

Unclaimed Property – What is it and how do we deal with it?

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Speaker

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Agenda

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Unclaimed Property Overview

Current Trends and Landscape

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Unclaimed Property Overview

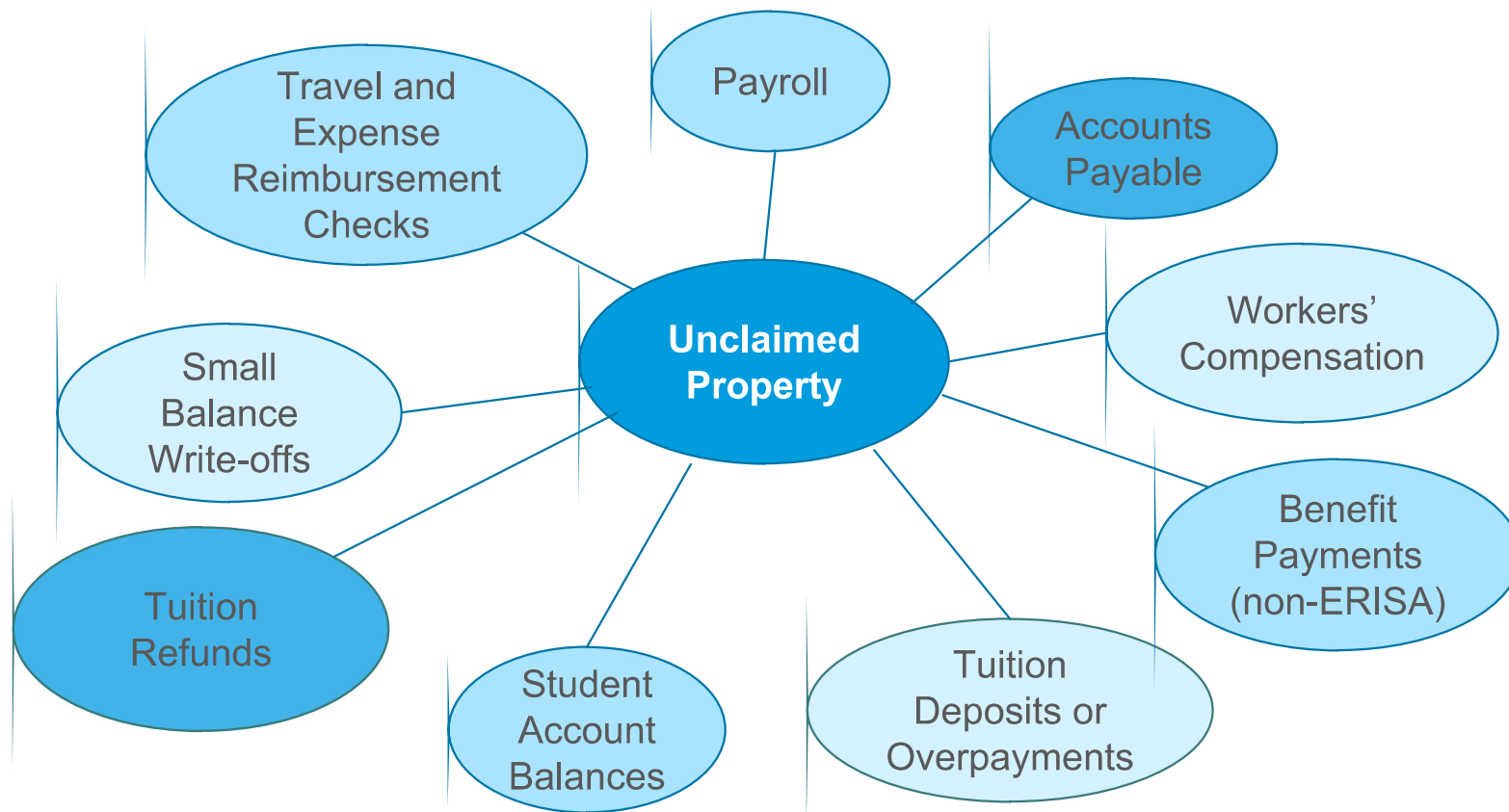
Overview of Unclaimed Property

- Fixed and certain liability owed to another party that has remained unclaimed for a specific period of time (a.k.a. dormancy period)
 - Dormancy periods vary by property type and state
 - Payroll typically 1 year; most other property typically 3 or 5 years
- Can be tangible or intangible property
- Not a tax
 - Tax concepts like “nexus” are not relevant
 - Pass through status is irrelevant
 - Not-for-profits have reporting obligations just like for-profits
- Purpose of these laws
 - To reunite lost owners with their property
 - To protect the holder from subsequent claims by owners
 - To ensure that any economic windfall benefits the state and its citizens

Why is Unclaimed Property Important?

