230 West Street
Suite 700
Columbus, OH 43215

tel 614.221.1120
fax 614.227.6999

www.gbq.com

GBQ Partners

States Increase Unclaimed Property Audit Activity

As states continue to search for new ways to increase revenue, there has been a spike in unclaimed property compliance audits throughout the country. Every state in the country has laws pertaining to the disposition of property that businesses are holding on behalf of others, commonly referred to as unclaimed property laws. Although unclaimed property laws have been around since the 1930's, audits have only recently seen heightened activity.

What is Unclaimed Property?

Unclaimed property generally refers to intangible property belonging to others which are held by business associations, governments, co-operatives, trustees or fiduciaries which has remained inactive or "unclaimed" for a specified period of time. Depending on the type of property and state, the inactivity period, more commonly referred to as an "abandonment period" which triggers a reporting requirement, varies and can range from as short as 1 year (unpaid wages) to 15 years (traveler's checks). Although often referred to as a tax, unclaimed property reporting is merely a centralized way to unite owners with property that is rightfully owed to them. A few common examples of what constitutes unclaimed property include: bank accounts, unpaid wages, account credit balances, customer overpayments and refunds, unredeemed gift certificates/cards and insurance payments/refunds.

Much like tax laws, states are largely free to administer unclaimed property laws as they see fit. However, there is some general guidance regarding what state the unclaimed property must be reported to. Generally, unclaimed property must be reported to the state of the true owner's last known address. If there is no known address for the true owner, then the property must be reported to the property holder's state of incorporation. In addition to these reporting requirements, every state imposes a due diligence requirement on the holder to make one final attempt in writing to contact the owner of the property before reporting the property to the state as unclaimed.

Business should review the rules in each state to ensure that unclaimed property reports are being properly prepared and filed.

Audit Activity

As discussed earlier, many states (especially Delaware, Florida, Michigan and California) are increasing unclaimed property audits both in volume and scope. Often, these audits are being conducted by contract auditors, who are paid on a contingency fee basis. Contingency fee based auditors tend to be very aggressive,

Author:
Jeff Monsman, JD
Senior, State & Local Tax Services

which, in turn, can lead to increased interest and penalty assessments. This will be especially evident if businesses do not keep detailed records and auditors are forced to extrapolate liabilities based on estimates.

A number of states do offer a voluntary disclosure program, which allows a company to come forward and report all unclaimed property it currently holds in exchange for reduced, or in some cases, fully waived interest and penalties.

Business owners should be aware of the potential ramifications of unclaimed property non-compliance and review their records to ensure that they are in full compliance with each state's unclaimed property reporting laws.

GBQ advises those who read this publication to seek professional advice before taking any action based on the information presented. Any tax advice that may be contained in this communication including any attachment (s) is not intended or written to be used, and cannot be used for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.