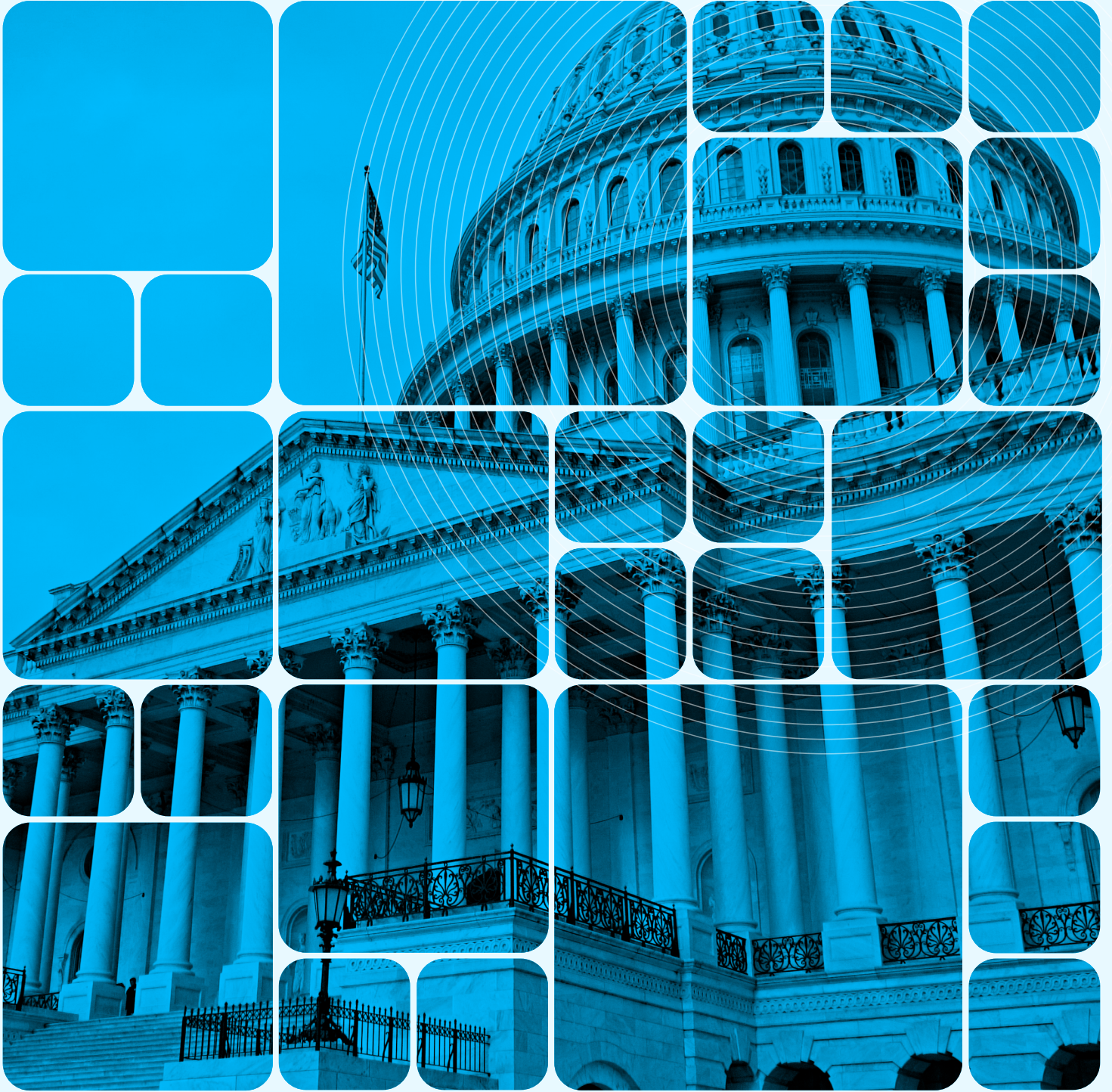


SOVOS



UPDATE

Your trusted resource in unclaimed property

1st Quarter | 2025 Newsletter



UPDATE

[Unclaimed Property
Tax Information Reporting
Statutory Reporting
Sovos Education](#)

