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Unclaimed Property and Amnesty

Recent Changes to Michigan Law - Michigan's Unclaimed Property Act and a New Tax Amnesty Program

In order to balance the fiscal year 2010-2011 budget, Michigan lawmakers relied upon two quick fixes that are estimated to bring in approximately \$250 million in the next nine months.

The first "fix" makes significant changes to Michigan's Unclaimed Property Act (UPA), including accelerating the 2011 filing date. The second "fix" is a short term Tax Amnesty Program to commence in May 2011.

Changes to Michigan's Unclaimed Property Act (UPA)

Public Act 197 of 2010 (HB 6421) amends Michigan's UPA and reduces the holding period for all types of unclaimed property to three years after such property becomes payable. An exception is permitted for travelers' checks, which will retain their 15-year dormancy. In addition, the annual UPA report is accelerated from November 1 to July 1, beginning in 2011. The 2011 filing will cover the 9-month period ending on March 31, 2011, and reports subsequent to 2011 will be for the 12-month period ending on the prior March 31.

Holders of unclaimed property should anticipate increased audit activity in this area. Currently, the State is using contingency fees auditors to perform audits under the UPA. If you are unsure of your unclaimed property reporting requirements, or would like assistance in reviewing your reporting process to ensure compliance with the changes under this act, Honigman can help you.

New Tax Amnesty Program for Michigan Taxes

Public Act 198 of 2010 (SB 884) adopts a short term tax amnesty program. The program will run from May 15, 2011 through June 30, 2011. The amnesty will cover certain taxes due and payable as of December 31, 2009. **The amnesty program does not apply to property taxes.** The amnesty program will waive civil and criminal penalties for taxpayers who apply under the program and file all returns, and pay all taxes due, by June 30, 2011.

Honigman, along with other national and local organizations, worked to strike proposed language from SB 884 that would have imposed a penalty for taxpayers who failed to participate in the program, as well as language that required the use of contingency auditors to police post-amnesty efforts to locate non-participants. Treasury has been allocated \$6.8 million to administer the amnesty program. The legislation permits Treasury to outsource collection efforts once the amnesty period ends.

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Deciding whether or not to participate in an amnesty program, or one of the other voluntary disclosure programs, requires a balancing of the pros and cons of the program, as well as consideration of the sensitive aspects of such disclosure. If you need assistance in proactively determining whether or not to participate in the upcoming tax amnesty, please contract us.

Other State's Tax Amnesties

Michigan is not alone in offering a tax amnesty. The following states are also offering amnesty programs: New Mexico, Florida, Nevada, District of Columbia, Kansas, Maine, Illinois and (under consideration) California. As a carrot to encourage participation, some of the states will waive all or part of the interest due, as well as penalties.

Do not hesitate to contact us to see if your company could benefit by participating in these programs. These amnesties are offered only for a short window of time, and cover specific tax years. Also, in order to participate in most of these programs, you must not be under audit for the tax due.

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