

Significant Changes to Delaware Unclaimed Property Laws with Important Dates Approaching

Client Alert

10.11.2017

Delaware enacted a major overhaul of its unclaimed property statute on February 2, 2017 as Senate Bill 13, which was later amended by Senate Substitute No. 1 for Senate Bill 79 on June 29, 2017 (the “New Act”). The New Act affects companies currently under audit, companies in the Delaware voluntary disclosure program (a “VDA”) and any other companies that have unclaimed property reporting obligations to Delaware. The New Act seeks to address certain criticism of the holder community as well as the constitutional concerns raised by the Federal District Court of Delaware in *Temple-Inland*, including such issues as lookback periods and the use of estimation.

New VDA and Audit Regulations

Included as part of this overhaul was the requirement that Delaware issue audit and VDA regulations concerning estimation. The Department of State issued the final VDA regulations on July 1, 2017, effective as of July 11, 2017, and the Department of Finance issued the audit regulations on October 1, 2017, which become effective on October 11, 2017. As a result of the issuance of the audit regulations and pursuant to the New Act, holders under audit by the Department of Finance as of February 2, 2015, have the option to convert their audit to a VDA and all holders under audit as of February 2, 2017 may convert to an accelerated audit. Holders may also continue in the current audit process.

Key Date to Convert Audit to VDA Is December 11, 2017

Based on the effective date of the regulations, holders wishing to convert to a VDA or an accelerated audit have until **December 11, 2017** to make their elections.

There are situation specific factors particular to each holder to consider in determining whether to convert as each option has its own advantages and drawbacks. This is, further, a decision that requires prompt attention, given the 60 day timeframe.

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PRACTICE AREAS

Unclaimed Property

