

Delaware's Unclaimed Property Voluntary Disclosure Program

With

Delaware Secretary of State Jeffrey W. Bullock

and

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Agenda

- **Introduction**

- **Background**
 - Origins
 - Distinction from Division of Finance Review and VDA Program
 - Benefits to Participating Holders

- **How it Works**
 - Starting the process
 - Work plan and timeline
 - Records for Review

- **What's to Come**
 - Delaware's Audit Activity
 - Regulations in Process
 - Other Future Developments

Origins

- Delaware prides itself on the quality of its corporate and business laws, its judiciary, and the service that it provides America's largest corporations.
- More than 50% of all publicly-traded companies in the United States including 63% of the Fortune 500 have chosen Delaware as their legal home.

Origins

- Under Delaware's unclaimed property law, companies domiciled, or with related entities domiciled in Delaware are required to report and remit unaddressed or foreign-addressed abandoned and unclaimed property annually to the State.
- Historically, Delaware has enforced its right to collect this property through multi-year audits performed by the Delaware Division of Revenue.
- Because there is no statute of limitations on a company's legal obligation to report and remit past due unclaimed property, these audits examined the books and records of a company beginning in 1981, and could also have included significant statutory penalties and interest.

Origins

- Concerns were raised by Delaware’s corporate constituents who wanted a new, more business-friendly program where companies could “catch up” on their past due unclaimed property obligations, avoid an audit, avoid interest and penalties, and significantly reduce their liability, all at the same time.
- On July 11, 2012, Governor Jack Markell signed into law Senate Bill 258, which created a new abandoned and unclaimed property voluntary disclosure program (the “VDA Program”) to be administered through the Delaware Department of State.
- The VDA Program is intended to build on Delaware’s business reputation and specifically the reputation of the Department of State in providing quality service to Delaware’s corporate clients by making abandoned and unclaimed property compliance for Delaware companies **cheaper**, **faster** and **easier**.

Key Differences Between an Audit and the New Program

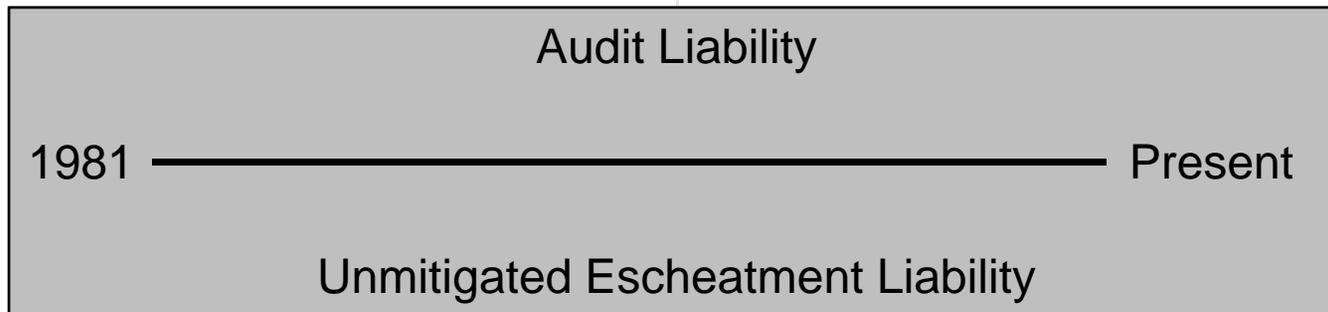
	<u>Audit</u>	<u>New Program</u>
Look-Back Period	Required review of books and records dating back to 1981	Requires review of books and records dating back to 1996 (or 1993 if the Holder executes VDA-1 after June 30, 2013, or fails to enter into a VDA-2 by June 30, 2014)
Review Period	Audits can take up to 5 or more years to complete, and most last at least several years to finish.	The new VDA Program is designed to be completed nine (9) months after the kick-off meeting.
Interest and Penalties	Interest on past due unclaimed property accrues monthly at 0.5% per month on outstanding unpaid amounts, and is capped at 50% of the total liability. Penalties accrue at 5% per month and are also capped at 50%. Therefore, e.g., if the unclaimed property is more than 8 years old, Holder could pay penalties and interest up to 100% of the liability.	No interest and penalties unless the Holder fails to reasonably adhere to the VDA Work Plan in good faith. In which case, the Secretary of State has the discretion to assess interest

