

PA Unclaimed Property Filings Due April 15th

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The deadline for filing a 2010 Abandoned and Unclaimed Property Report with the Pennsylvania Treasury Department is April 15. Holders of unclaimed property may request a 90-day extension of the filing deadline, but the Department will not grant extensions for two consecutive years. Although not statutorily required, businesses with no reportable unclaimed property for the year should consider filing negative reports with the Department, as non-filing may be a red flag for a future audit. Unclaimed property reporting requirements were explained in some detail in the April 2010 issue of the *McNees PA Tax Law News* (www.mwn.com/unclaimed_April). Following are some additional pointers.

Business-to-Business Transactions

Pennsylvania does not exempt “business-to-business transactions” from unclaimed property reporting requirements. A number of other states do exempt such transactions, but the rules vary from state to state. Companies holding unclaimed property for the benefit of another business should be aware that, if the state of the business’ last known address, as reflected on the company’s records, does not require the reporting of the property, that property will nevertheless be reportable to the company’s state of incorporation if that state does not exempt the transaction. For example, assume that a business incorporated and operating in Pennsylvania purchased goods from a supplier in Ohio and made a payment to the Ohio supplier that was never processed by the supplier. Ohio has a broad business-to-business exemption from unclaimed property reporting, which would exempt the balance due from the Pennsylvania business to the Ohio supplier. However, Pennsylvania does not exempt such transactions. Therefore, the Pennsylvania business would be required to remit the amount owed to the Ohio supplier to the Pennsylvania Treasury Department as unclaimed property.

Voluntary Compliance Program

The amnesty program offered by the PA Treasury Department for companies with unreported unclaimed property expired in October 2010. However, companies that have never filed unclaimed property reports with Pennsylvania still may obtain a waiver of interest and penalties by participating in the Department’s ongoing Voluntary Compliance Program (“VCP”). To participate, a holder of unclaimed property must complete a review of its books and records for at least ten years prior to the current report year, disclose in writing all business positions, methodologies and estimation techniques (if applicable) and property types reviewed to determine the unclaimed property liability, and disclose any methods of due diligence performed. A report must be filed within 90 days after execution of the VCP agreement.

For advice concerning unclaimed property reporting obligations or participation in the Voluntary Compliance Program, please contact Sharon Paxton or another member of the McNees State and Local Tax Practice Group.

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