
Proposed Delaware legislation would provide even more incentive to participate in the new voluntary disclosure initiative

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In brief

Even greater incentives may soon be available to participate in the Delaware Secretary of State's new voluntary disclosure initiative. On January 10, 2013, [House Bill 2](#) (HB 2) was introduced to create additional incentives for holders of abandoned property under the new program. The bill expands the timeframe to make payment or enter into a payment plan and allows holders to enter into new VDA agreements for related parties or for property not previously included in a VDA.

Update: On January 30, 2013, Governor Markell signed HB 2.

In detail

In an effort to expand the scope of companies reporting unclaimed property to Delaware, on July 11, 2012 [SB 258](#) was enacted to establish a new voluntary self-disclosure initiative that would be run by the Secretary of State. The new program allowed holders to take advantage of a limited lookback period if a notice of intent to file a voluntary self-disclosure agreement (VDA) was submitted on or before June 30, 2013 and payment made (or a payment plan developed) on or before June 30, 2014. (For a detailed summary of the new voluntary disclosure program please see [Delaware legislature passes VDA incentives, awaits](#)

[governor's signature](#).) To provide additional incentives, last week the Delaware legislature proposed HB 2, which was reported out of the House Administration Committee and is expected to have a full House vote on January 17, 2013.

HB 2 would extend the date that payment or a payment plan must be made under the new VDA from June 30, 2014 until June 30, 2015, allowing holders an additional year to either make a payment or enter a payment plan. The proposed legislation also provides that a holder that has previously entered into a VDA prior to June 30, 2012 may enter into

the new voluntary disclosure program with respect to any related party that was not included in an earlier voluntary self-disclosure or with respect to property types and/or periods that were not included in a prior voluntary self-disclosure agreement. Finally, the proposed legislation also expands the duty of the State Escheator to protect confidential information. Currently, the State Escheator is only required to protect confidential information with regard to Subchapter 1141, which addresses public records that must be maintained. HB 2 would expand the confidential

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information limitation to include Chapter 11, the entire chapter on unclaimed property.

The takeaway

Holders of unclaimed property who enter into a VDA on or before June 30, 2013 will have the benefit of a limited lookback period to 1996; those who enter into a VDA on or before June 30, 2014 will only have the lookback period limited to 1993.

Therefore, in addition to the additional incentives offered by HB 2, holders will receive the most benefit by entering the VDA by the June 30, 2013 deadline.

If HB 2 is enacted, the additional time to make payment or enter a payment plan with regards to the new VDA program is a welcome relief for affected holders. The expansion of eligible property and holders in the program demonstrates a willingness

on the part of Delaware lawmakers to increase compliance and ease the burden for holders of unclaimed property. If these additional incentives are enacted, those considering entering a VDA should do so before June 30, 2013 so that they may take the greatest advantage of the VDA initiative, which would include the shorter lookback period.

Let's talk

For more information, please do not hesitate to contact:

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