

Out of Control: Taming Your Company's Unclaimed Property Risk

Part I: The Beginning: Education, Buy-In and Internal Assessment

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Huh? ...You may be at the "huh" stage right now... You have been asked to review and/or take responsibility for your company's unclaimed property compliance and have no idea where to begin. That "out of control" sensation in your mind and the sinking feeling in your stomach are setting in and you know you need guidance. Look no further. This article and those that follow will provide you with the food-for-thought necessary to tame the risk, regain control and work towards a well-managed escheatment compliance program.

First Things First

a. Education

As with any new endeavor, having at least a basic knowledge of the subject matter is essential when scoping the project and outlining it into the appropriate focus and task areas. The objective would be to understand unclaimed property basics and how they relate to the areas in the company that may hold unclaimed property, i.e., accounts payable, accounts receivable, payroll, etc. Several trade organizations provide webinars on the basics, including The Accounts Payable Network (TAPN). Also, TAPN provides articles on each compliance element: record review, due diligence, reporting and remitting and record retention.

Once educated on the basics, the holder will soon realize that becoming compliant involves the following general tasks: internal assessment, liability mitigation and risk minimization (state negotiation, voluntary disclosure, and reporting), and future liability avoidance (policy and procedure development, annual due diligence and reporting, and periodic procedures review). This article addresses the initial task of internal assessment.

b. Buy-In

After educating yourself about the escheatment process, the second step is to measure your company management's "buy-in" to the process. The initial question to ask is "Do my superiors provide a clear direction and scope of authority for seeking unclaimed property information and accessing the staff required to not only assess compliance/liability, but to remediate liability and incorporate policies, procedures, and processes to prevent future liability?"

Maybe your job is to simply review your current compliance status and determine potential liability for past non-compliance. Even so, you will need the authority to access records and review data and may need the assistance of experts to perform this assessment. For even this limited scope, it is important to understand the your authority to access resources, including contracting, for assistance.

In addition, the relevant departments and managers/staff must be available and willing to assist with the project. Management should communicate an unequivocal direction to those groups and individuals, as this is essential for gaining the cooperation necessary for efficient and expedient project progress.

The Internal Assessment

To initiate and implement the internal assessment, many businesses have first assembled a task force, consisting of:

1. Staff that can provide the data that must be reviewed;
2. Staff that can provide the history of record maintenance and/or technological assistance in retrieving records;
3. Legal counsel for any necessary legal interpretation; and if necessary,
4. Experts that can provide guidance in the types and depth of the records to review and/or assistance in performing the review.

Commonly, such a task force includes individuals from accounting (accounts payable, accounts receivable, payroll departments), internal audit, treasury, internal legal counsel and possibly a contracted third party firm that specializes in unclaimed property compliance consulting.

The task force's first step is to consider the potential types of unclaimed property that the business may hold. The most common types of unclaimed property are uncashed or unused disbursements and credits. Examples are uncashed payroll, expense or payables checks, and unused credits for overpayments or returned merchandise. However, due to the nature of your company's business, there may be other types of unclaimed property such as insurance claims, gift cards, underlying shares, and merchandise store credits.

After determining the types of unclaimed property your company may hold, identify the accounts holding the property. It is necessary to review the current chart of accounts or current general ledger trial balance to pinpoint the financial accounts that most likely hold unclaimed property. You must perform research to define the purpose of each of the pinpointed accounts to determine if they are actually used to disburse or manage balances.

The task force's next step is to determine the depth of the records for each of the identified disbursing accounts. This record depth must be compared against the prescribed reach back period for the applicable states (meaning name and address

data is available). If you do not have records for the entire reach back periods, then only the property reportable to the non-incorporation states may be reported based on the available records. For the business' state of incorporation, current records may be used to extrapolate the potentially reportable past-due unclaimed property to meet the state's reach back period.

For example, consider that most states in voluntary disclosure arrangements or during an audit will require that the formerly non-compliant business provide records or perform this type of review. From the actual data and extrapolations you will "quantify" your company's past and current due liability for each of the pertinent states. (Note: If your company has reported and remitted unclaimed property in the past, the quantification of liability described may be reduced by the amount of property previously reported and remitted.)

Once you have reviewed the accounts, quantified the liability with the actual data, and performed any extrapolation necessary, you now have an estimated total gross liability figure. Don't panic, this number is often higher than the ultimate or "true" liability. The items that make up the gross liability must now be reviewed to determine if they are "true liabilities". This process is called **liability mitigation**. The result of liability mitigation will be the net or "true" liability.

Summary

A practitioner charged with ensuring company compliance should begin by becoming educated about unclaimed property requirements and about the direction and authority provided by company management for the project. Management's direction should be communicated to all company staff involved in the project as well.

The practitioner's next step is to assemble a task force to consider the types of property that the company may hold and to implement the company's internal liability assessment. This assessment requires a review of accounts to pinpoint those that are used for disbursements, to manage credits, or otherwise hold the types of unclaimed property under consideration.

After identifying the appropriate accounts and reviewing the actual data, the task force should compare the extent/length of the data with the reach back period for each of the non-incorporation states for which owner name and address data is available. The dormant property reflected by the data for the non-incorporation states should be calculated as a part of the gross liability, which may be reportable.

Next, the task force should extrapolate the liability for the periods for which data is unavailable for the business' state of incorporation, considering the reach back period for the state of incorporation. This analysis will result in an estimate of the total gross liability. Arriving at this figure is a milestone in the process but usually identifies the pinnacle and not the true liability.

The next step in the risk "taming" process is liability mitigation which should reduce the gross liability figure.

Next Article: Out of Control: Taming Your Company's Unclaimed Property Risk Through Liability Mitigation!

Note: *Karen Anderson and Carla McGlynn are unclaimed property consultants with [Abandoned Property Services, LLC \(APS\)](#), which serves the unclaimed property compliance needs of all types of businesses. APS provides policy/procedure and liability prevention consulting, audit defense and compliance maintenance via its annual reporting and due diligence services. Annual reporting and due diligence services are facilitated by APS's specially devised and perpetually updated in-house systems.*

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