

Navigating Unclaimed Property Compliance for Financial Institutions

NOVEMBER 19, 2024

BDO USA, P.C., a Virginia professional corporation, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.



L&D Housekeeping Hold Slide

L&D Housekeeping Hold Slide

L&D Housekeeping Hold Slide

L&D Housekeeping Hold Slide

With You Today



BRIAN ABBEY

Tax Experienced Senior,
Unclaimed Property

602-794-8552
babbey@bdo.com



MARK HOUSTON

Managing Director, Business
Restructuring & Turnaround
Services

212-885-8098
mhouston@bdo-ba.com



DANIELLE SPADAVECCHIA

Managing Director, National
Unclaimed Property Compliance
Leader

786-321-6299
dspadavecchia@bdo.com

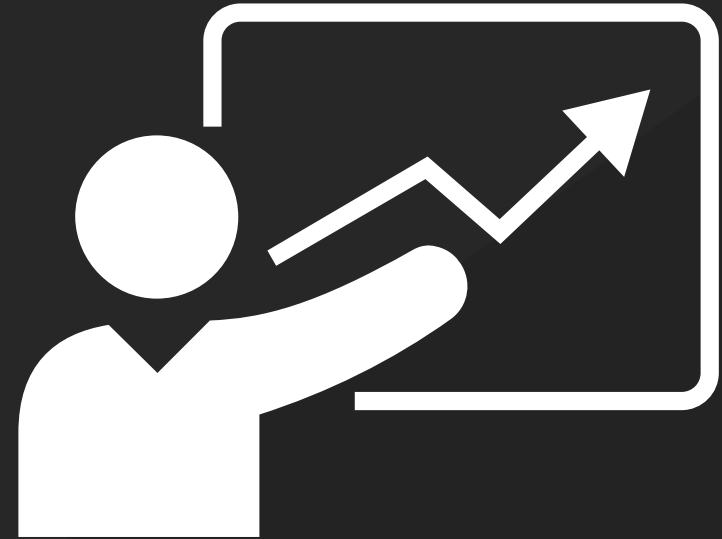
Learning Objectives

- ▶ Identify financial services compliance challenges and steps to mitigate potential risks.
- ▶ Define unclaimed property general concepts and reporting requirements.
- ▶ Apply best practices to implement controls and maintain/track client contact.

Agenda

1	Current Macroeconomic Landscape
2	Unclaimed Property Essentials
3	Challenges & Risks
4	Best Practices
5	State Requirements & Trends
6	Conclusion