Contact Us: <https://sovos.com/contact-us/>
taxregulatoryreporting@sovos.com

© 2025 Sovos Compliance, LLC.
SOVOS is a registered trademark of
Sovos Compliance, LLC

SHARPEN YOUR FOCUS

Learn with Sovos
at the **UPPO Annual Conference**
Tucson, AZ

MARCH 24:

10:30 - 11:30 AM Industry Breakout Discussions
1:00 - 2:00PM Retirement Accounts: Breaking Down
the Complexities
1:00 - 2:00 PM What is Contact?

MARCH 25:

8:15 - 9:15AM Common Audit Issues
1:15 - 2:15PM Industry Focus: Banking -
Compliance

Contents

03 [When Lost Becomes Looted: Unclaimed Property Fraud](#)

Learn more about unclaimed property fraud and how strong internal controls can help prevent it

04 [Rising False Claims Act Lawsuits Target Unclaimed Property Mismanagement](#)

Understand the importance of FCA lawsuits and the risks of unclaimed property mismanagement

06 [State Penalty and Interest Update](#)

Get to know state penalty enforcement and how to avoid costly assessments

07 [Update on State Unclaimed Property Enforcement Efforts](#)

Learn more about state enforcement efforts and how to avoid penalties

When Lost Becomes Looted: Unclaimed Property Fraud

Laurie Andrews, CFE, Principal Director - Unclaimed Property Consulting

Have you seen the headlines about fraud in unclaimed property? Experian published an article in 2024 giving tips to avoid unclaimed property scams such as phishing attempts. In the same year, NBC Station KCRA reported that a California state employee stole diamonds and other tangible assets from the mail room of the State Controller's Office. In 2023, the Unclaimed Property Professionals Organization ("UPPO") published a blog announcing that a UPPO member was instrumental in busting a scheme perpetrated by a French National to illegally obtain millions of dollars in unclaimed property from the State of California.

When money is involved, there usually is someone willing to go to great lengths to take it, even if it doesn't belong to them. When we think about unclaimed property, the assets are often lost or forgotten about, so it may be easier for a fraudster to take possession without anyone knowing.

Many of the headlines related to unclaimed property fraud center around people using unclaimed property to steal someone's identity or people making fraudulent claims from state unclaimed property offices. However, as the holder of unclaimed property, it is equally important for companies to review their internal controls to determine if there is an opportunity for fraud to happen before unclaimed property is reported to the applicable state.

When there is a lack of internal controls that creates a perceived opportunity to commit fraud, you have one of the three main components that helps anti-fraud professionals predict when fraud is likely to occur. According to Donald Cressy's research related to embezzlement, the other two components are pressure, or the need to obtain assets due to financial pressure or incentives, and rationalization, or the perception that the 'assets are already forgotten so nobody will miss them'. When all three are present, you have the conditions that typically lead to higher instances of fraud, also known as the Fraud Triangle.

It seems unclaimed property doesn't always get the attention it deserves at the holder level. A lack of [policies and procedures](#) can lead to the over or under reporting of unclaimed property; a lack of compliance can lead to [hefty penalties and interest](#); and a lack of [internal controls](#) can lead to the fraudulent taking of potential unclaimed property by an employee.

Fraud at a holder may include scams such as the following:

- **Changing the payee** on an uncashed check and reissuing it to a friend, a family member, or even directly to a debtor to pay something like a personal credit card bill rather than reporting it as unclaimed property.
- **Changing the owner** on an unclaimed property report prior to submission to a state, thereby allowing the fraudster, friends or family members to collect the funds directly from the state after remittance.
- **Theft of tangible property** from drilled safe deposit boxes.



