



# LEGAL ALERT

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## SNELL & WILMER

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## Beware! Compliance Issues with State Unclaimed Property Laws Can Have a Devastating Impact on Your Business – Voluntary Disclosure May Reduce Exposure

Did you know that compliance issues with unclaimed property laws can create more than just potential exposure with the state taxing authorities? Failure to comply can also create regulatory problems that could dwarf the state liability exposure. Unclaimed property laws are intended to prevent a business from realizing a windfall if the business holds the property of another party. States have specific rules about how this property must be handled, reported, and transferred to the states. If these rules are not followed completely, the consequences can be significant and, for publicly traded companies, may lead to a Securities & Exchange Commission investigation or other collateral consequences.

In Arizona, unclaimed property laws include an obligation to report unclaimed property each year by November 1 (with an exception for life insurance companies, which must report by May 1). Any “holder” of unclaimed property owned by another party in Arizona must report that property to the Arizona Department of Revenue (the “Department”). A “holder” includes individuals, businesses, and other organizations who are obligated to hold property or pay property to an owner. The Department deems property reportable if it is not claimed by an owner after a certain period of time and, therefore, is presumed abandoned. Various forms of property that may be reportable in Arizona include, but are not limited to, unused traveler’s checks, money orders, stock or equity interests in business associations, principal on debts, various forms of monetary deposits, credits owed to customers as part of business transactions, certain amounts or kinds of life or endowment policies,



business dissolution property, class action proceeds, spousal maintenance payments, payments of warrants, wages or other compensation, individual retirement accounts, and ordinary checks. Each type of property is presumed abandoned according to different statutory schedules and must be evaluated to determine when the property is reportable and transferred to the Department. In addition, unclaimed property laws require holders to maintain accurate records that the Department may request from holders who may not yet be required to file unclaimed property reports (e.g., a new business).

Other states have similar laws. Though the specifics vary from state to state, if the owner of the property lives or is domiciled in another state, the report generally must be filed in that state even if the holder is not located in that state.

Compliance with unclaimed property laws provides benefits that may not be apparent on the surface. First,

a state (including Arizona) will generally indemnify a compliant holder for claims made by an owner or another state with respect to property reported to and transferred to the state. Second, the state bears the burden of maintaining records of the owners and periodically publishing reports of all unclaimed property in the state for the benefit of owners.

A holder who has not complied with the state unclaimed property laws may be able to avoid interest and/or penalties if it voluntarily discloses its non-compliance to the state, thus incentivizing a non-complying holder to be proactive in addressing any compliance issues. Voluntary compliance can be initiated with minimal initial risk by approaching the state on an anonymous basis through legal counsel.

If you have any questions on the subject of this article please contact the author or another Snell & Wilmer attorney at 602.382.6000.



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