

Escheat & Unclaimed Wages

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Non-compliance **Costs**

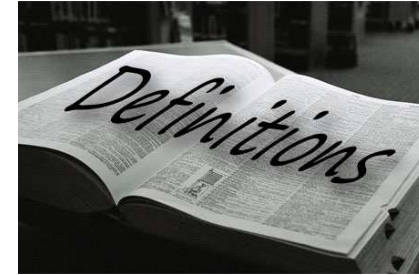


Agenda

- Definitions
- History
- Statistics
- Property Types
- Dormancy Periods
- Due Diligence
- Reporting
- Enforcement
- Record Retention
- Challenges
- Audits



Definitions



- **Escheat** – When the title to property is transferred to the state or government agency, making the state or agency the legal owner.
- **Unclaimed Property** – Also, known as “abandoned property”, is tangible or intangible property that has not been claimed by its rightful owner or apparent owner for a specific period of time (“dormancy period”).

History



- Escheatment dates back to the British common law during Medieval times when the King believed abandoned property should be his. This applied only to real property.
- American colonists expanded the law to cover both real and personal property.
- Legislation has continued to evolve over time and made efforts to standardize the rules across the states.

History (continued)



1300's	1700's	1954	1965
British common law – Escheat property to the King	American colonization – Escheat to the state rather than the King	Uniform Disposition of Unclaimed Property Act enacted – this was the first consolidated statutory scheme addressing unclaimed property	Texas v. New Jersey- ruled first escheat to owner's last known address – second to state of incorporation
1981	1985	Today	
Uniform Unclaimed Property Act (UUPA) – imposed strict obligations to transfer property to the states – Intensified efforts that must be made by the states to locate missing owners	UUPA – Due Diligence required to find owner	States are aggressively searching for unclaimed property to escheat	

Statistics

- Virginia returned nearly \$40 million in 2012
- Wyoming returned over \$340,000 in 2012
- Illinois returned \$129 million in 2012
- New Mexico held their first auction in 15 years to sell unclaimed property
- IRS has approximately \$1 billion in unclaimed refunds
- Utah holds \$350 million
- Illinois holds \$1.7 billion



Examples of Reportable Property

- Dormant checking and savings accounts
- Un-cashed Money or Cashiers orders
- Unclaimed Insurance Benefits
- Unused Gift Certificates
- Cash Dividends, Stocks, Bonds, Mutual funds
- Utility Deposits, Fees, Refunds or Rebates
- Payroll Check
- Accounts Payable Checks
- More



How Do Wages Become Unclaimed

- Employee is discharged or resigns and fails to claim wages
- Employee moves without a forwarding address
- Employee closes checking or savings account of direct deposit
- Forget to cash a check
 - Reimbursement Check
 - Interest or dividend Check
 - Bonus Check
- Gift Cards



Who Is Responsible?

- Business Associations
 - Corporation
 - Partnership
 - Etc.
- Governmental Agencies
- Non-profit Organizations



Determine Wages are Abandoned

- Review outstanding check list
 - Review Age of uncashed checks
 - Check was voided & not removed from o/s check list
 - Should check have been voided
 - Were 2 checks written for the same period
 - If an employee's final check
 - Was for the incorrect amount?
 - Issued in error?
 - A manual check?
 - Being held for some reason?



How to Minimize the Amount of Unclaimed Payroll Checks

- PayCards
 - Reduces the Employer obligations – Normally Pay Card Company is Responsible
- Direct Deposit
 - Reduces number of uncashed checks
- Exit Interview Forwarding Information
- Gift Cards (Awards)
 - Property of Retailer



Identify Property

- Review Types by State
- What Information is Needed
 - Owner ID
 - Name
 - Address, City, State, Zip
 - Check Number and Date
 - Last Date of Activity
 - Amount
- Property from Merger or Acquisition
- 170 Property Types added over a 4 year span. Ex: HSA, Roth IRA, etc





