

AN ALERT FROM THE BDO STATE AND LOCAL TAX PRACTICE

BDO KNOWS: SALT

► SUBJECT

STAPLES SETTLES UNCLAIMED PROPERTY DISPUTE WITH DELAWARE FOR \$8.9 MILLION

► DETAILS

A report by the Associated Press said that Staples, Inc. will pay \$8.9 million to settle an unclaimed property dispute with the state of Delaware.¹ Staples and Delaware officials issued a joint statement on June 22, 2012, announcing the settlement, but said terms were confidential.²

The settlement stems from pending litigation regarding an audit of the company's abandoned and unclaimed property going back to 1995. The contested issues included whether unclaimed rebates issued in connection with the sale of merchandise to be used against future purchases constituted escheatable property. The Delaware Chancery Court issued a partial judgment on February 2, 2012, finding that the rebates constituted credits or bills of exchange (*i.e.*, checks), thereby constituting unclaimed property in Delaware, regardless of the manner or intent in which the rebates were issued.³

► CONSIDERATIONS

The Staples settlement demonstrates the magnitude of potential state unclaimed property assessments, exposures, and liabilities. Holders of Delaware unclaimed property may wish to consider participating in Delaware's voluntary disclosure program to shorten the look-back period and abate penalties and interest. For a more complete discussion of Delaware's voluntary disclosure program, please see the article titled "Delaware Proposes New VDA Program" (July 2012), located on our Web site at <http://www.bdo.com/download/2167>.

BDO's national unclaimed property team has experience in providing escheat services, including but not limited to assistance with voluntary disclosure agreements, audit assistance, feasibility reviews, compliance, policy and procedure assistance, and general consulting in escheat matters.

¹The text of the article can be found at www.wboc.com/story/19551417/staples-pays-89m-to-settle-dispute-with-delaware.

²The joint statement issued by the Delaware Department of Finance and Staples, Inc. can be found at www.mnat.com/assets/attachments/DepartmentofFinanceandStaples.pdf.

³ *Staples, Inc. v. Cook*, C.A. No. 5447-CS (Del. Ch., Feb. 2, 2012). A copy of the decision can be found at courts.state.de.us/opinions/download.aspx?ID=167610.

The Tax Practice at BDO is among the largest tax advisory practices in the United States. With more than 40 offices and more than 400 independent alliance firm locations in the United States, BDO has the bench strength and coverage to serve you.

BDO is the brand name for BDO USA, LLP, a U.S. professional services firm providing assurance, tax, financial advisory and consulting services to a wide range of publicly traded and privately held companies. For more than 100 years, BDO has provided quality service through the active involvement of experienced and committed professionals. As an independent Member Firm of BDO International Limited, BDO serves multinational clients through a global network of 1,118 offices in 135 countries.

BDO USA, LLP, a Delaware limited liability partnership, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. BDO is the brand name for the BDO network and for each of the BDO Member Firms. For more information please visit: www.bdo.com.

To ensure compliance with Treasury Department regulations, we wish to inform you that any tax advice that may be contained in this communication (including any attachments) 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.

Material discussed in this tax alert is meant to provide general information and should not be acted on without professional advice tailored to your firm's individual needs.

© 2012 BDO USA, LLP. All rights reserved. www.bdo.com



CONTACT:

WEST:

ROCKY CUMMINGS, Tax Partner
415-490-3130 / rcummings@bdo.com

PAUL MCGOVERN, Tax Senior Director
714-913-2592 / pmcgovern@bdo.com

NORTHEAST:

JANET BERNIER, Tax Partner
212-515-5405 / jbernier@bdo.com

MATTHEW DYMENT, Tax Senior Director
617-239-4130 / mdyment@bdo.com

SOUTHEAST:

MARK SIEGEL, Tax Senior Manager
404-979-7188 / msiegel@bdo.com

CENTRAL:

RICHARD SPENGLER, Tax Senior Director
616-776-3687 / rspengler@bdo.com

NICK BOEGEL, Tax Senior Director
414-615-6773 / nboegel@bdo.com

JOE CARR, Tax Partner
312-616-3946 / jcarr@bdo.com

GENE HEATLY, Tax Senior Director
214-665-0716 / gheatly@bdo.com