

ESCHEATS: STREAMLINED AUDIT PROCESS

Phone: (517) 373-8080
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Senate Bill 538 (S-1) as passed by the Senate
Sponsor: Sen. Jack Brandenburg
House Committee: Commerce and Trade
Senate Committee: Finance
Complete to 11-9-15

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

The bill would amend the Uniform Unclaimed Property Act to put in statute a streamlined audit process for certain Michigan-related corporations.

The bill would be retroactive and apply to audits in progress as of August 15, 2015, but would not apply retroactively to contested determinations in litigation before the bill's effective date.

Under the Uniform Unclaimed Property Act, generally speaking, property that remains unclaimed or dormant for a certain number of years, as provided in the act, is transferred to the state (that is, "escheated"). Unclaimed property or its equivalent value is maintained by the state for property owners in perpetuity; owners or heirs always have the right to claim the property. The act requires that individuals, businesses, and other commercial entities ("holders") of presumably abandoned and unclaimed property to file an annual unclaimed property report with the Department of Treasury (Unclaimed Property Division). To ensure compliance with the act, the department (or third parties with which the department has contracted) may examine (audit) the records of holders of property.

Specifically, this streamlined audit process would apply to "eligible holders," defined as a holders that are one or more of the following:

- A corporation whose parent corporation is incorporated in Michigan.
- A corporation that has a subsidiary incorporated in Michigan.
- A corporation that is not incorporated in Michigan but is wholly owned by a corporation that is incorporated in Michigan.

An audit conducted under the streamlined process would have to be (1) completed within a timeframe jointly developed by the holder and the administrator, with the goal of completing the audit within 18 months from receipt of the audit notice; and (2) be conducted according to standards set forth in rules and regulations promulgated by the Department of Treasury.

The bill also would:

- Provide that, for an eligible holder participating in the streamlined audit process, the Treasurer could not begin an action or proceeding more than four years after any duty of a holder under the act arose.
- Specify that streamlined examinations could not include checks voided within 180 days of their issuance, for eligible holders participating in the streamlined process.
- Provide that property worth \$50 or less would not be subject to the custody of the state as unclaimed property, subject to certain exceptions (such as dividends and intangible ownership interests).

MCL 567.222 et al.

FISCAL IMPACT:

Senate Bill 538 would allow for eligible holders of unclaimed property subject to an audit to enter into a streamlined audit process with the Department of Treasury. The streamlined audit process would institute a soft cap for completing the audit at 18 months. The new streamlined audit process could increase the number of unclaimed property audits entered into by the Department of Treasury which could increase the amount of statutorily required unclaimed property collections to the state assuming there is unclaimed property due to the state that is currently not being collected because of insufficient audit resources. While a portion of the unclaimed property collected by the state is used to administer the unclaimed property division and meet expected claims, the remainder of the unclaimed property funds escheating to the state are credited to the state's General Fund. Administrative costs would likely remain constant as the provisions of the bill would change the nature of the unclaimed property audit process allowing for additional audits to be completed as opposed to reducing the overall workload. Therefore, any increase in unclaimed property revenues would increase General Fund revenues.

The bill would also include language providing that property worth \$50 or less would not be subject to the custody of the state. This has the potential to reduce overall unclaimed property collections. The magnitude of the impact would depend on the amount of unclaimed property assets worth \$50 or less that are currently collected. That amount is currently unknown.

Legislative Analyst: Chris Couch
Fiscal Analyst: Ben Gielczyk

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.