Current Macroeconomic Landscape

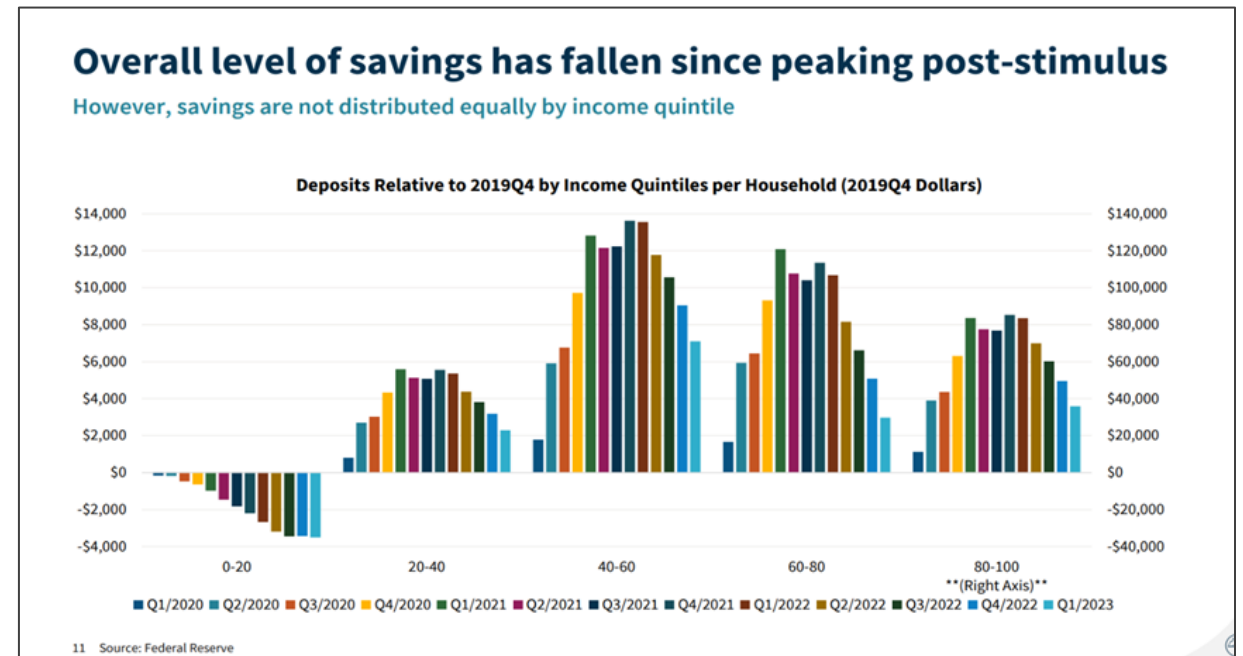
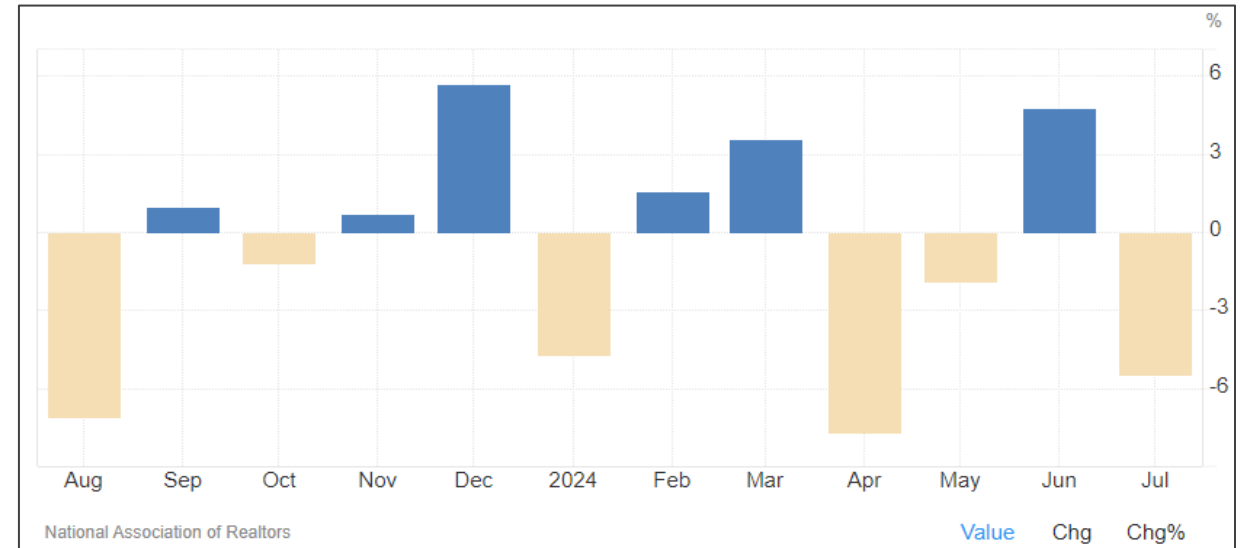


Financial Market Conditions Overview

- ▶ Strong US economy, further enhanced by recent election.
- ▶ Risk spreads remain relatively low.
- ▶ Equity valuations are historically high.
- ▶ Federal Reserve Index of Corporate Bond Market distress is historically low.
- ▶ Consumer finances are in good shape. Debt, debt service payments, and delinquencies have risen, they remain relatively low by historical standards. Credit worthiness of most household borrowers is far better than before the global financial crisis.
- ▶ Consumer spending has been very strong
- ▶ US interest rates are coming down.
- ▶ International markets expected to continue to be soft.