Key Differences Between the Old and New VDA Programs

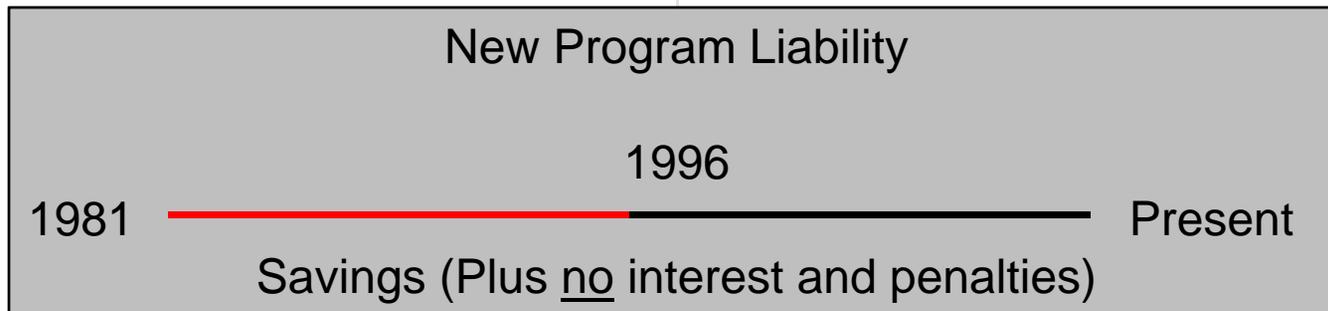
	<u>Old Program</u>	<u>New Program</u>
Look-Back Period	Required review of books and records dating back to 1991	Requires review of books and records dating back to 1996 (or 1993 if the Holder executes VDA-1 after June 30, 2013, or fails to enter into a VDA-2 by June 30, 2014)
Audit Protection	A Holder which completed the Old Program could be audited up to 18 months after it signed the VDA	The State will not audit the Holder after the VDA for the time period before the VDA unless the Holder was fraudulent or made willful misrepresentations to the State in its report, or the Holder fails to fulfill its future annual reporting requirements
Review Period	In practice, the Old VDA program takes about 18 months to complete	The new VDA Program is designed to be completed in nine (9) months
State Agency	Department of Finance	Office of the Secretary of State

Selling the Program: Holder Value Proposition

Completing the Program Reduces a Holder's Escheatment Liability



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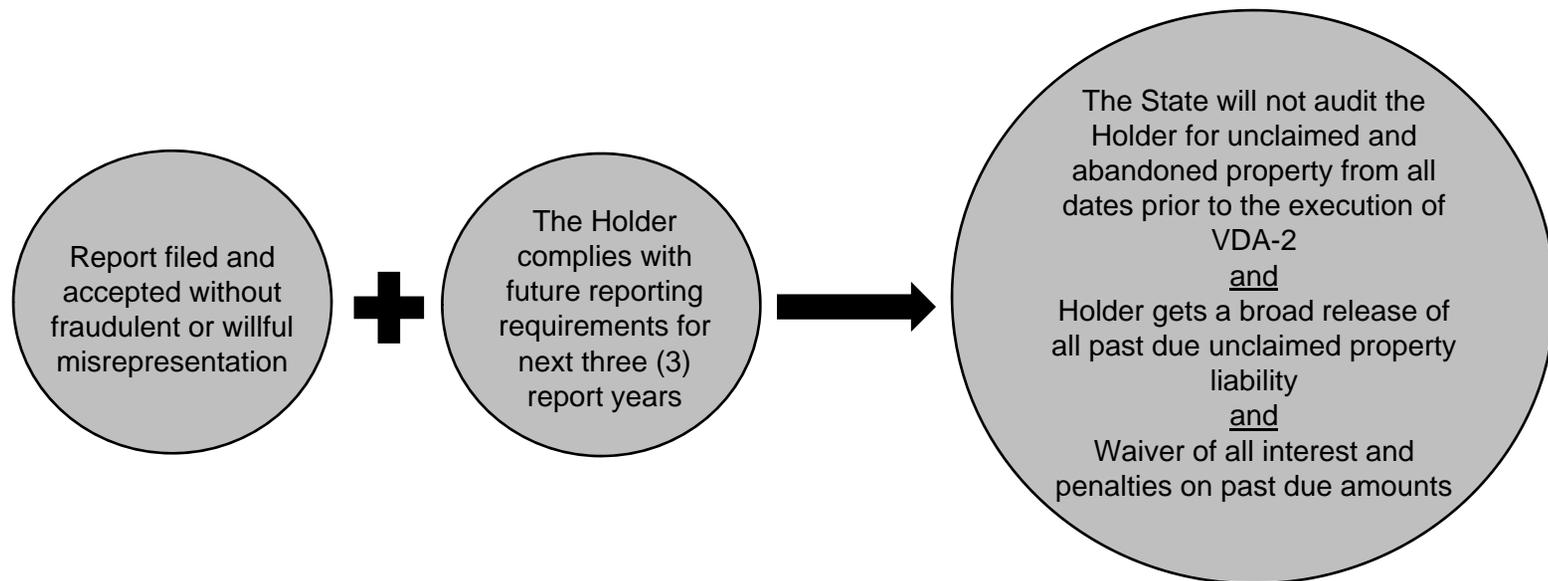