What is the Dormancy Period

- Factors for Determination
 - Type of Property
 - Last Date of Contact with the Owner
 - Owner Last Known Address
 - State Regulations where Specified



What is the Dormancy Period

- Dormancy Rule of Thumb

Example: State Report due Nov 1

Date is June 30 & property is
xxx years old (based on state)

Proceed to due diligence

State Rules on Unclaimed Wages

State	Unclaimed After	State	Unclaimed After
Alabama	1 year	Montana	1 year
Alaska	1 year	Nebraska	1 year
Arizona	1 year	Nevada	1 year
Arkansas	1 year	New Hampshire	1 year
California	1 year	New Jersey	1 year
Colorado	1 year	New Mexico	1 year
Connecticut	1 year	New York	3 years
Delaware	5 years	North Carolina	1 year if > \$250
Dist. Of Columbia	1 year	North Carolina	2 years
Florida	1 year	Ohio	1 year
Georgia	1 year	Oklahoma	1 year
Hawaii	1 year	Oregon	3 years
Idaho	1 year	Pennsylvania	2 years

State Rules on Unclaimed Wages

State	Unclaimed After	State	Unclaimed After
Illinois	1 year	Rhode Island	1 year
Indiana	1 year	South Carolina	1 year
Iowa	1 year	South Dakota	1 year
Kansas	1 year	Tennessee	1 year
Kentucky	3 years	Texas	1 year
Louisiana	1 year	Utah	1 year
Maine	1 year	Vermont	1 years
Maryland	3 years	Virginia	1 year
Massachusetts	3 years	Washington	1 year
Michigan	1 year if > \$50	West Virginia	1 year
Minnesota	1 year	Wisconsin	1 year
Mississippi	5 years	Wyoming	1 year
Missouri	5 years		



Benefits of Due Diligence

- **Compliancy with States**
- **Promotes Goodwill with Customers**
- **Prevents Inappropriate Entries on Financials**
- **Controls Internal Fraud**
- **Sarbanes**

Due Diligence



- Take every effort to locate owner
 - Certified Due Diligence letter to last known address (Required by NJ, OH, NY, IA)
 - State Dept of Revenue Computer database
 - Dept of Motor Vehicles Computer database
 - Credit Bureaus
 - Internet – anywho.com, free-peoplesearch-engines.com, switchboard.com
 - Publications in Newspapers (Required by DE, NY & PR based on Industry)

Due Diligence



- Document Responses or Lack of
- Determine State Jurisdiction
- Maintain proper records for length of dormancy period (state specific)
- No Due Diligence required for PA or DE but is recommended



Owner Action Examples

- Cash Check
- Deposit or Withdrawal from Account
- Pay a Premium
- Written Communication
- File a Claim

Other Action Types

- Owner Activity in One Bank Account vs. No Activity in Another
- Phone Contact
- Mail Not Returned
- Electronic Contact
 - Email
 - Atm
 - Etc.



Due Diligence



- Timeframe to Send Letters
 - Some states no more than 120 days prior to reporting or
 - Less than 60 days prior
- Colored Envelopes may Increase Owner Response
- What proof is required by states
- Some states allow deduction of administration fees for mailing costs (CA, IA, IL, NY, OH, OK)

Due Diligence for Payroll

- Suggested areas to locate Owners
 - Employee terminated? Leave a forwarding address?
 - Employee transferred?
 - Employee Retired? Retirement database?
 - Secondary Address
 - Emergency Contacts
 - Accounts Payable System (1099 employee?)