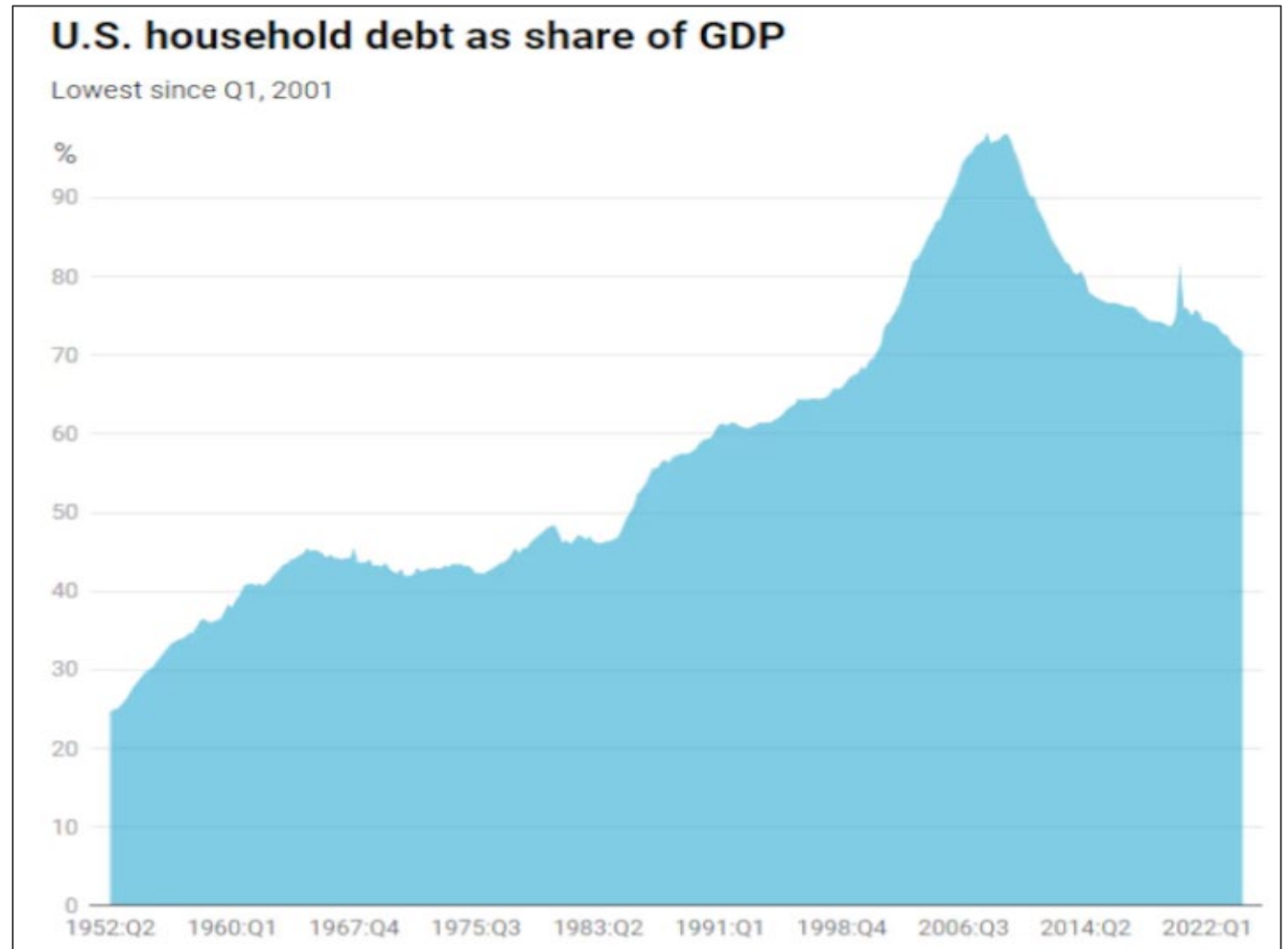
Pending home sales rebound from record lows

- ▶ Pending home sales increased 0.6% MOM in August, and YOY down 3.0%, and are at an all time low.
- ▶ Three out of four regions reported four regions posted monthly losses in transactions and YOY declines.
- ▶ The Pending Home Sales Index (PHSI) - a forward-looking indicator of home sales based on contract signings is 70.6 in August, after dipping to 70.2 in July, the lowest reading since the index began tracking in 2001.
- ▶ Modest improvement in housing affordability, with mortgage rates descending to 6.5% in August.
- ▶ Lower interest rates in 2025 will drive home sales.