To mitigate risks of internal unclaimed property fraud, it is crucial for holders to implement robust internal controls. Measures including segregating duties among employees, locking down payee information so it cannot be changed by individuals responsible for unclaimed property reporting, maintaining comprehensive documentation, dual controls, mandatory vacations, installing security cameras in vaults holding tangible property, and conducting regular audits to detect and prevent potential fraud are highly recommended.



Rising False Claims Act Lawsuits Target Unclaimed Property Mismanagement

Freda Pepper, General Counsel, Unclaimed Property

Recent years have seen an uptick in False Claims Acts (FCA) lawsuits, also known as qui tam cases, against companies alleging underreporting and under remittance of unclaimed property. The most recent reported case comes out of California, where, on September 24, 2024, California's Attorney General announced a \$7.7 million settlement with U.S. Healthworks (USHW), a nationwide chain of occupational and urgent care clinics (the "Healthworks case"). This settlement comes on the heels of the December 2023 announcement of a \$43 million settlement against golf course operator for allegedly failing to report unrefunded membership deposits as unclaimed property. These settlements serve as a cautionary tale for those companies without a robust unclaimed property program.

Understanding the False Claims Act

To grasp the implications of the FCA trend, it is essential to understand what the FCA entails and the potential consequences associated with a finding of liability. Generally, the FCA allows people to file actions on behalf of the government. These cases are often brought by a company's employee or former employee.

It is typical that the employee or ex-employee believes or have privity to information that their employer intentionally paid the government less than what is owed, essentially committing fraud. The person bringing the lawsuit, known as the relator, has an incentive to bring such lawsuit because he or she can be awarded up to 30% of the ultimate liability found to be owed the state.

In terms of liability, a holder's liability under state FCA laws can far exceed of any liability pursuant to an unclaimed property audit. Companies found to be in violation of the FCA are subject to treble damages. In other words, in addition to the liability owed to the state, a company found liable will also owe three times the value of the underreported property, penalties, interest and attorney's fees.

A holder can be held liable for failure to report, even if that failure was due to deliberate ignorance or reckless disregard, rather than outright knowledge. It's important to note that a finding of fraud isn't required to establish liability under the False Claims Act (FCA). Companies facing liability under the FCA may discover that a minor error or unintentional oversight can escalate into a costly legal dispute with lasting impacts on their public image.

The Healthworks case

The Healthworks case centered on unclaimed patient balances from overpayments at urgent care centers, where insurance payments exceeded expected amounts. When refunds were issued, many checks went uncashed or were returned. Allegedly, USHW let millions of dollars' worth of these overpayments simply sit on its books for years and years, recorded as accounts receivable credit balances. Additionally, millions of dollars' worth of the overpayments USHW attempted to refund were never paid because the refund check was never cashed. In those instances, USHW simply continued to hold the accounts payable balance. There were further allegations that although USHW's unreported property claims were repeatedly brought to management's attention, management declined to comply and report the property to avoid an audit by state authorities.

notified of the Attorney General's investigation. Despite new management's attempt to comply after the Attorney General's investigation, USHW's reports in 2018, and subsequent years omitted significant unclaimed property and understated its age of the unclaimed properties reported.

Under the UPL, unclaimed intangible property must be reported after three years and incurs 12% annual interest. The CFCA allows for treble damages against those who knowingly conceal or misreport obligations to the state.

Ultimately, USHW's mismanagement led to millions in overpayments remaining unreported, and the company will settle by paying \$1.5 million in unclaimed property to the State Controller's Office.



With whistleblower claims on the rise, businesses must prioritize compliance to avoid legal pitfalls.

A relator filed a complaint in March 2018, alleging that USHW failed to comply with the Unclaimed Property Law (UPL) by not reporting and remitting unclaimed property to California, which constituted violations of the California False Claims Act (CFCA).

