TRENDING TOPICS

UNCLAIMED PROPERTY RISKS: HOW TO MINIMIZE YOUR COMPANY'S EXPOSURE

Trending Topics represents an executive summary compilation of news, information and perspective on matters affecting businesses and business leaders today. This insight is being provided to keep you up to date on the latest developments and trends influencing these topics. These views do not necessarily represent the views and opinions of PNC. For additional research on these topics, please consult the sources cited in this article.

States increasingly are targeting unclaimed property as a way to gain additional sources of revenue to address their budget shortfalls. Unclaimed property is tangible or intangible property held by a company that has been abandoned or left unclaimed for a specific period of time, generally due to account inactivity or lack of contact with the owner.[1]

Unclaimed property held by a company may include unclaimed payroll checks, outstanding vendor checks, supplier credits, accounts receivable credits, gift cards, rebates and customer deposits.[2] It also may include abandoned bank accounts or stock trading accounts, unpaid insurance claim payouts, unclaimed pension benefits, and real property such as valuables left in a safe deposit box.

Companies are required to report and remit unclaimed property to the state in which the owner lives, which then acts as the custodian until the property is claimed. All 50 states and the District of Columbia maintain "escheatment" laws that require the reporting and remittance of unclaimed property to the state.[3] States make efforts to find the owners and return the property, but if no one comes forward to claim it, the property reverts to the state.

MORE STATES AUDITING FOR UNCLAIMED PROPERTY

Many states have stepped up their efforts to audit and acquire unclaimed property from companies. The states' third-party auditors often are compensated on a contingent fee basis, so incentive can be high to estimate corporate liability and enforce compliance and remittance.[4] Auditors tend to focus on a specific industry at a time, gaining knowledge and then leveraging it across several states. Industries under close scrutiny in recent years include property and casualty insurance, financial brokers and dealers, and manufacturing and distribution.[5]

Because compliance with unclaimed property laws historically has been overlooked, the look-back periods for audits can extend as far back as 25 years.[6] Audits can extend across the multiple states in which a company does business. Unclaimed property audits can leave a company facing unexpected penalties and high payments if it is caught off guard and has not adequately prepared.

STEPS TO MITIGATE UNCLAIMED PROPERTY RISKS

With states' increased interest in unclaimed property, companies are wise to take several steps to mitigate the financial and operational risks:

- ***Identify areas of risk*** — Being proactive and assessing areas of potential risk is the first step a company should take. The company's outside accounting firm or finance department can determine which accounts are at risk and estimate the potential value of unclaimed property.

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- ***Institute policies and procedures*** — Corporate policies and procedures that systematically locate missing owners, assist in returning funds and reconcile accounts can significantly reduce unclaimed property liability. These policies and procedures can reduce reporting requirements, provide audit defense documentation and decrease overall audit risk.
- ***Assess potential financial risk*** — Once procedures to assess risk are established, a company can ascertain potential risk for current and past unclaimed property claims by the state. A company's accounting firm or a consultant can assist with uncovering and totaling the potential financial liability.
- ***Consider voluntary disclosure agreements (VDAs)*** — To proactively limit a company's exposure to unclaimed property liability for the current and prior years, companies can enter a VDA with the state. Companies also may submit a "catch up" filing for any unclaimed property that was not escheated in past years.
- ***Stay alert to new risk areas*** — State auditors are continually finding new areas of unclaimed property liability. Trade associations often have literature on unclaimed property risk areas and advice on changing patterns, nuances and new areas of interest to state auditors.
- ***Maintain an ongoing compliance process*** — To mitigate risk and reduce financial claims by the states, unclaimed property reports should be filed annually and policies should be enforced as part of a company's overall compliance plan. A compliance monitoring system can automatically assess risks and potential financial liability on an ongoing basis and assist in completing required filings.

To discuss these topics in more detail, please contact your PNC Relationship Manager.

1 "Is Unclaimed Property a Skeleton in Your Corporate Closet?" by Joe Carr, CFO.com, March 26, 2015. Available at: http://ww2.cfo.com/auditing/2015/03/unclaimed-property-skeleton-corporate-closet/

2 "Tracking the significant changes in abandoned and unclaimed property," *PWC Abandoned and Unclaimed Property Quarterly*, May 2015. Available at: https://www.pwc.com/us/en/state-local-tax/newsletters/abandoned-unclaimed-property/assets/pwc-after-audit-bigger-picture-unclaimed-property-compliance.pdf

3 "Unclaimed Property: Compliance Obligations and Challenges for Broker Dealers," Securities Industry and Financial Markets Association (SIFMA), Jan. 23, 2015. Available at: http://www.sifma.org/issues/item.aspx?id=8589952727

4 "Is Unclaimed Property a Skeleton in Your Corporate Closet?" by Joe Carr, CFO.com, March 26, 2015. Available at: http://ww2.cfo.com/auditing/2015/03/unclaimed-property-skeleton-corporate-closet/

5 Various unclaimed property alerts by industry and state located at Crowe Horwath LLP website, available at: http://www.crowehorwath.com/search-result/?searchtext=Unclaimed%20Property%20Alerts

6 "Is Unclaimed Property a Skeleton in Your Corporate Closet?" by Joe Carr, CFO.com, March 26, 2015. Available at: http://ww2.cfo.com/auditing/2015/03/unclaimed-property-skeleton-corporate-closet/

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