A statute of limitations generally extinguishes the remedy, not the underlying right. While a debt may only be recoverable by lawsuit for a certain number of years, the debt itself may continue indefinitely, albeit unenforceable by lawsuit. This leaves unresolved in many states the question of whether the running of the limitations period extinguishes such state remedies to enforce the debt as driver’s license suspensions, administrative garnishments, or tax intercepts.

Some statutes provide that the running of the limitations period extinguishes the underlying obligation, not just the right to bring a lawsuit. These statutes may be categorized as statutes of repose, jurisdictional statutes of limitation, or “non-claim” statutes. Statutes of repose generally serve to extinguish the underlying legal right. Jurisdictional statutes of limitation clearly set out a jurisdictional limitation that similarly acts to extinguish the underlying right. “Non-claim statutes” simultaneously provide both for a statutorily created right and a limit on the time during which that right may be exercised.

Footnotes


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