

AN ALERT FROM THE BDO UNCLAIMED PROPERTY PRACTICE

BDO KNOWS: UNCLAIMED PROPERTY



SUBJECT

MICHIGAN ENACTS UNCLAIMED PROPERTY STREAMLINED AUDIT PROCESS AND \$25 EXEMPTION

SUMMARY

On December 22, 2015, Michigan Governor Rick Snyder (R) signed into law Senate Bill 538, 98th Leg., Reg. Sess. (Mich. 2015), Public Act 242 of 2015, which enacts an unclaimed property exemption for property valued at \$25 or less and the option for “eligible holders” to elect into a payor-friendly, streamlined audit process. These provisions of the law are retroactively effective with respect to audits in progress as of August 15, 2015.

DETAILS

Exemption for Property Valued at \$25 or Less

The law limits the property which is subject to escheat to that which is valued at more than \$25. This limitation does not apply to dividends or an ownership interest in a nonpublic corporation, joint stock company, investment company, business trust, partnership, or business association.

Streamlined Audit Process for “Eligible Holders”

The law provides that the following “eligible holders” may make an election to participate in a streamlined audit process:

- ▶ A business whose principal place of business is in the state as evidenced by 20 percent of property (excluding inventory or rented property) or payroll in Michigan, or a majority of officers that direct, control and coordinate activities of the business in the state; and

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- ▶ A corporation that wholly owns, or is owned by, a Michigan corporation that has its principal place of business in the state.

An election made by an “eligible holder” to participate in the streamlined audit process results in:

- ▶ A reduction in the general 10-year lookback and the 5-year lookback period that applies to transactions between certain businesses to four years after the duty to escheat arose (see M.C.L. § 567.250);
- ▶ Excluding checks voided within 180 days from the date of issuance from examination; and
- ▶ An examination conducted within a time frame jointly developed by the holder and the state treasurer with the goal of completing the examination within 18 months.

Electing into the streamlined audit process requires executing a nondisclosure agreement within 30 days from the receipt of an audit notice.

BDO INSIGHTS

- ▶ A reduction in the lookback period to four years for most unclaimed property, and the possibility of completing an audit within 18 months if the streamlined audit process is elected, can be very favorable terms in the unclaimed property world. An unclaimed property holder that qualifies as an “eligible holder” should closely monitor the receipt of an audit notice, and act quickly to make the election into the program due to the 30-day window.
- ▶ An unclaimed property holder that has substantial property valued at \$25 or less, including one that is currently being audited by Michigan in an audit that was in progress as of August 15, 2015, should scrutinize the state’s extrapolation to make sure this now exempt property is not included as this could have a significant impact on the assessment.

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