

## What is Unclaimed Property?

**Definitions.** Unclaimed property includes items such as uncashed checks, life insurance benefits, dormant bank accounts, stock dividends and other similar items. It's called unclaimed because the company holding this property can't find the owner, who has typically relocated. State laws governing unclaimed property dictate that the company must attempt to locate the owner in a procedure called *due diligence*. If the owner can't be found during a specified period of time known as the *dormancy period*, the property is classified as *abandoned*. Companies are required by law to report and transfer abandoned property to the state where the owner was last known to reside. This process is sometimes called *escheatment*, referring to a legal concept it was based upon.

**Complications.** That sounds fairly simple so far. But it begins to get complicated when you learn that each state determines its own dormancy periods, due diligence procedures, report filing dates and report format. For example, the contents of a checking account are considered abandoned after seven years in Kentucky, but only three years in California. If you are reporting abandoned property for a bank, final reports are due on November 1 in Louisiana, May 1 in Hawaii, and March 31 in Connecticut. Some states require an additional preliminary report six months in advance of the final report. A few states accept *only* electronic reports, while others accept only paper reports, and some accept both.

**Added complexity.** Furthermore, the definitions and requirements for compliance can also change depending on the *type* and *value* of property that is unclaimed. The dormancy period for an uncashed payroll check can be different than for stock dividends. When you consider the number of variables involved, it's easy to see that companies with property owners scattered over multiple states face a tedious and time consuming task in tracking and reporting unclaimed property.

### Who has unclaimed property?

**Widespread issue.** Banks, insurance companies, and mutual fund/securities houses often deal with unclaimed property, but this issue also touches almost every commercial entity. Less obvious holders include mail-order merchants, utility companies, and temporary employment agencies. Virtually any company that deals with frequent customer overpayments, a large or revolving workforce, or stock distribution, is directly affected. Industry experts estimate that the \$2 billion remitted to the states each year is only a small percentage of the actual property classified as abandoned. Many corporations that didn't understand abandoned property reporting requirements, or chose to ignore them, have run into problems such as multi-state audits and penalties.

### What happens if abandoned property is not reported?

**Increasing enforcement.** In recent years, states have come to recognize abandoned property as a valuable source of income and they've become increasingly aggressive in pursuing it. State auditors that discover non-compliance can enforce stringent state laws that result in stiff penalties. The 1995 Uniform Unclaimed Property Act allows penalties up to \$25,000 plus 25% of the value of the property for willful failure to report. A 12% interest on penalties is applicable, and generally not waivable by the states. Ignorance has not been an acceptable defense—inadvertent failure to report is also penalized.

**Joint audits.** To further compound the issue, state offices are cooperating with one another in the audit process. One visiting auditor may represent five or more states under a cross-auditing agreement. One audit can result in penalties from all the states represented if non-compliance is discovered. And now the Securities and Exchange Commission (SEC) has announced that it may also extend its interests to include the disposition of abandoned stock and dividends.

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## Why would you need a software system to comply?

**Complexity.** The process can be extremely complicated, especially for corporations that hold a significant volume of unclaimed property, or are obligated to report in many states. When 53 jurisdictions establish unique definitions, dormancy periods, filing dates and submission requirements, it's a challenging and time consuming chore to comply. To add further complexity, a company may hold unclaimed property in separate departments such as payroll, accounts payable and others. So the unclaimed property manager is tracking records scattered across the company in different database formats. On top of all this, the states frequently amend the requirements and reporting formats, so the person responsible must maintain a constant vigil for new regulations.

**Automated solution.** A centralized database makes it infinitely simpler to organize and manage the unclaimed property process. It puts all the records for property and owners in one location for management and organized reporting. If this database also houses all the current requirements for each state and property type, it can save a tremendous amount of administrative time, and safeguard an organization from non-compliance penalties. Additional benefits of automation include the ability to automate and log the production of search letters (due diligence), and the ability to meet the trend toward electronic reporting.

**Any alternatives?** A few states offer free filing diskettes to reporters of unclaimed property. These provide a report format *only*. The company still has to deal with the complicated and time consuming aspects of classifying and managing unclaimed property. Some companies outsource unclaimed property management, but the frequent transfer of data can be a hassle, and there's always the question of whether you are truly protected.

## What should unclaimed property holders look for in a system?

**Comprehensive database.** If they file in only one state and hold five pieces of property, a spreadsheet will do. But companies that hold hundreds of unclaimed items, or have owners in multiple states, should look into a central database system to automate the process. It should be pre-loaded with all the state requirements, and it should generate reports that are *pre-approved* by the individual states. Watch out for vendors that say their reports meet the requirements, but don't guarantee format acceptance. Diligent report filers can still incur penalties if their report is rejected and not correctly resubmitted before the deadline.

**Regular updates.** Since the state requirements change frequently, they should look for a system that is updated regularly by the vendor, well in advance of critical filing periods. If they hold any volume of unclaimed property, a streamlined method of importing files would be advantageous. The ability to mail merge owner information to search letters is valuable, and the system should record this activity to prove compliance with due-diligence requirements. The best unclaimed property systems can produce reports via paper, magnetic tape and diskette because the states vary widely in the types of submissions they accept.

**Progressive vendor.** Unclaimed property holders should select a system that is evolving with technology, and a company that communicates well with state unclaimed property officials. If there's ever a technical glitch, a vendor that maintains sound relationships with state offices can usually negotiate a deadline extension while the issue is being resolved.

**Summary.** This overview conveys only a few of the reasons why statutory compliance in this field requires highly specialized legal, accounting and data processing capabilities. Most companies find that a system designed to encompass all of these demands is far more efficient than any in-house system of tracking. And considering the increasing assertiveness of the states in monitoring compliance, more and more companies are taking refuge in an automated solution to protect themselves from potentially disastrous consequences.



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