



TaxNewsFlash

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Delaware: Notices requesting “verified reports” of unclaimed property

The state of Delaware recently sent out numerous notices requesting “verified reports” of unclaimed property pursuant to 12 Del. C. § 1170(a), a provision that was first introduced in Delaware’s unclaimed property statute under a set of reforms enacted in 2017 (SB 13).

As set forth in the “frequently asked questions” (FAQs) accompanying the notices, the verified report process focuses on a one-year review of a holder’s most recent annual filing or non-filing, meaning companies that did not file a report may receive a notice. There are no specific criteria set forth in the unclaimed property law that would qualify a company for receiving a notice. The notices indicate that the recipient must respond and provide:

- A verified report
- A listing of legal entities included in the verified report
- Information related to the company’s unclaimed property policies and procedures, including a copy of such (if they exist)

In prior verified report cycles, the state has articulated clear expectations of what a company’s unclaimed property policies and procedures must minimally contain to be considered adequate to facilitate compliance with the state’s unclaimed property requirements.

The notices give companies 30 days to respond to the correspondence. However, the FAQs indicate that companies must acknowledge receipt of the notices within 30 days and provide the requested information as soon as possible or within 180 days.

The notices may inform the receiving company that a private, third-party firm will conduct the verified report process. In many instances the third-party firm may also provide audit services to the state. The notices also indicate that failing to respond will lead to the company being referred to the Secretary of State’s Voluntary Disclosure Program or “other enforcement actions” allowed under § 1172(d)(4) of the Delaware unclaimed property law. Under a separate set of legislative reforms passed in 2022 (SB 281), the Department of Finance may escalate non-response to a verified report notice to a more in-depth “Compliance Review” or full-blown examination. Such examinations typically include a look-back period of up to 15 transaction years.

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