States District Court for the Western District of Pennsylvania, 243 F.2d 443, 445 (3rd Cir. 1957).[2]

In the absence of legislation providing otherwise, unclaimed money held by the United States Treasury also is held in a trust capacity. A statutory mechanism exists for depositing as well as reclaiming these funds. Subsection (a) of 31 U.S.C. § 1321

---

[1] Andrew W. McThenia, Jr. & David J. Epstein, Issues of Sovereignty in Escheat and the Uniform Unclaimed Property Act, 40 Wash. & Lee L. Rev. 1429, 1432 (1983).

[2] A statutory mechanism exists for claimants to file for the unclaimed deposits of federal courts. Money that has gone unclaimed for five years after the right to withdraw it has been adjudicated must be deposited in the United States Treasury "in the name and to the credit of the United States." Any claimant entitled to such money may petition the court to establish a right to the money and to obtain an order directing payment to him. 28 U.S.C. § 2042.

identifies 91 trust funds in the United States Treasury, and subsection (b) instructs agencies who receive funds as trustee that are analogous to any of the 91 listed accounts to establish a new trust fund account and deposit the funds into this account. One year after the funds are deposited, the trust fund balance is transferred to a United States Treasury trust fund receipt account called "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown." 31 U.S.C. § 1322(a). Claims upon the fund are handled by the agency that transferred the funds to the trust fund account. If the agency determines that a claim is valid, the agency may certify a payment voucher to the Treasury. The Congress established a permanent, indefinite appropriation to pay claims from the Unclaimed Moneys account. 31 U.S.C. § 1322(b)(1).

The Courts unclaimed deposits are required to be deposited in the United States Treasury, pursuant to the Revitalization Act; however, lawful claimants continue to have a right to file a claim upon these funds. The Courts should use the mechanism provided by 31 U.S.C. §§ 1321 and 1322 (dealing with trust funds and payments of unclaimed trust fund amounts),), in consultation with the United States Treasury, to enable lawful owners to file claims for the unclaimed deposits.

Anthony H. Gamboa
General Counsel