

5 KEY TAKEAWAYS

2025 Unclaimed Property Emerging Trends: Delaware VDA and Multistate Audits

Kilpatrick's [Jordan Goodman](#) and [David Hughes](#) recently joined BDO for a [discussion](#) of emerging trends around state unclaimed property enforcement measures, including audits, voluntary disclosure agreements, and other outreach inquiries.

Jordan and David's key takeaways from the discussion include:

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States have different rules about on record retention for accounts that may have unclaimed property, like old checks or credits people haven't claimed. In most states, this period is between 10 and 15 years, but in some states there's no time limit at all. The retention period is often tied to the length of the holding period before property becomes escheatable. Failure to keep all necessary records can lead to extraordinary long and painful audits and extrapolation of amounts owed for years in which the records are lacking.

In the world of mergers and acquisitions, failure to include unclaimed property on every due diligence list is an open invitation for pain and expense down the road. The purchase agreement should specifically address unclaimed property with respect to old liabilities; accounts that have not yet needed to be escheated and future liabilities. The need to address unclaimed property may also be also dependent on how an acquisition is made. If the purchase was for the whole company (stock acquisition), the new owner normally gets all the old responsibilities, including any mistakes with unclaimed property. But if the new owner only buys some of the company's assets (and associated liabilities), they usually only have to worry about property that comes with those assets, unless they specifically agree to take on more responsibility.

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Audit activity in the unclaimed property arena is at an all-time high. Many companies have found themselves in multiyear audits and found responsible for millions of dollars of liability. This type of liability is often not accounted for and not reserved for. This can lead to the need for financial statement disclosures.

States are looking for new revenue sources and increased unclaimed property reviews are on the list. States are looking at how companies have to treat things like cryptocurrency (digital or virtual money) and other new types of property to find gaps in unclaimed property reporting.

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The state of Delaware is the leading state for unclaimed property audits. Part of Delaware's review process is to require companies to file special verified reports about unclaimed property they are holding. These reports must describe property that hasn't been reported before, any property the state asks about, and the value of what is held. If a company doesn't respond in time, it could face an audit or lose the chance to settle things through Delaware's Voluntary Disclosure Agreement program.