

Accounting for Unclaimed Property

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This past July, Maryland Comptroller William Donald Schaefer announced that his office, in an effort to increase the unclaimed property fund, had begun to put unclaimed property up for auction on eBay. Included were collectables, baseball cards, coins, jewelry, and other household items.

Unclaimed property laws exist in most states, and while they have historically often been neglected, governments have begun to aggressively enforce them to generate millions of dollars for taxpayers. According to the Maryland Comptroller's office, \$480 million have been reported to the State over the past 39 years. Already in fiscal year 2005 the Comptroller has returned \$46.5 million in unclaimed funds to individuals. Just this past September at the Maryland State Fair in Timonium, 521 people found \$205,723 worth of property of which the largest claim was for \$31,052.

The law applies to all forms of property, including:

- Unclaimed paychecks or vendor checks
- Funds and items in bank safe deposit boxes
- Dormant bank accounts
- Undeliverable stock certificates, annuities and dividends
- Customer credit balances
- Dissolution and escrow funds
- Fiduciary funds and endowments

Specifically, the unclaimed property statute requires holders of unclaimed property with a dormancy of at least three years to send a certified letter to the presumed owner informing that individual or entity that the property will be considered abandoned absent a response within 30 days of the notice. If unclaimed, the property must be handed over to the state, which will convert it into cash. The money is directed to the state's general fund, but can be reclaimed at any time by rightful owners or their heirs.

The law applies to businesses in all industry sectors, from hospitals to insurers, to restaurant chains, to universities, to estates. We find that many businesses in possession of unclaimed property are unaware of the law's requirements.

Failing to comply can lead to a burdensome unclaimed property audit, which can easily lead to fines and penalties for past violations. Companies that are especially vulnerable to such audits include those that:

- Do not have procedures in place for reporting unclaimed property;
- Regularly cut large numbers of checks;
- Issue securities;
- Have many employees and high turnover; and/or
- Have overpayments or credit balances in their accounts receivables.

Additionally, companies should be aware that they are obligated to comply not merely with Maryland's unclaimed property laws, but probably with those of other states as well. The Supreme Court ruled in *Texas v. New Jersey* (1965) that unclaimed property must be reported to the state of the owner's last known address as it is reflected in the holder's records. If the property in question is exempt in that state, or if the address is unknown or located outside the U.S., then the holder reports the property to the state in which it is incorporated.

Most sizable companies that have been in business for a decade or more are likely to have unclaimed property on - or off - their books. Banks are likely to have systematized the reporting process with regard to dormant accounts and assets. Companies that are unfamiliar with the law and its implications can also quickly get up to speed by enacting a few simple steps.

- First, inform the company's employees and consultants about the law's requirements. Create (and adhere to) written procedures for tracking and researching any voided or unclaimed checks and for sending out certified mail notifications to owners. The company should also develop rules that will deter in-house fraud with regard to unclaimed property.
- Prior to filing with the state, reporting companies must receive a "holder number" from the Office of the Comptroller's Unclaimed Property Unit (1-800-782-7383). You can also acquire a number by downloading a New Holder Information Form https://interactive.marylandtaxes.com/business/Compliance/UnclaimedPR/User/iuu_Home_f.asp and emailing the filled-out form to upholder@comp.state.md.us. You will see from the above website that the state, hungry for revenue, has made it rather convenient to report unclaimed property online.

Now that the Comptroller's office has so enthusiastically embraced technology in the name of converting unclaimed property into revenue for the state, you can presume it will not hesitate to enforce the law with regard to delinquencies in adhering to the law.

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