Household Wealth and Debt Burden

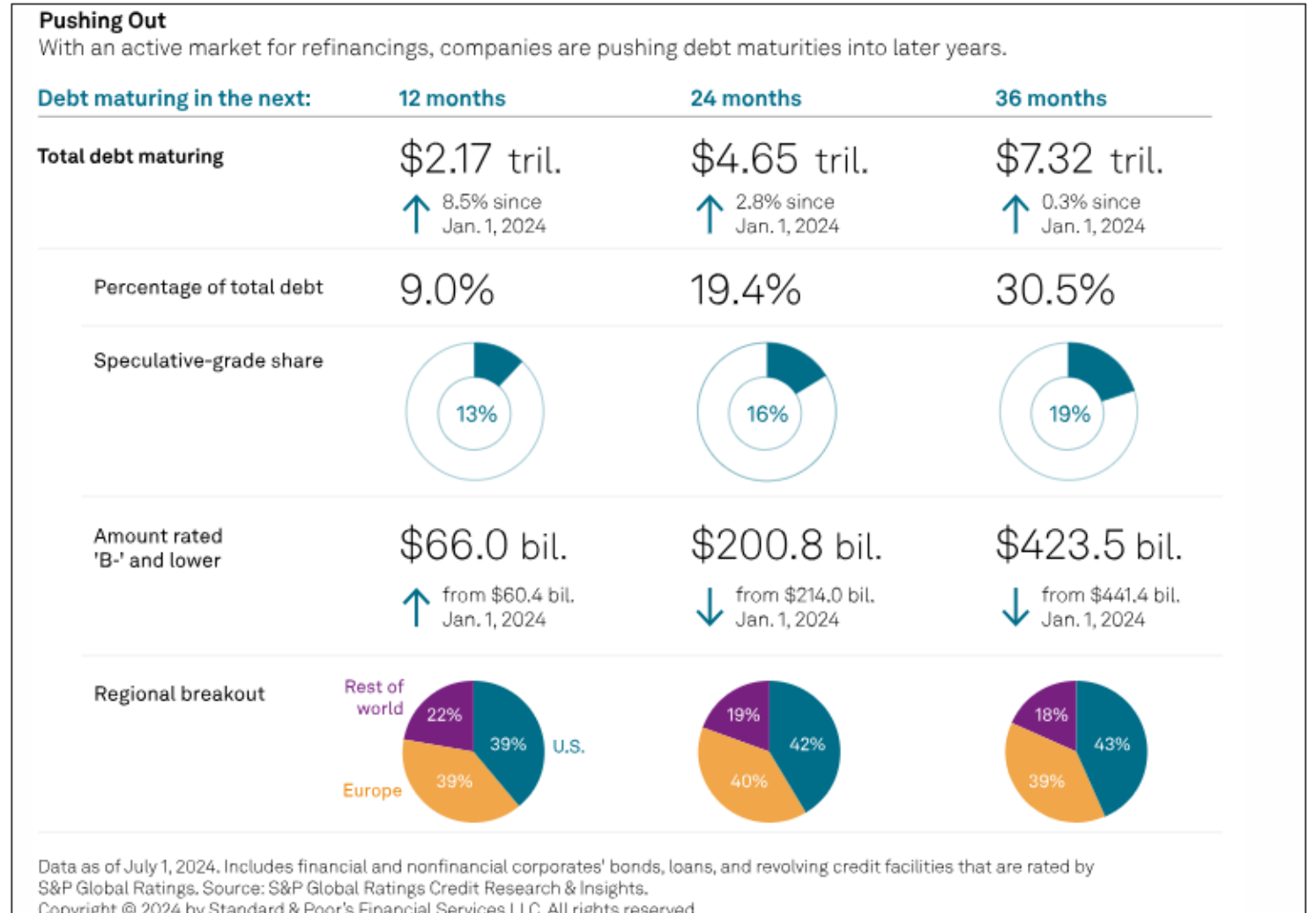
- ▶ The savings rate declined to 2.9% from 3.1% the prior month and is now just barely above the post-COVID cycle low of 2.7%.
- ▶ Credit card and delinquencies are stable, but most households aren't struggling with large debt burdens.
- ▶ Markets are currently pricing in 250 basis points of rate cuts between now and the end of next year.



