

AN ALERT FROM THE BDO STATE AND LOCAL TAX PRACTICE

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► SUBJECT

MINNESOTA ANNOUNCES UNCLAIMED PROPERTY VOLUNTARY DISCLOSURE PROGRAM

► SUMMARY

The Minnesota Department of Commerce Unclaimed Property Division has announced a Voluntary Disclosure Program intended to incentivize and assist holders of unclaimed property to comply with Minnesota's unclaimed property laws. The Voluntary Disclosure Program will allow eligible holders of unclaimed property in Minnesota to voluntarily report and remit previously unreported unclaimed property due to the State of Minnesota. In exchange, Minnesota will limit the look-back period to ten report years and waive all interest and penalties on delinquent amounts filed.

► ELIGIBILITY

The program is available to any holder of Minnesota unclaimed property except those that have been notified for or are currently under audit or self-audit for unclaimed property.

► REQUIREMENTS

To participate, an eligible holder must complete and submit a Voluntary Disclosure Agreement (a "VDA") and a corresponding Holder Information Worksheet to the Minnesota Department of Commerce (the "Department"). The Department will review the application and return an executed copy of the VDA upon acceptance of the holder into the program.

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▶ KEY PROVISIONS

The Minnesota VDA has several key provisions that should be considered by holders before entering the program:

1. Holders must report Minnesota unclaimed property for the past ten report years (the current year plus the previous nine report years). Including Minnesota's three-year dormancy period common for most property types, the filing would include reportable property that has originated within the past 13 years. In contrast, audits for Minnesota unclaimed property may look as far back as 20 report years, plus any corresponding dormancy period.
2. Penalties and interest on amounts reported under the VDA will be waived.
3. Holders must complete their analysis and submit their reports within three months of VDA acceptance.
4. Holders must provide a detailed plan describing the procedures to be used, including but not limited to the testing procedures to be used, the property types to be reviewed, and any sampling or estimation techniques that will be employed.
5. Any estimation used in the calculation of unclaimed property reported must be reviewed by the Department before the property will be accepted and penalties waived under the VDA.
6. If estimations are required due to inadequate records, holders must submit an affidavit so stating, signed by an officer of the company.
7. Holders are required to report unclaimed property in good faith. Any failure to do so could result in various actions by the state, including but not limited to nullification of the VDA or other administrative or judicial proceedings by the state.
8. Holders must continue to timely file annual reports going forward after completion of the VDA.

The Department has issued outreach letters to various holders regarding this VDA opportunity and strongly suggests that holders of unreported property consider participating in the VDA program to become compliant with Minnesota unclaimed property laws.

In our experience, VDAs generally provide an excellent opportunity for many holders to become compliant with unclaimed property laws. The BDO USA, LLP National Unclaimed Property Team has extensive experience in assisting holders to evaluate and participate in VDA programs with various states. Please contact a member of our unclaimed property team with any questions you may have regarding the Minnesota unclaimed property VDA program or any other unclaimed property questions you may have.

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