Kilpatrick

5 KEY TAKEAWAYS

Talk Legal To Me

Kilpatrick's Jordan Goodman recently presented **"Talk Legal To Me"** at the Sharpen Your Focus UPPO Annual Conference in San Antonio.

Key takeaways from the presentation include:

1

What Happens to Forgotten Money or Assets (Unclaimed Property Laws)
When people forget about money in old bank accounts, uncashed checks, unused gift cards, or other assets, these are called "unclaimed property." States have laws that say how long a company or bank has to hold onto these before they must turn them over to the state. This waiting period is usually between 3 and 5 years of no activity. Once the time is up, the company must try to contact the owner one last time (often by mail or email), and if that doesn't work, the state takes over. The state then holds the property and tries to find the rightful owner.

2

Rules for Which State Gets the Unclaimed Property
There's a specific order for which state can claim unclaimed property, and these "priority rules" were set by the Supreme Court to avoid states fighting each other. First, the state where the owner was last known to live gets the property. If there's no address, the state where the company is based gets it. This system makes sure only one state claims the property and there's a fair process everyone follows.

3

How States Make Sure Companies Follow the Rules
States don't just trust companies to always do the right thing with unclaimed property. They have the power to check up on them—using audits (detailed checks of records) and subpoenas (legal orders to hand over information). If a company doesn't cooperate, the state can take them to court. There are rules about what states can ask for: it has to be specific, relevant to the investigation, and not overly burdensome.

4

Voluntary Disclosure Agreements (VDAs) Help Companies Fix Problems
If a company thinks it might owe a lot for unclaimed property from past years, it can use a Voluntary Disclosure Agreement (VDA) to come clean. This means the company works with the state to bring its records up to date and pay what it owes, usually with reduced penalties and a limited "look back" period (the number of years they have to fix). Doing a VDA is often better for the company than risking an audit or lawsuit, and it helps the state recover unclaimed property more smoothly.

5

The Constitution and Federal Laws Protect Against Unfair State Actions
States can't just make any rule they want—there are limits set by the U.S. Constitution and federal law. For example, states can't take property without giving fair notice to the owner (Due Process Clause of the 14th Amendment), and can't take property without just compensation (Takings Clause of the 5th Amendment). If a state law conflicts with federal law, the federal law wins (Supremacy Clause). Courts have used these constitutional rules to protect property owners and companies from state laws that go too far.

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