Source U.S. Bureau of Labor Statistics and Bankrate

Corporate Debt Maturities

- ▶ Issuers are taking advantage of strong investor demand to refinance upcoming debt, rolling many maturities into later years.
- ▶ Increased stability in geopolitical risks following the election.



Operating Landscape

- ▶ High interest rates in 2023 and 2024 drove income growth for banks, yet banks are well positioned with interest rates coming down at a gradual rate.
- ▶ Focus on stabilizing revenue and taking back some of the market share lost to private credit.
- ▶ Increased technology spend on data analytics and cybersecurity
- ▶ Capital movement following bank collapses



Unclaimed Property Essentials



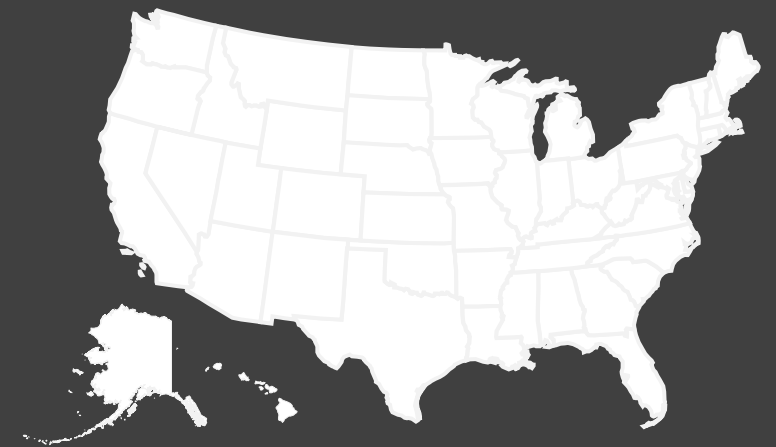
Unclaimed Property Essentials

WHAT IS UNCLAIMED PROPERTY?

- ▶ 50 states, D.C., Guam, Puerto Rico & U.S. Virgin Islands, have enacted unclaimed property laws
- ▶ Each state has a unique law that specifies how unclaimed property should be managed and reported by holders.
- ▶ Property that has been unclaimed by the rightful owner for a period of time. Property must be given to the owner or turned over to the state.
- ▶ Statutorily prescribed “dormancy period” that begins from the date of creation of the property type (e.g., check issuance date) and ends after the passage of a number of years (typically 1-5 years).
- ▶ Purpose is to ensure property protection until the rightful owner is located.
- ▶ States use funds for the public good.
- ▶ States actively pursue unclaimed property as a source of revenue.

SOURCING RULES

- ▶ First, to the state of the rightful owner’s last-known address, if known, or
- ▶ Second, to the state of the holder’s incorporation (commercial domicile for unincorporated entities).



Annual Compliance Process

WHAT'S THE POINT?

- ▶ Maintain compliance with state laws
- ▶ Reduce liability
- ▶ Protect your bottom line
- ▶ Reunite owner with assets; state's custody property until claimed by the owner
- ▶ Owners have a centralized place to claim monies owed to them

