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From: Bullock, Jeffrey W (DOS)
Sent: Friday, April 7, 2017 12:47 PM
To: Bullock, Jeffrey W (DOS)
Subject: Proposed VDA Regulations
Attachments: DE SOS Conversion Policy.docx



In light of your role as representative of a holder in the Delaware Voluntary Disclosure Agreement (VDA) Program, and given that you may represent holders currently under a Delaware unclaimed property audit, I wanted to send to you some important information for holders eligible to convert their audits to VDAs, and to provide an update on recently issued proposed regulations.

The new unclaimed property statute that was signed into law on February 2, 2017 provides the opportunity to convert an unclaimed property audit into a VDA for virtually every company currently under a Delaware unclaimed property audit as of July 22, 2015. This feature was added to the law in response to numerous requests we received over the past few years to offer companies under audit a quicker, cheaper and less onerous option to come into compliance with Delaware's abandoned property laws. We believe that this conversion option is an excellent opportunity for many companies under audit. We have created a policy document, attached to this e-mail, which details the administrative requirements to convert, as well as the expected process to be followed by holders that choose to convert their examination into a VDA.

While the document speaks for itself, I think it is important to highlight a couple key issues. First and foremost, the Department of State's number one priority is to create an efficient process to bring converted VDAs to a close quickly. That means encouraging holders that convert to utilize the work performed to date in the examination in order to get to a final VDA deliverable as quickly as possible. Second, it is critical to have an agreed-upon starting point for many of these converted VDAs. Since most of the work performed in the examination to date will be premised upon the agreed-upon scope of the examination (entities, property types and/or in-scope years), holders are expected to, at a minimum, utilize the same examination scope in the VDA.

Finally, while my Department and the holder will ultimately receive from the Department of Finance a memorandum regarding the agreed-upon scope (if the entities, property types and/or in-scope years have been scoped), let me be very clear: the holder's examination work papers will not be transferred to the VDA Administrator, and there will be no coordination or consultation with the Department of Finance or any third-party examination firm. In short, for holders that have substantially completed their examination and that choose to convert to a VDA, the VDA process should be expedited, and there is an expectation that the holder will conclude the VDA quickly and efficiently.

Let me reiterate that we believe the conversion opportunity provides a less expensive and less time-consuming option for companies to attain compliance.

Delaware's new unclaimed property law also requires the Department of Finance, in consultation with the Department of State, to promulgate regulations regarding the method of estimation to create consistency in any audit or voluntary disclosure. While the new law did not require the Department of State to promulgate regulations, we felt it was necessary to propose companion regulations regarding estimation in a VDA so that companies looking to join the VDA Program would have a clear understanding of what is expected of them.

The Department of State's proposed regulations simply memorialize our past and current practices when it comes to estimating in a VDA. Therefore, for those who have completed a VDA, these regulations should come as no surprise. Given that the Department of State has closed over 400 VDAs in the past four years, we are confident that our VDA Program continues to be the same procedurally fair, efficient and business-friendly program we set out to create in 2012. More importantly, I believe that the VDA Program's approach to estimation is actually in the best interest of holders and makes the most business sense for them. Even so, I encourage you and the client companies you represent to review the attached proposed regulations and provide feedback.

In closing, let me say that I am proud of how we have administered the Delaware VDA Program over the past four years. Our goal from day one has been to provide a cheaper, faster and better option for companies to come into compliance with their historic unclaimed property reporting obligations, and I believe we have accomplished that. Because holders now have a faster, less costly option to come into compliance, the State has successfully shifted its unclaimed property compliance efforts away from audits while promoting voluntary and continued compliance. That is why I believe every holder that is eligible to convert their unclaimed property examination into a VDA should absolutely do so.

Thank you for your efforts in helping to continue making the Delaware VDA Program a success.

Sincerely,

Jeffrey W. Bullock
Secretary of State