Recordkeeping (continued)

- Send certified letter to employee
 - Record lack of response
 - Record employee responded & wages released
 - Check Date reissued
 - Check Number reissued
- File returned checks in alpha or numerical sequence for easy reference
- Reissued payments recorded in accounting system

Recordkeeping (continued)

- Annually
 - Review check dates to identify those that have reached the dormancy period
 - Identify the amounts on your record listing
 - Keep copy of list with payroll records



Where To File Report

- State of last known address of employee
- Address unknown? Send to state of business organization
- Consider Reciprocity between states



Reporting



- State Requirements
 - Know Dormancy Periods
 - Preliminary and/or Final Reports
 - Preliminary Required in NY, PR and CA
 - Amounts not required to supply name and address on detail report
 - Negative Reports

Reporting

State Regulations

- Remit only net wages
- First filing with a state is called “initial compliance”
- State Reporting Changes
 - CA has 2 reporting requirements
 - MI (2012) Changed from Nov 1 – Jul 1
 - TX (2013)
 - Changed from Nov 1 to Jul 1 with new cutoff to Mar 1 from Jun 30
 - Due diligence deadline changed to May 1 from Aug 1
 - SC, TN and WV Require encrypted Report

Reporting Payments



- Remittance
 - Check sent to State Official
 - Amounts over certain dollar amounts may require wire transfer (CA, DC, IN, MA, NJ, TX)
 - Must be timely

- State Format

National Association of Unclaimed Property

Administrators (NAUPA) Standard Electronic File

<http://www.unclaimed.org/reporting/free-compliance-tools/>

Reciprocity Awareness



- Not all States Share
- Not all States put information on a database
- Does not release Company from Penalties and Interest
- Different Dormancy, Due Diligence and Reporting Periods
- Must comply with all states regulations
- Not Recommended

Reporting Tips

- Report & Remittance Amounts Agree
- Use Correct Cover Sheets and/or Holder Numbers
- Verify Report is”
 - Complete
 - Signed
 - Notarized where Required
- All abandoned property is on the report





Common Errors in Reporting of Abandoned Property

Payroll or Accounts Payable Check reissued, but not voided

- Voided check in the accounting system, but not removed from the unclaimed property records
- Five or more sequentially-numbered checks probably represent checks that never went out the door (i.e. Printer alignment or jam)

Accounting



- Checks cannot be voided from an employee's record – Must report on W-2
- If due diligence review found a check should have been voided, you may have to:
 - Issue W2c
 - Issue 941 & 940 adjustments
 - Issue State and unemployment adjustments
 - Issue local adjustments



Accounting (continued)

When employee is paid wages the journal entry is:

Debit Payroll Expense

Credit Accrued Payroll

Debit Accrued Payroll

Credit Payroll Cash Account

When an employee's check has been determined unclaimed the journal entry is :

Debit Payroll Cash Account

Credit Unclaimed Check Liability

When unclaimed wages are remitted to the state the journal entry is:

Debit Unclaimed Check Liability

Credit Operating Cash Account

States Enforcement of Unclaimed Property Laws

(Untapped Revenue Source)

Non-compliance **Costs**



- Increased State Audit Staff
- State Shared information of non-compliant businesses
- Third-Party Audit Firms – operate on a contingency fee

Penalties & Non Compliance

- Lost Records or Failure to File
 - Result in likelihood of audits
 - Require estimations
 - Result in Penalties of up to 25% of the assessment or up to \$25,000 per item
 - Result in added Interest from 12% to 18% of the assessment
 - Criminal charges filed by some states
- If your company has been out of compliance, notify the state you are gathering data



Record Retention

- Vary by State
- Some states are silent
- No statute of limitations on unclaimed property
- Recommend to retain at least 10 years



State Abandoned Wage Record Retention

State	Minimum Period	State	Minimum Period
Alabama	No provision	Montana	10
Alaska	7	Nebraska	7
Arizona	5	Nevada	7
Arkansas	10	New Hampshire	10
California	7	New Jersey	5
Colorado	5	New York	5 after Dec 31 of year filed
Connecticut	10	New Mexico	10
Delaware	No Provision	North Carolina	10
Dist of Columbia	10	North Dakota	5
Florida	5	Ohio	5
Georgia	10	Oklahoma	10
Hawaii	5	Oregon	3
Idaho	7	Pennsylvania	No Provision