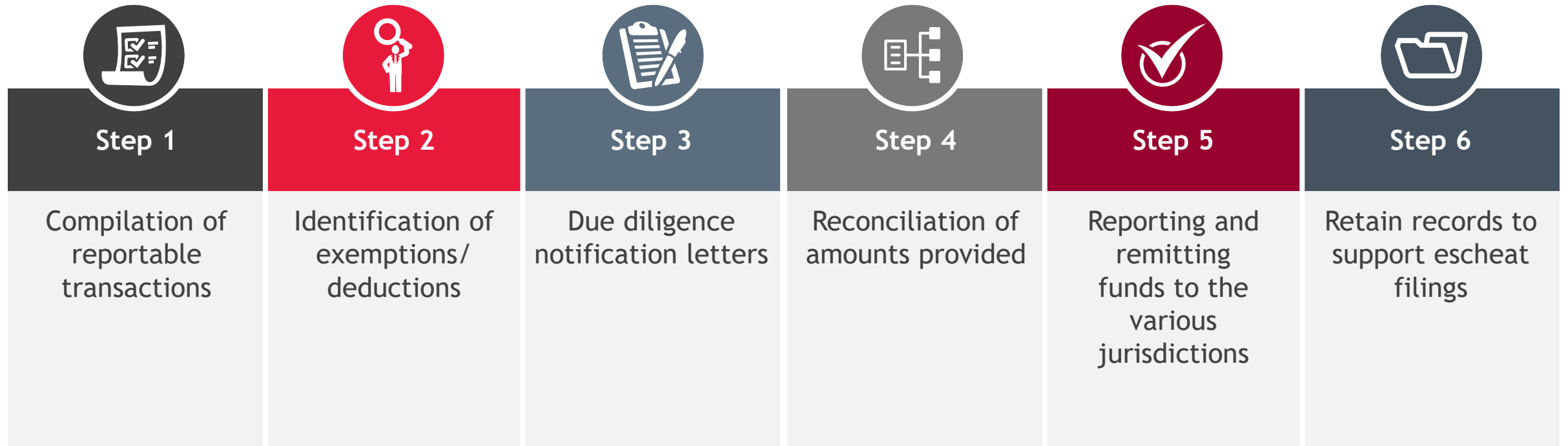
WHAT IF I'M NOT COMPLYING?

- ▶ Harsh implications if company...
 - Does not report
 - Submits inconsistent / incomplete / inaccurate reports
 - Reports late
- ▶ ...Risk of being audited and/or steep penalties and interest

Identifying, monitoring, reporting and complying with UP state requirements is an important function within your organization.

Escheat Compliance Process

States require companies holding unclaimed property to file annually. Each jurisdiction has its own statutes, and the laws are constantly changing.



Challenges & Risks



Capturing It All

Products & Services - Broad Range

- ▶ Legal Entities - Inclusion of In-scope, Domestic, Client-Facing
- ▶ Mergers & Acquisitions
- ▶ Dormancy Trigger Logic
- ▶ Monitoring / Tracking / Systemically
 - Disconnect between UP operational team vs. branches/Advisors
- ▶ Property Types
 - Uncashed Checks
 - Account Balances
 - Certificates of Deposit
 - Safe Deposit Box Contents
 - Checking / Saving Accounts
 - Retirement Accounts
 - Mutual Funds
 - Stock/Dividends

Financial Services Enhanced Risk

Nearly every financial services organization has the potential to generate unclaimed property. The unique requirements, tracking, timelines and due dates pertaining to unclaimed property present challenges that increase risks.

Last Owner-Initiated Contact Date

- ▶ Receipt of undeliverable Mail (RPO) and/or
- ▶ Failure to cash security associated distributions and/or
- ▶ Owner Activity / Date of Last Contact (DOLC)
 - Monitor & Systemically Track



ACTIVITY

- ▶ Deposit/Withdrawal/ATM/Debit Card Transactions
- ▶ In-Person Branch Visits (documented notes)
- ▶ Accessing account online/app
- ▶ Trades / Liquidation Requests
- ▶ Written Correspondence/ Signed Documents
- ▶ Due Diligence Responses
- ▶ Proxy Voting



NOT ACTIVITY

- ▶ Automated Dividends
- ▶ Automated Reinvestments
- ▶ Auto-Renew CDs
- ▶ Automated Cyclical Payments
- ▶ Negative consent
- ▶ Received of Statements

Client Account Linking

An owner's actions in one of their accounts is considered exclusionary activity for all of the owner's accounts, including those that are inactive/dormant.

▶ **Most Recent Owner-Generated Activity = Owner's Trigger date**

Exceptions Apply!

