Unclaimed Property Reporting: Obligations, Challenges & Solutions

A review of the complexities of unclaimed property reporting, common operational challenges, and the solutions to them.
With 55 Jurisdictions Nationwide, the reporting process is highly complex.

What is Unclaimed Property?
Unclaimed property is any intangible property that has become dormant and is at risk of escheating to the state of the owner’s last known address.

For property to be considered unclaimed under state law it must be held or issued in the ordinary course of business; a debt or obligation to a creditor (owner) and; unclaimed for more than the statutory dormancy period, which varies by property type and by state. Therefore, any financial obligations generated during the course of an organization’s daily operations that are due and owing to another party (customer, vendor, employee, investor, etc.) is potentially “unclaimed property”.

Unclaimed property is governed and enforced at the state level. With 55 reporting jurisdictions, the business-related processes and obligations are highly complex, detail-oriented and industry specific. Simply, unclaimed property is generally accepted as a complicated matter and task for those not well-versed in the industry.

Within the industry, most are familiar that there is little to no uniformity with respect to the rules and laws governing unclaimed property compliance. Therefore each organization with an unclaimed property obligation, also known as a holder, must have an understanding of the rules pertaining to their organization and implement policies and procedures to monitor and track their liabilities, report in the proper manner, and most importantly, maintain their organization’s unclaimed property compliance.

What is Unclaimed Property Reporting?
To achieve unclaimed property compliance, a holder is required to report and remit every applicable property type generated by the organization and adhere to the unclaimed property laws and requirements for the appropriate reporting jurisdictions. Unless otherwise identified by contract, the legal obligation to file the report remains with the holder. If a holder fails to reunite the dormant asset with the owner, heir or beneficiary, the holder is required to file an unclaimed property report with complete details of all reportable property.

Filing an unclaimed property report is required for almost every holder and as such, it is imperative for holders to ensure they are not under reporting, over reporting or failing to report entirely.

A Holder’s Duties

- File Timely Report to State(s)
- Perform Due Diligence
- Follow State Mandated Format
- Maintain Copies of the Reports
- Protect Funds Until Reported

Unclaimed Property Reporting
Filing an Unclaimed Property Report: 
The Answers to the “Who, What, Where, When, and How”

To say unclaimed property reporting is complex is an understatement. The intricacies of the requirements and regulations vary by jurisdiction and property type. Answering the Who, What, Where, When, and How of Unclaimed Property Reporting for each jurisdiction can prove to be extremely challenging.

Here is a sampling of questions that should be considered by those who manage the unclaimed property reporting process for their organization:

- In what jurisdiction(s) am I required to file an unclaimed property report?
- Do the states you report to enforce penalties or interest for non-compliance?
- What are the requirements for filing in this jurisdiction?
- Are you aware of any dormancy period changes for the states you report to?
- Who in your company must sign the report? CEO? CFO?
- Do you need to send a paper copy of the report?
- Do the states you report to require electronic reporting?
- Can you upload via the state website? Is there a cost?
- Is a cover letter required? Must the cover letter be notarized?
- Does the state require a negative report if there is no reportable unclaimed property this year?
- What legislation has passed that has altered state reporting requirements?
- What property types are you required to report?
- Have your states added new property types?
- Does this jurisdiction require unclaimed property report filings during the fall or spring reporting cycle?

There are 55 different answers to each question above and these answers are dependent upon the legislation and regulations set forth by each individual jurisdiction. Does your organization have a process for addressing these questions?

More importantly, does your organization have the resources to effectively fulfill these reporting obligations?
Can Our Organization Handle Unclaimed Property Reporting Internally?

Just as each jurisdiction has its own unclaimed property requirements, the manner in which organizations address their unclaimed property reporting obligations are just as varied. While many organizations choose to address their unclaimed property reporting obligations internally, two different types of companies have been identified. Those who have the bandwidth and resources dedicated to process the reports accurately; and those who only think about unclaimed property reporting when it’s reporting season.

The latter approach often leads to inaccurate reports — leaving the holder susceptible to a variety of fines, penalties, and potential audits.

Holders who have limited knowledge regarding unclaimed property often experience issues when filing unclaimed property reports. Typically, issues arise from the inexperience, lack of knowledge, and skills of those managing their organization’s unclaimed property.

Conflicting time frames and the availability of resources also contribute to the challenges of unclaimed property reporting. For example, many holders utilize the same resources to manage both unclaimed property reporting as well as their organization’s state and local tax filing responsibilities. Many states require reports for both obligations during the same time frame — putting an unfortunate strain on internal resources and bandwidth.

