Solutions for Delays in Unclaimed Property Reporting

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Authors:

Nancy Eff Presnell
William T. Repasky

Holders of unclaimed or abandoned property should familiarize themselves with their state's procedures for requesting a filing extension if they anticipate that COVID-19's impacts will affect their ability to timely complete the required reports.

The definition of unclaimed property varies from state to state, as does the time in which the holder of the property must report its presumptive abandonment to jurisdictional state officials. But across all the states there is one universal factor that has come to the forefront: the continuing impacts of the Coronavirus. The public health emergency is adversely affecting both employees who are responsible for their company's unclaimed property compliance reporting and the state government offices responsible for processing the reports.

This article discusses the current state of affairs for requesting an extension of time for filing a holder's annual report of unclaimed property in Indiana, Kentucky, Ohio, Pennsylvania, Tennessee, Texas, and West Virginia.

Background

Unclaimed property is rooted in the ancient doctrine of escheat, but today a holder's obligations arise from state unclaimed property laws and regulations. Unclaimed property comes into the custodial interests of a state when businesses have possession or control of property that does not belong to them, but that hold the property for the benefit of others. These are the "Holders" under state law. "Owners" are the people or entities that own property which is in the possession of another. Following a state's "Holding Period," the Holder is required to notify the Owner to claim the property. If the notification, often referred to as due diligence, is unsuccessful, then the Holder is required to report the unclaimed property to the state's designated administrator. Holding periods vary from state to state and, depending on the property type, can range from one to 15 years.

Holders of unclaimed property include financial institutions, insurers, utilities, business associations, medical facilities, sole proprietors, fiduciaries, courts, public officers and any entity holding property belonging to another.

The terms “unclaimed property” and “abandoned property” are oftentimes used interchangeably. However, when property is in the hands of a Holder and the Owner is either not known or is not presently asserting its rights, the property is unclaimed. When property, at the end of the relevant Holding Period remains unclaimed, it is deemed to be abandoned. Both unclaimed and abandoned property are usually subject to the ultimate custodial rights of the state’s designated administrator of unclaimed property, under controlling law. The states will hold the abandoned property indefinitely for the benefit of the Owner and do not take title to the property.

State-Specific Requirements

Indiana

Indiana requires an annual report of unclaimed property to be submitted no later than November 1 for all Holders of unclaimed property, with the exception of life insurance companies which must report on May 1. Notifications to Owners of unclaimed property must be completed no more than 120 days, or no less than 60 days prior to the annual report filing. The November 1 reporting deadline requires that Owner notification occur no later than September 2, 2020, for property determined abandoned as of June 30, 2020.

Indiana Holders of unclaimed property may file for an extension of the annual report deadline no later than 30 days before the report is due. Indiana’s Attorney General is responsible for determining whether to grant the extension or not.

Kentucky

Kentucky requires an annual report of unclaimed property to be submitted no later than November 1 for all Holders of unclaimed property, except for insurance companies which must report on May 1. Notifications to Owners of unclaimed property must be completed no more than 120 days, or no less than 60 days prior to the annual report filing. The November 1 reporting deadline requires that Owner notification occur no later than September 2, 2020 for property determined abandoned as of June 30, 2020.

Kentucky Holders of unclaimed property may file for an extension with the Kentucky State Treasurer's office using the form available in the Kentucky Holder Reporting & Instructions. The extension request must be submitted no later than November 1, 2020. The Kentucky State Treasurer's Office has discretion to determine whether to grant the extension.

Kentucky was one of the first States in the nation to adopt the model Uniform Abandoned Property Act. Kentucky's current abandoned property statutes are found at KRS 393A.010 – .860, with an effective date of July 14, 2018. Holders should verify that its policies and reporting protocol have been updated to comply with Kentucky's new legal mandates.

Ohio

Ohio requires an annual report of unclaimed property to be submitted no later than November 1 for all Holders of unclaimed property except for life insurance companies which must report on May 1. Owners of unclaimed property must be allowed a minimum of 30 days to respond to the notice prior to reporting their funds as unclaimed. The mandatory notice of unclaimed funds to the Owners of accounts with a value of $1,000 or more must be sent by certified mail, return receipt requested. The November 1 reporting deadline requires notification to occur no later than October 2, 2020 for property determined abandoned as of June 30, 2020.

Ohio Holders of unclaimed property may file for an extension up to 120 days. The extension is automatic upon filing the extension form, and the filer will receive an email confirmation.

Pennsylvania

Pennsylvania requires an annual report of unclaimed property to be submitted no later than April 15 for all Holders of unclaimed property. Notifications to Owners of unclaimed property must be completed no more than 120 days, or no less than 60 days prior to the annual report filing. Holders of abandoned property were required to mail written notice to the Owner no later than February 15, 2020 for property determined abandoned by December 31, 2019.

The Pennsylvania treasurer's office waived all fines, penalties and interest otherwise applicable for all late-filed reports and property if the annual report was received by the office on or before June 15, 2020. Pennsylvania has not announced an additional extension, but a request for an extension is available online and must be filed prior to submitting the annual report.

Tennessee

Tennessee requires an annual report of unclaimed property to be submitted no later than November 1 for all Holders of unclaimed property. Notifications to Owners of unclaimed property must be completed no more than 180 days, or no less than 60 days prior to the annual report filing. The November 1 reporting deadline requires that Owner notification occur no later than September 2, 2020, for property determined abandoned as of June 30, 2020.

Tennessee Holders of unclaimed property may file for an extension no later than November 1, 2020. The Tennessee State Treasurer has the authority to grant one 30 day extension.

Texas

Texas requires an annual report of unclaimed property to be submitted no later than July 1 for all Holders of unclaimed property, except for life insurance companies which must report on November 1. Holders of unclaimed property were required to mail written notice to the Owner no later than May 1, 2020, for property determined abandoned as of March 1, 2020.

Texas does not have the statutory authority to grant extensions. Penalties for failing to pay and interest due will be assessed from the date the property should have been paid to the Texas Comptroller of Public Accounts.

West Virginia

West Virginia requires an annual report of unclaimed property to be submitted no later than November 1 for all Holders of unclaimed property, except for life insurance companies which must report on May 1. Notifications to Owners of unclaimed property must be completed no more than 120 days, or no less than 60 days prior to the annual report filing. The November 1 reporting deadline requires notification to occur no later than September 2, 2020, for property determined abandoned as of June 30, 2020.

West Virginia Holders of unclaimed property may file for an extension of the annual report deadline no later than 30 days before the report is due. The West Virginia State Treasurer is responsible for determining whether to grant the extension.

The various states' administrators are also dealing with the same COVID-19 issues. Thus, new rules or procedures may be forthcoming as the statutory deadlines near.

For additional details about the process to request an extension in your state, or if you have any questions about abandoned property law or practices, please contact Nancy Presnell, Bill Repasky, or any member of Frost Brown Todd's Financial Services industry team.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a Coronavirus Response Team. Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.