

AN ALERT FROM THE BDO UNCLAIMED PROPERTY PRACTICE

BDO KNOWS: UNCLAIMED PROPERTY



SUBJECT

FLORIDA EXPANDS THE AUTHORITY OF THE DEPARTMENT TO ESTIMATE UNCLAIMED PROPERTY AND CHANGES DOMICILE OF AN UNINCORPORATED BUSINESS

SUMMARY

On March 24, 2016, Florida Governor Rick Scott (R) signed into law H.B. 783, which authorizes the Department of Financial Services to estimate unclaimed property where a holder fails to provide requested documents, changes the definition of domicile to mean the state of organization in the case of an unincorporated business association, and specifically includes limited liability company and an association of two or more individuals in the definition of business association. These changes go into effect July 1, 2016.

DETAILS

Authority to Estimate Unclaimed Property

Prior to the enactment of H.B. 783, Florida law limited the Department's authority to estimate the unclaimed property of a holder in the event the holder's available records are insufficient to prepare an unclaimed property report. Effective July 1, 2016, the Department may also estimate unclaimed property where the holder fails to provide requested records.

Domicile of Unincorporated Association

Prior to the enactment of H.B. 783, Florida law defined "domicile" for an unincorporated business association to mean the principal place of business. Effective July 1, 2016, the definition means the state where the business association is organized.

BDO's National Unclaimed Property Practice has successfully assisted many clients in Florida and other states with unclaimed property audits and voluntary disclosures, and can assist you. Should you have any questions or would like to discuss escheatment, please contact:

JOSEPH CARR
Partner and National Unclaimed
Property Practice Leader
(312) 616-3946
jcarr@bdo.com

Definition of Business Association

Prior to the enactment of H.B. 783, Florida law defined business association to include only a corporation, joint stock company, investment company, business trust, partnership, or association. Effective July 1, 2016, the definition specifically includes a limited liability company, and an association of two or more individuals.

BDO INSIGHTS

- ▶ Florida expanded the authority of the Department to estimate and issue unclaimed property assessments to a holder that chooses not to comply with the Department's request for records. This could embolden the Department to be more aggressive, in terms of quantity and quality, with respect to its unclaimed property audit efforts.
- ▶ Unincorporated holders will need to remember that, effective July 1, 2016, unclaimed property should be reported to Florida only if the owner's last known address is in Florida, or if the holder was formed under Florida law (i.e., not if the holder's principal place of business is in the state). This law change should make ascertaining domicile easier and more certain.

BDO is the brand name for BDO USA, LLP, a U.S. professional services firm providing assurance, tax, financial advisory and consulting services to a wide range of publicly traded and privately held companies. For more than 100 years, BDO has provided quality service through the active involvement of experienced and committed professionals. The firm serves clients through 63 offices and over 450 independent alliance firm locations nationwide. As an independent Member Firm of BDO International Limited, BDO serves multinational clients through a global network of 1,408 offices in 154 countries.

BDO USA, LLP, a Delaware limited liability partnership, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. BDO is the brand name for the BDO network and for each of the BDO Member Firms. For more information, please visit www.bdo.com.

Material discussed in this tax alert is meant to provide general information and should not be acted on without professional advice tailored to your firm's individual needs.