Although many companies prefer internal business operations, there is often failure to meet unclaimed property reporting obligations due to the lack of employees with the experience and necessary knowledge of the field.

What Are The Consequences?

Most state estimates suggest that only 15 to 35% of companies have fully achieved unclaimed property compliance, and even those who are in compliance technically may be under reporting because they are incorrectly interpreting what the state escheatment laws require.

Ignorance of the law is not an acceptable excuse for non-compliance. Those found to be out of compliance are subject to significant penalties — typically 12% of the under reported liability, including interest, that is generally applied at 10 to 25% of the property value.
Should Our Company Consider Unclaimed Property Reporting Software?

Unclaimed property software is often the first option that many organizations consider when they realize they have outgrown their in-house or manual escheatment processes. After much frustration, they’ve come to the conclusion that relying on manual processes and practices, home-grown spreadsheets, databases, and matrices exponentially increases their risk of noncompliance, penalties, and costly audits.

What to Consider When Evaluating Unclaimed Property Software

**Compliance with State Laws**

One of the most important aspects to consider when evaluating unclaimed property software is how frequent and by what means the software is updated to account for changes to state unclaimed property laws. As legislation impacting unclaimed property compliance is constantly being introduced, passed, failed, or amended – it is imperative that your software is up to date.

Unclaimed property software solutions are commonly reliant on patch or update files provided by the vendor, sometimes semi-annually or annually. These update files often require IT resources to install to ensure that the software reflects all state changes that have taken effect.

**IT Involvement & Security**

As one might assume, your IT department will need to be heavily involved when implementing unclaimed property software. Whether the application (and your data) will be hosted in the cloud or on internal servers should be considered.

Each organization will also need to take into account their own security protocols and ensure the appropriate data security systems are in place to protect the confidential data contained within the reports.

**Training & Onboarding**

Those responsible for managing unclaimed property reporting within their organization must be trained to use the software efficiently to conduct analysis, accurately file reports, and remit payment. Organizations are rarely, if ever, able to “plug and play” with software-based escheatment solutions.

If you’re an organization who has never filed before and is looking to get up and running in a hurry to meet state deadlines, be sure to consider the length of the onboarding and integration process for the software.

**Industry-Specific Nuances**

Each organization needs to consider the intricacies of their own company and their industry before determining if a software-based solution is appropriate.

- For companies that must report securities-related property, can the software determine escheatment eligibility based on returned mail (RPO), date of last contact, or a combination of the two?
- Is the software able to perform analysis on property types with complex dormancy periods, such as Individual Retirement Accounts, or Dividend Reinvestment Investment Plans?
- For banks, does the software account for rules governing certificates of deposit and safety deposit boxes?

**Annual Costs**

Your organization's budget should also be taken into account when evaluating software providers. Initial setup and administrative fees, in addition to annual licensing, hosting, training and support fees may impact your decision. When coupled with costs for due diligence and other internal resources, the costs of utilizing software can add up quickly.

The Hard Facts on Unclaimed Property Software:

Unclaimed property reporting software can be a sufficient solution for industry professionals who truly understand the constantly-changing legislation and regulations that impact unclaimed property reporting.

However, to excel with software and avoid common errors and mistakes, it must be supported by the knowledge, understanding, and most importantly, the expertise to accurately file unclaimed property reports and ensure compliance across all jurisdictions.
Constantly Lags on Legislative Changes.
With 55 reporting jurisdictions, unclaimed property laws and regulations change on a constant basis. The ability to independently track and interpret each change, understand its impact, and appropriately implement changes as a result to your organization’s unclaimed property processes is a luxury that many organizations simply do not have.

Dreadful Due Diligence.
Your final effort to notify an owner of potential escheatment is required at specific times, must include specific language, formatting, and in some cases, only applies to certain property types. And that’s before mailings go out the door… Can your organization keep up with the requirements in all jurisdictions?

Limited Labor for Letters.
Dedicating staff and ensuring their initial and ongoing training for the year-round escheatment process can become a strain on internal resources, leaving employees with limited time to complete other critical job functions.

Difficulty Determining Dormancy.
Dormancy is dependent upon a combination of multiple factors. Returned mail, date of last contact, property type, state and industry nuances all contribute to determining whether or not a property is potentially escheatable. Incorrectly assigning or calculating dormancy periods can have serious repercussions in the form of disgruntled owners or state administrators.