- All U.S. jurisdictions have unclaimed property laws
- Annual compliance is mandatory if you have property to report
 - Some states require annual reporting even if no property to report (Illinois)
- Significant audit risk for non-compliance or under reporting
 - Penalties and interest
 - Long lookbacks under audit
 - Typical is 10 years plus dormancy (13 – 15 years)
 - Poor record retention □ harder to defend audit with passage of time
 - Estimation is performed where there are record gaps
- There can be financial statement impacts as unclaimed property is often not accurately reflected on the books/records of a company

Examples of Unclaimed Property – Community Colleges



Sourcing Unclaimed Property (Intangible)*

Sourcing priorities originally determined by the U.S. Supreme Court in *Texas v. New Jersey*, 379 U.S. 674 (1965), re-affirmed in 1972 and 1993:

First Priority

- State of last known owner's name and address

Second Priority

- **Holder's state of incorporation/registration/principal place of business (domicile)**, if last known address of owner is unknown
- If state of last known owner name and address does not provide for the escheat of the property, state of domicile has power to escheat
- May also attempt to claim estimation in cases of lack of records and foreign-addressed property.

**Note: Tangible property is based on the state in which it is located*

Examples

- Payroll check issued 4/6/18 to John Jones who lives in at 123 Main St in Chicago, IL
 - IL has jurisdiction; dormancy period for payroll in IL is 1 year
 - Check remains uncashed – becomes dormant on 4/6/19
 - IL uses a calendar year cycle with a report deadline of May 1 (most industries)
 - Check was due to IL on 5/1/20
- AP check issued on 4/6/18 to ABC Corp which is located at 5644 Park Ave in Indianapolis, IN
 - IN has jurisdiction; dormancy period on AP is 3 years in IN
 - Check remains uncashed – becomes dormant on 4/6/21
 - IN uses a 6/30 year end cycle with a report deadline of Nov 1 (most industries)
 - Check will be reportable to IN on 11/1/21

Current Trends and Landscape

Current Landscape

- New self-review programs in several states (with third party auditors)
 - Illinois is working with Kelmar Associates
 - Expect a full review with estimation to fill record gaps – 10 prior report years
- Audit activity
 - Often third-party audit firms, which bring multiple states
 - Typical lookback is 10 years plus dormancy (13 – 15 years total)
 - Can often go on for 3 – 5 years (sometimes longer)
 - Estimation is sometimes performed where records are lacking (if second priority state is participating)
- Wisconsin has a new VDA program – February 1, 2022 – February 28, 2023
 - Lookback is five prior report periods (total reachback will be six to ten years, depending on dormancy)
 - Waiver of penalties (no interest provision anymore)
 - Waiver of audit for periods included
 - Must report within 60 days (extension request limited to 60 additional days)
 - Must maintain compliance for next four report years
- Delaware VDA program –invitation letters sent February 18, 2022 (next batch May 20, 2022)
 - 90 days to sign-up for face audit
 - Lookback is 10 years plus dormancy (15 years for most property)

Best Practices

Best Practices

- Start reporting in applicable jurisdictions
 - Be aware of states that require negative reporting (Illinois)
- Create written policies and procedures for unclaimed property
 - Consider a small committee of a few people from different departments who are going to be impacted (payroll, AP, AR, etc.)
- Designate employee(s) (by title) to be responsible for reporting and remitting
 - Make it part of their job description
- Follow-up on property early
 - Set timelines for outreach in the aforementioned policies and procedures
 - 90 days for payroll; 180 days for vendors; students, etc.
- Make sure that you keep records of communications and research on open items in the event to audit
 - Includes e-mails, due diligence letters, void request forms, invoice adjustments, etc.
 - Make sure you can tie check reissues to originals

Best Practices

- Follow your record retention policies carefully and consistently
 - Many states, including Illinois, actually expect you to maintain unclaimed property related records for at least 10 years after reporting
 - When records are lacking, states will use estimation to fill record gaps, so you want to make sure that you have complete and researchable records for all periods being utilized
- Do not write off small balances or old property
 - Most states do not have de minimis exemptions for unclaimed property, so even if the balance is \$0.01, it should be reported and remitted
 - Unknown address and foreign address property are not exempt from this –second priority state will claim
 - These can blow-up on you in an audit, especially when estimation is applied due to a lack of records
- Be wary of fraudulent claims after due diligence – consider requiring proof of ID or other legal records in certain cases, particularly when dealing with third party claimants
 - When in doubt, just report it to the state and let the owner claim it there



QUESTIONS AND ANSWERS

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