Insights: Publications

5 Key Takeaways | 2024 Emerging Trends: Delaware Unclaimed Property VDA and Multistate Audits

AUGUST 29, 2024 Written by David A. Hughes and Jordan M. Goodman

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

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

1. Participants learned about the basics in unclaimed property laws including internal records and obligations to report to the various states. This included an introduction to identifying what property needs to be reported to which states.

2. Attendees were informed about the increase in audit activity by certain states, including Illinois (audit and self-audit notices) and Delaware (which issued a series of audit letters as recently as July 26, 2024) and the issues being examined. Speakers also covered potential limiting factors including managed audits and voluntary disclosure programs.

3. A great deal of time was instructing the office on how to review their own books and records to get an idea of potential unclaimed property. This included and explanation of base period for extrapolation, the meaning of complete and researchable records and best practices for retention policies.

4. The audience was also party to the workings of an audit and how an escheatment amount is derived from the holder's books and records.

5. The participants were then led through a number of ways to limit their unclaimed property exposure including but not limited to business-to-business exemptions; preemption by federal law with respect to the bankruptcy, transportation and ERISA laws and proactive filings.

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