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May a Holder's State of Corporate Domicile Claim Abandoned Property Exempted by the Owner's State?

All of the states and the District of Columbia have adopted abandoned property laws, but a number of states have begun to provide exemptions under their abandoned property laws for certain types of property such as gift certificates and gift cards and property that the holder owes to a commercial customer or supplier. This raises the interesting question of whether the secondary priority rule of the 1965 case of *Texas v. New Jersey* authorizes the holder's state of corporate domicile to step in and claim property that the owner's state of last known address will not claim because of its exemption. A careful reading of the Supreme Court's priority rule cases indicates that the holder's state of corporate domicile should *not* be allowed to escheat items of unclaimed property that have been exempted by the owner's state of last known address. Neal Gerber Eisenberg partner and Tax Practice Group member John A. Biek authored an article that appears in the May/June 2007 edition of the *CCH's Journal of Passthrough Entities*.

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