



**BDO Seidman, LLP**  
Accountants and Consultants

## Subject:

# Unclaimed Property In New York

# State Tax Alert

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New York is in the process of identifying companies that have not complied with its Abandoned Property Law. Many companies are receiving letters directly from the State Comptroller's Office informing them that New York believes they are non-compliant with the state's unclaimed property reporting requirements. New York wants to assist these companies by providing an opportunity to become compliant during a six-month period or "window" through its Voluntary Compliance Program, where interest and penalties will not be assessed for prior periods.

## Unclaimed Property: Overview

Unclaimed property statutes, also known as "escheat" laws, govern who will ultimately hold and control abandoned funds. Under New York's (and most other states) laws, certain types of property are deemed abandoned after a set number of years (the "dormancy" period) and become property of the state (usually 3-7 years). Escheatable property typically includes unclaimed wages or payroll checks, vendor checks/credits, unredeemed gift certificates/cards, merchandise credits, accounts payable and receivable credits, etc. Industries that may be significantly impacted by unclaimed property laws include retailers, healthcare companies and financial services companies.

Unclaimed property is generally required to be remitted after the expiration of the dormancy period to the state of the last known address of the property owner. However, if no address can be determined from the debtor's books and records, the property is generally remitted to the state in which the debtor is incorporated.

## New York's Voluntary Compliance Program

New York believes that many businesses are not fully compliant with its Abandoned Property reporting requirements. In general, New York State can impose late filing penalties and interest on businesses that have not been fully compliant. The interest rate is 10 percent per year from the date payment or transfer was originally due. In addition, the general statute of limitation rules do not apply to New York's unclaimed property law.

New York State offers a Voluntary Compliance Program (the Program), which allows businesses holding unclaimed property to report and escheat the property under favorable terms (i.e., no interest or penalties). Entering the Program will afford the business protection from being audited by New York while allowing time to conduct the due diligence required by the state. An added benefit for entering the Program is the restriction on the Comptroller to reach back to prior periods. For most types of escheatable property, the reach-back period is limited under the Program to items arising on or after January 1, 1992. Note that companies that have not been contacted by the New York Comptroller may enter the Program on an anonymous basis.

### Recommended Action:

Companies doing business in New York may receive a letter from the State Comptroller's Office if the company has not complied with the State's Abandoned Property reporting requirements. Although a company may still participate in New York's Voluntary Compliance Program, the six-month window to become compliant begins as of the date on the letter. Since the required due diligence process of contacting the owners of the dormant property can take several months, businesses have a limited timeframe to satisfy the requirements of the Voluntary Compliance Program. Failure to respond to the Office of Unclaimed Funds within the six-month timeframe will likely result in an audit by New York State and ineligibility for the favorable compliance terms. Therefore, companies that have not been in compliance with New York's Abandoned Property reporting requirements should seriously consider participating in the Voluntary Compliance Program before receiving notification from the State.

### How BDO Seidman Can Help:

BDO Seidman can assist companies with the development and implementation of a comprehensive action plan to address potential unclaimed property exposure in a pro-active and timely manner. States have the authority to use estimation techniques during audits to determine liability for abandoned or unclaimed property if documentation either is incomplete or inadequate to evidence proper disposition of such funds. BDO Seidman's team of unclaimed property specialists will work with you to determine your escheatable property exposure and utilize New York's Voluntary Compliance Program and similar programs for other states, where applicable, to negotiate a closing agreement on favorable terms.

FOR MORE INFORMATION  
PLEASE CONTACT:

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