



ABANDONED PROPERTY SERVICES LLC

Unclaimed Property: Frequently Asked Questions

1. My company only does business in a few states, do we really have to comply with state unclaimed property laws?

Answer: Due to US Supreme Court decision, where a company does business is of no consequence in determining which state law(s) the company must comply with in terms of unclaimed property. The controlling factor is the last known address in the company's records of the owner of the property that the company is holding. For example, if a business issues a credit for returned merchandise and the customer never takes the credit, the law of the state of the customer, as stated in the business' records, would control with regard to unclaimed property.

2. What types of unclaimed property does a business normally report?

Answer: Unclaimed property could be just about any uncashed check or unused balance. Commonly businesses have uncashed vendor, accounts payable and payroll checks, credit balances or memos. Some businesses may have special types of unclaimed general ledger property such as uncashed employee benefit checks (if the business is self-insured) or unredeemed customer refunds, unredeemed gift certificates or cards, etc.

3. When are reports and remittance to be filed with states for unclaimed property?

Answer: Most states have a Fall deadline which is on or near November 1st while some states have a deadline that is in the Spring and ranges from March 1st to May 15th. Of course, some states require that certain industries report and remit property on a special date.

4. Do state laws provide for interest and penalties for failing to report and remit unclaimed property?

Answer: State laws provide for interest and penalties for failing to report and remit unclaimed property when it is due and reportable. Interest is calculated from the date the property was due to the state until the time of actual remittance. State statutes also provide for the assessment of penalties. For example, the state of Texas may impose interest equal to five percent of the value of the property due if a business fails to pay or deliver property by the required date. If a holder fails to pay or deliver property before the 31st day after the date the property is due, an additional penalty equal to five percent of the value of the property is imposed."

5. What is the dormancy period which must run prior to unclaimed property being reportable to a state?

Answer: The dormancy period varies by state and by type of unclaimed property (i.e., accounts payable, payroll check, credit balance, etc.) Generally, the dormancy periods range from 1 year (usually for payroll checks) to 5 years.

6. What if I have unclaimed property that is past due for reporting or am unsure if my company has reported all types of general ledger property it may hold?

Answer: If you suspect that your company may not have reported and remitted unclaimed property or may not have reported and remitted all types of unclaimed property it holds, your company may be eligible for the pertinent states' voluntary disclosure programs. These programs can be formal or informal. During the voluntary disclosure process the goal is to identify, disclose, report and remit past due unclaimed property and to retrieve a release of liability for any penalties and/or interest for past due unclaimed property. However, in order to determine the extent of the property that is past due you may be required to perform an internal unclaimed property audit and provided specific documentation to the state(s) for which you have applied for their voluntary disclosure programs. Some states retain the right to audit your company even though they have entered into a voluntary disclosure agreement and accepted the voluntary disclosure report and property.

7. **What is “due diligence” that state unclaimed property laws require?** Answer: Unclaimed property due diligence that businesses are required to perform under state laws is really a last attempt to contact the owner of property the business holds. Most state laws require that owners be notified (usually via regular, first class, or certified mail) within a certain period of time prior to the date when the property would be due for reporting and remitting to the state. A few states have a “publication” requirement that businesses in certain industries must comply with as a part of their due diligence obligation.

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