TOP 10 UNCLAIMED PROPERTY COMPLIANCE PITFALLS

AS THE LANDSCAPE OF UNCLAIMED PROPERTY COMPLIANCE CONTINUES TO CHANGE, MOST COMPANIES FAIL TO COMPLY

All states have laws regulating the reporting and remittance of unclaimed property. Also referred to as abandoned property or escheat, unclaimed property concerns the requirement that a company holding such property (the holder or debtor) report it to the appropriate state after a statutory dormancy period has passed. The purpose of unclaimed property laws is to ensure that property is returned to its rightful owner, rather than retained by the debtor, and to permit the public to benefit from the use of those funds until the true owner can be found.

Unclaimed property may include some types of intangible property, as well as some tangible personal property, depending on state law. Common types of intangible unclaimed property include uncashed checks, unredeemed gift certificates and gift cards, customer credits, layaways, deposits, refunds, rebates, and accounts receivable credits, regardless of whether they remain on a company's books or were written off to income or expense, such as bad debt.

UNCLAIMED PROPERTY COMPLIANCE RISK

As of 2014, there was over $40 billion dollars of unclaimed property held domestically in the United States, and this number continues to grow. Companies that fail to correctly comply could be making a costly mistake. The reason lies in increased audits and forced compliance initiatives, along with associated penalties and interest for those that do not comply with state laws and regulations.

Here are the top 10 pitfalls companies fall into with escheat compliance:

1. Assume or accept a coworker's word that the organization does not have any unclaimed property, thus a return is not required to be filed.
2. Maintain no written escheat policy and procedures.
3. Failure to review and/or include "voided" check transactions in compliance process.
4. Failure to review and/or include "accounts receivable credits" transactions in compliance process.
5. Misapply B2B or de minimis exemptions or deferrals.
6. Misapply dormancy periods or last activity date standards.
7. Misapply "netting" concepts for fixed and determinable legally due and owing obligations.
8. Incorrect NAUPA code assigned to property reported.
9. Incomplete owner information included on return.
10. Failure to report foreign address property (e.g., non U.S.).

Unclaimed property affects all companies and audits are being aggressively pursued by states in their quest for additional revenue. Accounting, tax, and legal professionals should be mindful of unclaimed property in their day-to-day activities and in their policies for record retention. Those with potential deficiencies in their monitoring of unclaimed property should consider a voluntary disclosure or other compliance options.

CONTACT

ANGIE GEBERT
National Unclaimed Property Compliance Leader
312-233-1848 / agebert@bdo.com

JOE CARR
National Unclaimed Property Leader
312-616-3946 / jcarr@bdo.com