Record Retention in Needs of Repair.
Record retention is essential for unclaimed property compliance. Inadequate reporting history or lack of records can expose your organization to costly estimation and extrapolation practices in the event of an audit. Tracking your compliance history comprehensively with a dedicated provider can help protect your organization against overstated liabilities, fines and penalties.

Stashes Unclaimed Property in Silos.
Unclaimed property is generated in all organizations, and can be found in multiple departments, divisions or business functions. In large decentralized organizations, different departments may have entirely unique policies and procedures for handling unclaimed property. Outsourcing the reporting function to a trusted partner can break down these silos, streamline the reporting process, and address compliance from a holistic and centralized perspective.

Soured on Software.
As unclaimed property laws change and requirements are updated, so must your unclaimed property software – usually through patch update files arriving late in each cycle, requiring ongoing involvement from your IT teams. Software users also need to account for the training and onboarding of all team members involved in the annual compliance process as well as ongoing support from the software provider.

Reciprocal Reporting Risks.
At face value, it sounds like a great concept. You submit one report and remit all property to one state, and rely on the one state to distribute the property to the other states. In reality, such reporting can result in compliance tracking nightmares and failure to apply each applicable state law, which in turn can add up to penalties and interest in an unclaimed property audit. An individual report should be prepared and remitted for each state in which liability exists.

Excessive Escheatment Each Year.
Many states allow for certain property to be exempt from reporting, such as those items generated through business to business exemptions. If your organization isn’t actively tracking and utilizing all statutory and technical exemptions – you’re likely over-reporting your obligations.

Limited Bandwidth.
An outsourced unclaimed property solution frees your staff to concentrate on its core competencies and what it does best. After factoring in costs of training, hiring, software, and licensing – it’s often more cost-effective to employ the services of a third-party subject matter expert.
In order to have a fully compliant and effective unclaimed property reporting process, it requires the undivided attention of an organization’s management. The individuals tasked with the responsibilities of unclaimed property compliance must stay on top of the data, timelines, deadlines, and legislative changes to ensure the organization addresses all reporting obligations correctly and in a timely manner.

If not managed effectively and constantly maintained, the annual unclaimed property reporting and escheatment process can become an operational burden on an organization as a whole.

The multitude of activities – data analysis, due diligence mailings, the signing and submittal of reports, and remittance of payment – all contribute to the overall health of an organization’s compliance program. Failure to perform even one of these activities in the required manner can expose the organization to costly fines, penalties, and increased audit risk.

Keane’s Annual Compliance Reporting & Escheatment Services

Keane’s expertise and unclaimed property reporting processes support more than 5,000 individual business entities across a broad spectrum of industries. Our team of specialists and finely tuned procedures help our clients achieve and maintain compliance with complex state escheat laws in a highly efficient and cost-effective manner.

In addition to performing the resource-intensive operational activities of the annual reporting process, our service enhances our clients’ operational knowledge and technical acumen by tracking and monitoring all unclaimed property legislation, determining dormancy or escheatment eligibility on all property types, and providing them the ability to forecast property coming due in future escheat cycles.

Industry Expertise

As not all organizations and industries are the same, Keane provides specialized guidance on addressing the unique property types and reporting requirements that are prevalent in certain industries.

From effectively managing suspense liabilities and mineral proceeds for Oil & Gas companies, safe deposit boxes and certificates of deposit for banks and credit unions, and gift instruments for retail organizations – Keane has the specialized knowledge to ensure compliance across all industries.

Additional Services to Enhance & Supplement Your Compliance Program

In addition to managing the core functions of the annual reporting process, Keane provides additional valuable services that enhance our clients’ overall escheat compliance program and reduce the overall volume of escheat liabilities over time.

- Pre-Escheat Remediation & Recovery Services
- Corporate Asset Recovery
- Subledger Maintenance
- Enhanced Due-Diligence
- Check Reissuance
Struggling with Unclaimed Property? We can help.

Keane is the country’s leading provider of comprehensive outsourced unclaimed property solutions. Keane provides public and private corporations across multiple industries with a full suite of professional compliance services, including annual compliance reporting, audit assistance and support, voluntary disclosure agreements, and locating account owners or beneficiaries.

Led by an experienced group of industry executives, Keane employs more than 200 people across the country. Keane is headquartered in New York, NY with a main operating facility in suburban Philadelphia, and has various satellite offices across the country.

For more information on Keane, please visit www.KeaneUP.com or contact us at (800) 848-8896 to speak with a specialist.