The state intervened in 2022, claiming USHW knowingly concealed its obligations by failing to file reports before October 2018 and by not delivering all unclaimed property in its possession. Additionally, the state alleged that although USHW possessed unclaimed property as early as 2001, it did not file a report with the State of California until 2018 after being

Conclusion

False Claims Act litigation has emerged as a critical mechanism for addressing the under reporting of unclaimed property. By incentivizing whistleblowers and holding companies accountable, the FCA not only aids in recovering funds for states but also enriches those witness to the potential fraud.

As the landscape of unclaimed property regulation continues to evolve, companies must remain vigilant to ensure compliance. And with whistleblower claims on the rise, businesses must prioritize compliance to avoid legal pitfalls. Staying informed and proactive will be essential for companies navigating these challenges.



State Penalty and Interest Update

Joseph Pollock Jr., Senior Director, Compliance Services

A topic that garners significant attention in the unclaimed property industry is the assessment of interest and penalties. Specifically, this issue becomes more critical when states decide to enforce pre-existing interest and penalty statutes that had previously gone unenforced.

As a reminder, states typically assess interest for properties that should have been reported in a prior filing cycle or if a report is submitted after the state's filing deadline. In most cases, the interest is prorated based on the number of days past the deadline. Penalty assessments, on the other hand, vary widely by state. A common scenario involves states imposing a fixed fee for late reports or when a report contains even a single property that should have been reported earlier. The fixed fee is imposed regardless of the value of the late property. Generally, states enforce interest assessments, and certain states impose both interest and penalties.

Over the past several years, we've observed a growing trend whereby states are beginning to enforce their laws and assess interest for late-reported properties—an area that, in many cases, had previously gone unenforced. In 2023, New York and Washington, D.C. began routinely issuing interest assessments. Additionally, Wisconsin issued a handful of penalty assessments during the same year.

Recently, there has been speculation that Maryland may begin issuing penalties. While the consistency of enforcement remains uncertain, Maryland's statute stipulates a 15% penalty, stating: "Any person who fails to pay or deliver abandoned property to the administrator as required by this title shall pay a penalty equal to 15 percent of the value of the property."

As of today, the following states issue assessments based on criteria related to late filings and past-due properties: California, Florida, Michigan, Montana, Nevada, New York, Texas, Washington, D.C., Washington State, and Wisconsin. Additionally, Delaware law requires interest assessments for holders under audit.

The trend of states actively enforcing their statutes is expected to continue in the coming years. As these practices evolve, staying informed and proactive in compliance will be key to avoiding unnecessary assessments.

Update on State Unclaimed Property Enforcement Efforts

Ann Fulmer, CPA, CFE, National Director - Unclaimed Property Consulting

As we enter 2025, efforts to enhance compliance with state unclaimed property requirements continue to evolve and expand. According to some state estimates, over 80% of organizations are not in full compliance with these requirements. Current state enforcement efforts intend to close this gap and increase compliance through various methods, both voluntarily and involuntary.

Delaware Verified Report Requests:

As seen in the past, Delaware leads the way with the expansion of its Verified Report Request program. Per the Delaware Office of Unclaimed Property, the Delaware Verified Report is a “vehicle for the State and the holder to review and correct any errors or oversights in the most recent annual filing, as well as an educational opportunity for both the State and the holder, without escalation to examination or other regulatory consequence.”

The Delaware Verified Report requires companies to complete an attestation, signed by an officer of the company, regarding the company’s compliance with the preceding year’s reporting requirements, including a list of entities represented in the report. The Verified Report also asks about the existence of unclaimed property policies and procedures and requests a copy be provided to the state. The most crucial factor in this equation is the timeliness of the response. Companies are asked to submit their response within 30 days of the date of the Notice. If companies are unable to provide the requested information within 30 days, they can request a 30-day extension. Incremental extensions can be provided up to 180 from the date of the notice. Companies that fail to complete the Verified Report Process within the deadline will result in referral to the Department of State for inclusion in the Delaware voluntary disclosure program.

