



AUDIT SERVICES U.S., LLC

212 W. 35th St., 16th Floor
New York, NY 10001

UNCLAIMED PROPERTY AUDIT ENVIRONMENT

In recent years, the unclaimed property compliance landscape has changed dramatically. In the mid-1990s, there was minimal compliance with the states' unclaimed property laws, particularly as it relates to compliance with general ledger related property.

Recognizing that this issue existed, a small group of companies began offering services to the states in support of multi-state compliance efforts whereby states could elect to join comprehensive multi-state unclaimed property audits.

As a result, awareness of the obligation to report and compliance with the states' unclaimed property laws increased substantially.



For more information, please contact Jeremy Katz at 917-692-5852 or by e-mail at jkatz@auditservicesus.com.

www.auditservicesus.us

Unclaimed Property Audits and Contingency Fees

Compliance Background

The laws of the 50 states lack uniformity and vary greatly with respect to breadth and reporting requirements. Many companies are genuinely unaware of the full extent of abandoned property laws. Even if a company is aware of its abandoned property reporting obligation, reporting is a complex annual task that requires a company to internalize significant legal, accounting and data-processing expertise. Many companies, aware that states have limited resources to enforce their laws, may view themselves out of reach of state enforcement.

Nevertheless, compliance has dramatically improved over the last 20 years, in significant part due to the utilization of private contract auditors paid by contingency fee. In the 1990s, the states embraced the concept of engaging private auditors, whose fees would be paid by the states, to facilitate a company's ability to identify and report past due or first-time reported unclaimed property. The states also determined that the use of private contractors was particularly critical to enable auditing of those companies whose records were located out of state, thereby enabling a state to augment its existing resources and travel budget.

How the Contingency Fee Model Benefits the States

To avoid inefficient, costly and burdensome funding alternatives, contingency fees were determined to be the best method of payment to maximize recoveries for the states. Contingency fees enabled the states to avoid a potential series of lengthy and uncertain funding requests, because budgeting for audits performed on an hourly basis would be a virtually impossible task. The contingency fee model also helps avoid excessive payments to auditors, because auditors are incentivized to work as efficiently as possible and minimize the time it takes to complete an audit.

Proof that Contingency Fee Model Works for the States

States are able to participate in a national multi-state recovery effort without risking any funds. Present arrangements have resulted in hundreds of millions of dollars annually being reported to the states by the audit firms, at no financial risk to the states. A competitive bidding and qualification process is utilized by nearly all states, and in all 50 states, contingency fees are utilized. Fees paid by the states are dwarfed by the amount of benefit received; from the use of the funds recovered by the auditor, to the resulting ongoing annual reporting by a company in the years subsequent to the involvement of the auditor where the auditor is not paid a fee.

The Underlying Reason that Some Special Interest Groups Object to Contingency Fees

Contingency fees for private auditors have been validated through recent legislation as well as by the fact that their use was incorporated into the Revised Uniform Unclaimed Property Act (model uniform code). The business community understands contingency fees are the only viable methodology available to enable a state to have a national presence for a comprehensive compliance program. The elimination of contingency fees would effectively eliminate states' use of private auditors. A state's national recovery and compliance efforts would be reduced to an ineffective or nonexistent status.

Contingency Fees Do Not Harm Companies Being Audited

A contingency fee is paid when a company actually remits funds, and not on the assessment of the liability. Therefore, a company can contest the finding by administrative proceedings, or simply dispute the findings and not remit funds. In either case, a fee is not paid unless there is a subsequent finding for the state. It is clearly in the auditor's interest to offer a finding that a company will find professionally derived and defensible that it will pay the amount rather than contest it. In many cases, states have established publicly available procedures for the conduct of audits performed by private auditors.