

Auditors eye unclaimed property

States grab millions in delinquent property after combing books of Aramark, Heinz, others

By Matthew Quinn

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In their never-ending search for cash, some aggressive states are using unclaimed-property laws to fill their coffers. They're taking advantage of the difficulty corporate treasury departments have locating vendors and former employees who haven't cashed their checks.

Adhering to state requirements regarding unclaimed property is an internal control issue that auditors have increasingly been focusing on, thanks to Sarbanes-Oxley. However, the difficulty in getting the problem under control has often led corporate finance executives to avoid dealing with it altogether.

"It's the one thing that everyone wants to run from when it comes up in a meeting," said Tom Colling, assistant treasurer for education software company Plato Learning.

But companies can't run and hide forever. In 2006 alone, Pennsylvania announced that it received more than \$8 million in delinquent unclaimed property from the audit of companies such as H.J. Heinz, Aramark, General Nutrition Centers and even the Philadelphia Sheriff's Office.

Some states, aside from taking possession of the outstanding claims, may also impose stiff fines. California has an automatic 12%-per-annum fine for any late reporting or failure to report, according to Gail Warner, president of the unclaimed property services division at the Keane Organization, a risk and compliance consulting firm.

Delaware is known as by far the most aggressive state in initiating audits for unclaimed property, because it is the state where the largest number of companies are incorporated. Other audit-happy states include New York, Texas, Illinois, Michigan, Massachusetts, Florida and New Jersey.

Facing an unplanned audit of any sort is painful and time consuming, but an unclaimed-property audit can be particularly so because many states have no statute of limitations on unclaimed property that hasn't been properly reported.

Last year, Waste Management was forced to take a \$20 million pretax charge for unclaimed-property obligations that dated back to 1980, which sucked 2 cents out of earnings per diluted share. The company said in a Securities and Exchange Commission filing that the charge was due to an audit conducted by various state authorities.

There are more than 110 different types of property—including payroll and vendor checks, workers' compensation, accounts receivable, accounts payable, dividend checks, individual retirement accounts—that companies have to report on to more than 50 jurisdictions, all with different provisions for how they need to be dealt with, explained Ms. Warner.

The states have enacted these unclaimed-property laws in their capacity as guardians for their constituents. All the same, being able to lay claim to assets that may never be claimed adds to their general funds.

Additionally, there are different reporting dates. A large majority of the states require filing by Nov. 1, but others, for example, have spring deadlines.

Years—even decades—of not reporting or underreporting unclaimed property has made finding non-

compliant companies easy pickings for states.

“There are a significant number of companies across the country—including some in the Fortune 100—where there has been pervasive underreporting or non-compliance with these laws,” said Mark Paolillo, national managing director of the unclaimed-property practice at Deloitte & Touche. “From the states’ perspective, there is plenty of low-hanging fruit.”

The easiest to identify are large companies in a jurisdiction that simply have never filed. Other areas of potential exposure: companies that write a lot of checks to customers and vendors; companies that have a large number of employees with a high turnover; companies that issue a high volume of dividends; and companies that engage in a lot of mergers and acquisitions, because the acquirer often assumes the liability of the target’s unclaimed property.

“Those types of things create an environment that is ripe for unclaimed property,” said Ms. Warner.

Mr. Colling said he started the housecleaning process at Plato three years ago and has managed to resolve nearly 300 items totaling \$241,000.

“It’s not over yet. It’s never over,” he said. “But we do have a cleaner process, and the pain is partially behind us.”