State Abandoned Wage Record Retention

State	Minimum Period	State	Minimum Period
Illinois	5	Rhode Island	7
Indiana	10	South Carolina	10
Iowa	4	South Dakota	10
Kansas	10	Tennessee	10
Kentucky	5	Texas	10
Louisiana	10	Utah	5
Maine	10	Vermont	No Provision
Maryland	10	Virginia	5
Massachusetts	5	Washington	6
Michigan	10	West Virginia	10
Minnesota	No Provision	Wisconsin	5
Mississippi	No Provision	Wyoming	5
Missouri	5		

Challenges



- Varying State Requirements
 - Dormancy Periods
 - Due Diligence Procedures
 - Report Filing Dates and formats
 - Property Requirements Differ
- Evolving State Changes
- How to Determine Activity

Challenges

- Multiple Locations and/or Depts within the company
- How to Determine Property Types
 - States continue to add new types
- State Reciprocity
- Business Transactions
 - Mergers
 - Acquisitions



Audit Triggers

- Industry Types
 - Insurance Companies
 - Brokerages
- Retirement Accounts
- Mergers & Acquisitions
- Failure to Report Abandoned Property
- Failure to file Negative Reports
- Failure to Follow State requirements

What Unclaimed Property Auditors Look For:

- Accounts Payable
- Accounts Receivable
- Payroll
- Unapplied Cash
- Writeoffs
- Patient Refunds
- Benefits
- Open Payables
- Unpaid Credit Balances

Do's & Don'ts of an Audit

- Do's
 - Take seriously a state audit
 - Assess potential liability
 - Have idea of potential results of assessment
 - Determine how you will handle the audit
 - Internal or outside consultants
 - Clearly define scope of audit
 - Get help if needed



Do's & Don'ts of an Audit

- Don'ts
 - Assume you don't have a liability
 - Ignore notice of audit (represent state)
 - Use stall tactics
 - State can access penalties and interest
 - Give auditor free reign
 - Clearly define audit
 - Fake it





What Happens to Property Turned over to the State

- Try to locate owner
 - Social Media
 - Newspapers
 - Databases
 - Other States Share Information
 - State Fairs
 - Shopping Malls
- Retain for a Period of Time
- Auction and Retain Dollar Value

Myths

- We don't have unclaimed property liability
- Compliance is voluntary
- Without records auditors cannot determine the liability
- Only required to report in states where I conduct business (nexus)
- It's a Tax



Resources



- NAUPA official unclaimed property internet addresses – <http://www.unclaimed.org/> & <http://www.missingmoney.com>
- NAUPA unclaimed property database – <http://www.naupa.org/>
- Unclaimed Property Resource Guide – <http://www.nupd.com/publications.htm>
- State websites for unclaimed wages – <http://www.cojoweb.com/unclaimed-property.html>
- Unclaimed Money Discovery – <http://www.unclaimedmoneydiscovery.com>
- Unclaimed Property Recovery and Reporting – <http://www.uprrinc.com/homeQuickFacts.html>

Resources




- Keane Unclaimed Property - <http://www.keaneunclaimedproperty.com/>
- Unclaimed money from the government - <http://www.usa.gov/Citizen/Topics/Government-Unclaimed-Money.shtml>
- Unclaimed Property Professionals Organization - <http://www.uppo.org/>
- National Conference of State Legislation (gift cards) – <http://www.ncsl.org>



Publications & Organizations

- APA Payroll Source
- APA Guide to State Payroll Laws
- National Association of Unclaimed Property Administrators (NAUPA)
- National Association of State Treasurers (NAST)
- Unclaimed Property Holders' Liaison Council (UPHLC)
- Committee On State Taxation (COST)
- Consultants for Holders



Q & A

You have

Questions

We have

Answers