State Specific Self Reviews:

In addition to outreach programs inquiring of compliance with recent reporting periods, numerous states introduced new self-review programs administered through third-party audit firms, including Utah and Louisiana. Both programs are similar to those we’ve seen employed by other states in the past. The Utah and Louisiana self-review programs require companies to submit complete contact information within 30 days of the letter by accessing the state link and entering the reference ID provided on the letter. Once registered, companies are asked to complete a preliminary Entity Scoping Schedule.

Companies then have approximately 1 year from the date of the notice to review their books and records to identify potential exposures and report to the state. If nothing is due or if the company complied with the state’s unclaimed property requirements via reporting under a consolidated report, companies must provide this information to the third-party administrator for consideration. Again, communication and timeliness are key. Failure to communicate with the third-party administrator or state could result in the issuance of a full-scale audit.

California Voluntary Compliance Program:

California State Controller's Office ("SCO") recently introduced a similar outreach program requiring companies to file an unclaimed property Notice Report within 60 days of the letter. This requirement extends to all companies, no matter their situation. If a company receives the Notice, they should consider the following:

- If no property is due: Send an email to UPDHolderOutreach@sco.ca.gov, acknowledging the notice and stating that no property is owed. While California law does not require the filing of a nil (negative) report, California can administratively compel a company to file one and has done so through the new program.
- If there is property due in the next reporting cycle: Inform the state via an email to the address above that, although nothing is currently due, the company has plans to file property due in the next cycle. Property must then be reported according to the filing deadlines as required by California law.
- If past-due property is found: Consider participation in the California Voluntary Compliance Program (VCP). The California VCP is a lifeline for businesses that have fallen behind on their unclaimed property obligations. By voluntarily reporting past-due property, companies are rewarded with the waiver of interest and reduce the likelihood of being audited.
- If a company reported via a consolidated report under a different name: Send an email to UPDHolderOutreach@sco.ca.gov informing them of the filing and provide the name and FEIN of the company reported under.

It is equally important for businesses to alert the SCO about notice letters sent to entities that are no longer in operation. If a company has been dissolved, merged, or otherwise ceased operations, this information must be conveyed to the SCO to avoid unnecessary follow-up or referral for enforcement action.

Increased Penalty and Interest Assessments:

States are also starting to assess interest and penalties on a more consistent basis. Although allowed for in their statutes, only a handful of states historically required the payment of interest and penalties on past due property. Maryland and New York recently joined this list of states and started to send interest and/or penalty assessments to companies who include past due property on their annual compliance reports. Delaware also joined the ranks with the introduction of interest and penalties associated with past due property identified through audit. This can be especially concerning for companies that find themselves under audit (who do not elect to participate in the expedited audit program) as Delaware interest assessments can go up to 50% plus a 25% penalty per report (i.e. year under audit) for failure to pay plus a \$5,000 penalty per report (i.e. year under audit) for failure to file. This assessment can easily double or even triple the amount considered due to Delaware.

Act Now:

Considering the continuing development of new compliance programs and the expanding assessment of interest and penalties, companies should take a close look at their unclaimed property compliance efforts to ensure that they are identifying, tracking, and reporting property in full compliance with state requirements. The early detection of non-compliance risks can save an organization thousands of dollars by preventing the assessment of interest and penalties. Early detection also provides the time needed to research 'at risk' populations and reunite property with its rightful owners. The Sovos Unclaimed Property Consulting team has the experience and industry knowledge to conduct a thorough risk assessment to identify said risks and develop remedies to prevent them from becoming headaches in the future. The Sovos Unclaimed Property Consulting team is also ready to help address communications received from the states to ensure that they are managed in an efficient and timely manner to prevent further state inquiries.



UPDATE

Your trusted resource in **unclaimed property**

Learn more about common issues organizations face with unclaimed property reporting.

Reach out to our team of experts.

SOVOS

Contact Us: <https://sovos.com/contact-us/>
taxregulatoryreporting@sovos.com

© 2025 Sovos Compliance, LLC.
SOVOS is a registered trademark of Sovos Compliance, LLC