April 2007

Volume 14 Number 4

State Tax Return

Abbreviated Dormancy: Utah Is The Latest State To Shorten Unclaimed Property Dormancy Periods

Stephen Harris
Dallas
(214) 969-5277

Phyllis J. Shambaugh
Columbus
(614) 469-3824

What would you do if someone offered you a $1 million interest-free loan? What if you were offered that same $1 million, interest-free, and knew that you would only be asked to repay a very small percentage of the principal? Hard to turn down, right? This is the opportunity states have today, only multiplied many times over.[1] The interest-free loan available to states comes in the form of unclaimed property receipts.

While in theory states hold remitted unclaimed property for the benefit of the rightful owner, in practice states know that only a fraction of the property will ever be claimed. By fully utilizing the unclaimed property laws already on the books, states can generate increased revenues without the political baggage of new or increased taxes. Tired of waiting to cash in, states are looking for ways to get the money flowing into the coffers faster. One method states use to speed up the unclaimed property windfall is to reduce the dormancy periods established in the states' unclaimed property laws. Utah is the latest to take this approach.

Dormancy Periods Generally

All fifty states and the District of Columbia have unclaimed property laws that require companies to report and remit to the state property owed to others after the property becomes abandoned. Property is abandoned when the property is unclaimed by the person entitled to the property for a certain period, known as the dormancy period. Dormancy periods vary by property type and by state. Typical dormancy periods for bank deposits, checks, drafts, credit memos, credit balances, and similar property range from three to five years. The longest dormancy periods are reserved for money orders and travelers checks, typically seven years and fifteen years respectively. Unclaimed wages and other forms of compensation are subject to the shortest dormancy period, generally becoming reportable after one year.

Expedited Dormancy In Utah

Following the trend of other states, Utah recently amended various aspects of the Utah Unclaimed Property Act. The amendments included reductions in dormancy periods for

[1] The California State Comptroller's website states that the comptroller's office possesses more than $5.1 billion in unclaimed property. *See*, http://www.sco.ca.gov/col/ucp/aboutucp.shtml.

several common property types.[2] Effective April 30, 2007, the dormancy periods for the following property types are reduced from five years to three years:

- Net intangible property (intangible property plus any income derived from it);
- A bank draft (*e.g.*, checks, drafts, cashier's checks or certified checks);
- A deposit in a financial institution (*e.g.*, demand, savings, or matured time deposit, any interest or dividends on a deposit, and any automatically renewable deposit);
- Mineral proceeds (*e.g.*, net revenue interest, royalties, overriding royalties, production payments, and all obligations for the acquisition and retention of a mineral lease, including bonuses, delay rentals, shut-in royalties, and minimum royalties);
- A stock, shareholding, or other intangible ownership in a business; and
- Intangible property or income held in an agent or fiduciary capacity.

In addition, the dormancy period for unclaimed funds held or owning under a life endowment insurance policy has been reduced to three years.[3]

Other Recent Examples of Shortened Dormancy Periods

Utah is just the latest of several states to reduce dormancy periods and decrease the amount of time the state must wait before getting the beneficial use of an inactive account. The following is a sample of recent state reductions in dormancy periods.

- Iowa reduced the dormancy period for wages, payroll and salary from three years to one year;[4]
- Louisiana and Tennessee reduced the dormancy periods for securities, stock, dividends and other distributions from five years to three years;[5]
- Florida reduced the dormancy period for unclaimed stock or equity interests and also for unmatured or unredeemed debt, and matured or redeemed debt from five years to three years;[6]

---

[2] The amendments also, among other things, (1) moved the report filing deadline from May 1 to November 1; (2) increased the aggregate reporting amount from $25 to $50; and (3) set the interest rate imposed on holders that fail to pay or deliver unclaimed property by the deadline at 12% per annum. *See* H.B. 219, 2007 UT H 219 (Feb. 27, 2007).

[3] *See* Utah H.B. 219, 2007 UT H 219 (Feb. 27, 2007); *see also*, Utah Code §§ 67-4a-102.

[4] *See* Iowa Stat. § 556.9(1), as amended by L. 2003, c. 46, effective July 1, 2003.

[5] *See* La. Rev. Stat. Ann. § 9:154(A)(3), as amended by Louisiana S.B. 140, 2006 Regular Session, Act 573, effective August 15, 2006; Tenn. Code Ann. § 66-29-107, as amended by Tennessee H.B. 3182, Laws 2006, effective July 1, 2006.

- Oklahoma reduced the dormancy period for unmatured or unredeemed debt, and matured or redeemed debt and also for unclaimed stock or equity interests from seven years to five years; and[7]

- Kentucky reduced the dormancy period for property held or owing by financial institution (*e.g.*, checks, money orders, drafts and certificates of deposit), other than traveler's checks, from seven years to three years.[8]

Expect More States to Reduce Dormancy Periods

States have insufficient cash to provide needed services to their citizens. Imposing new taxes, or increasing existing taxes, are not popular options for state officials. As a result, state legislators are forced to shore up the state's budget from other, less offensive revenue sources. With increasing frequency one source being tapped is the state's unclaimed property receipts.

A prime example of this was seen in Nevada recently. In his January State of the State address, the Nevada Governor remarked that his budget earmarked $5.6 million of unclaimed property receipts to shore up a state scholarship program, and an additional $10 million of unclaimed property receipts for the development of an economic development program aimed at high-tech/biotech and renewable energy industries.[9] As states continue to face increasing pressure to provide services while simultaneously experiencing decreases in federal funding, state legislators may rely more on untapped unclaimed property receipts. States are expected to become more aggressive in enforcing unclaimed property laws, making unclaimed property compliance in all jurisdictions even more important for all companies.■

(continued…)

[6] *See* Ch. 163 (H.B. 1527), Laws of 2005, effective June 8, 2005.

[7] *See* S.B. 451, Laws 2005, effective November 1, 2005.

[8] *See* H.B. 380, Laws 2006, effective July 12, 2006.

[9] A transcript of the Governor's remarks is available at http://gov.state.nv.us/.