

DELAWARE STEPS UP ENFORCEMENT OF UNCLAIMED PROPERTY LAW

Delaware is stepping up its efforts to collect abandoned and unclaimed property by performing audits under the state's escheat laws. Escheat, which is the process by which a state takes custody of abandoned or unclaimed property after a specified period of time, can be a substantial revenue source for states. Delaware, in particular, takes an expansive view of what constitutes abandoned or unclaimed property, defining such property to include unclaimed dividends, funds to redeem stocks and bonds, gift cards, and similar property.

Escheat audits seek to identify property subject to escheatment and to test compliance with the escheat laws. Notably, if a corporation's records are insufficient to accurately calculate the amount of its abandoned property liability, Delaware has the power to estimate the value of abandoned property and demand payment based on that estimate. Delaware also has the power to require payment of penalties and interest for amounts that should have been reported to the state under escheat laws but were not.

Escheat audit notices being issued by Delaware can be extremely broad, seeking detailed financial records and underlying source documentation sometimes going as far back as 1981. That being the case, significant internal and external resources can be required in order to respond to these notices appropriately.

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If you have any questions about escheat audits, please contact Antonio Yanez, Jr. (212-728-8725, ayanez@willkie.com) or the Willkie attorney with whom you regularly work.

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