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Selling the Program: Holder Value Proposition

Completing the Program Protects the Holder from Audits



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The New Delaware VDA Program

What it IS

- A means for Companies who enroll (“Holders”) to come into compliance with the Delaware Abandoned Property Law
- Replaces Old Voluntary Disclosure Program
- Temporary: **Program sunsets in 2015**

What it ISN'T

- New Program does not replace audits conducted by the Department of Finance; no reduction in the number of audits is expected

How the Program Works

- Holder files VDA-1. Available at www.DelawareVDA.com.
- Assuming company has (1) not received a Notice of Audit, (2) is not currently under audit, or (3) is not in the old VDA program, the Secretary of State accepts the Holder into the new VDA Program.
- Kick-off meeting scheduled – typically by teleconference.

How the Program Works: Kick-Off Meeting

- The kick-off meeting will include a review of the documentation and analysis to be provided by the Holder in support of its submission.
- A discussion of property types included in the VDA.
- Discussion of key accounting and legal issues likely to be at issue as part of the Holder's review.
- The fixing of a VDA Work Plan to establish periodic status review and to monitor VDA progress.

How the Program Works: The VDA Work Plan

STEPS	DESCRIPTION	APPROX. TIME FRAME
1 Initial Contact	Holder initiates contact with the Administrator and submits a signed VDA-1 to proceed.	N/A
2 General Company Information	Holder provides general company information to Administrator.	7 Days Prior to Introductory Meeting
3 Introductory Meeting (or Conference Call at the Holder's Option)	Discussion between the Holder and Administrator to discuss VDA process, general expectations, and general company information.	Day 1
4 PHASE 1: SCOPING	The initial phase of the VDA process during which the Holder reviews its records to determine the entities, property types, availability of detailed records, and years to be included in the scope of the VDA.	Days 2 - 60
5 PHASE 2: RECORDS REVIEW/TESTING/REMEDICATION	Holder identifies transaction level detail for review, testing (as appropriate), and remediation to determine an initial potential liability.	Days 61 - 180
6 PHASE 3: DUE DILIGENCE & SETTLEMENT	Holder and Administrator resolve open issues. Holder presents findings and enters into a settlement agreement with State, which includes indemnification.	Days 181 - 269
7 PHASE 4: PAYMENT ADMINISTRATION	Holder will render payment to the State; the State and Holder will execute VDA-2.	Day 270

Delaware VDA Program – Record Review

- Holders and their advocates are expected to conduct a thorough review of their books and records dating back to 1996 (if enrolled in the program prior to June 30, 2013). The information Companies are expected to review includes but is not limited to:
 - Federal Form 1120 with consolidating income statement and balance sheet.
 - List of acquisitions, divestitures and mergers, including type of transaction (asset or stock).
 - General ledgers.
 - List of all disbursement accounts, including bank name, account number, open/close dates, and account type and purpose.
 - Check registers, void check listings, bank reconciliations, and supporting bank statements.
 - Accounts receivable aging reports.
 - Reports applicable to other property types (e.g., gift cards).
 - Record retention policy.
 - Unclaimed property reporting and audit history - property types reported, jurisdictions, report years.
 - Benefit plans; identify whether self or fully insured and indicate if Federal Form 5500 is filed. For non-ERISA plans, more detail may need to be reviewed.
 - Dividend history and list of all acquisitions of publicly traded companies.

Delaware VDA Program – Enroll Now

- **June 30, 2013**: Holders must enroll by June 30, 2013 to get the benefit of the 1996 look-back.
- **June 30, 2014**: Holders must enter into an executed VDA-2 and remit all past due unclaimed property by this date to enjoy the 1996 look-back period. In addition, no new Holders may enroll in the Program after June 30, 2014.
- **June 30, 2015**: Program sunsets. All Holders who entered the Program must have entered into an executed VDA-2 and remitted all past due unclaimed property by this date.

What's to Come

- Anticipated Audit Activity
- New Regulatory Initiatives
- Administrative Review Program Update
- Overpayment Issues

Contact Information

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