Example: Owner has not met IRA age requirement. Other dormant account may be escheat-eligible and the IRA account will be reportable when the owner reaches the mandatory distribution age

Checking Account
App Login: 4/1/23

Savings Account
Deposit: 3/1/16

Brokerage Account
Liquidation: 1/1/12

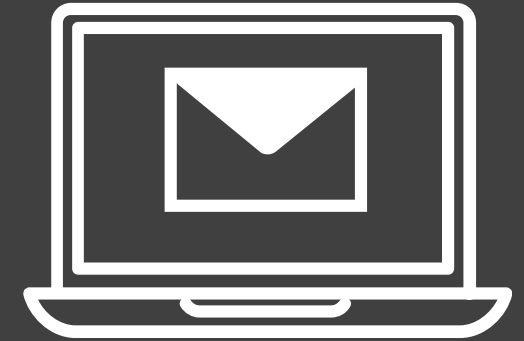


Not Reportable

DUE DILIGENCE

Owner Outreach

- ▶ **Certified Mail**
- ▶ **Publication**
- ▶ **Securities and Exchange Commission Rule 17Ad-17**
 - Transfer agents and broker-dealers
 - **Unresponsive Payees** - written notification requirement (i.e., owners who have an uncashed distribution)
 - Written notice no > 7 months after sending the uncashed check
 - **Lost Securityholders** - conduct thorough efforts to locate by conducting two better address database searches.
 - Two database searches - attempt to locate current address
 - 1st - 3-12 months
 - 2nd - 6-12 months after the 1st search

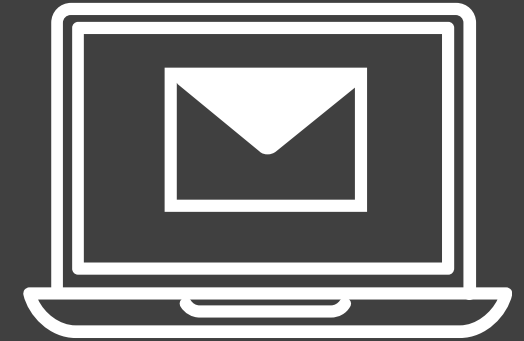


Successful outreach efforts is a key role is minimizing unclaimed property liability, maximizing efficiency, maintaining compliance and delivering a good customer service experience. These efforts may result in retention of customers.

DUE DILIGENCE

Owner Outreach

- ▶ Customers may be less likely to respond to outreach due to long-term strategies (“Buy & Hold”)
- ▶ International Customers
- ▶ Fluctuating Values
- ▶ Deceased Customers
- ▶ Electronic Delivery Only
- ▶ Custodial / Minor Accounts
- ▶ Account Owners unaware of escheatment
- ▶ Large Volume / Retaining Records
- ▶ Responses: KYC Compliance - PII security



Some states may impose penalties for failure to comply with due diligence requirements. Potential loss of indemnification.

Reporting

- ▶ Administrative Burden
- ▶ Large Volume
- ▶ Fluctuating Cash, Share Amts, Decimals
- ▶ Accurately accounting for (monthly, quarterly) Int/Div/Re-Inv
- ▶ Reporting liquidation cash proceeds
- ▶ Tax Withholding / Report updates
- ▶ Remittance Timing Expectations
- ▶ Industry Specific Due Dates (i.e., NY)
 - Corporation - March 10
 - Banks - November 10
- ▶ Large Customer Volume
- ▶ Lack of Resources / Inadequate Attention
- ▶ Decentralized Process
- ▶ PII Data Protection
- ▶ Fraud (State & Company)
- ▶ Filing state claim when non-compliant
- ▶ Customer Complaints - escalations
- ▶ Lack of Automation, Controls



Incorrect, inaccurate and/or incomplete unclaimed property reports may lead to over/under reporting and may be rejected by states.

Remittance

SECURITIES

- ▶ Advanced Custodial Notification
- ▶ Coordinating transfers (timely) via Decentralized operations
- ▶ State/Custodian Approval (~24-72 hours)
- ▶ Instructions vary by Product:
 - Physical certificates - Re-registration
 - DTC Eligible
 - Mutual Fund Transfers
 - Worthless or Non-Transferable
 - Foreign Securities
- ▶ Maintain Evidence of transfer
- ▶ Unrealistic timing state expectations

LIQUIDATION

- ▶ State practice to liquidate assets upon receipt or shortly after
- ▶ Typically amount to owner is value at time of escheatment
- ▶ Loss of appreciation (Market increase, reinvestments, dividends)
- ▶ State claim inconvenience process
- ▶ Loss of Investment Value
- ▶ Tax Consequences



If cash or securities are not delivered as instructed, penalties and/or interest may be assessed until remitted properly.

RISKS

Specific to Financial Services

REGULATORY

- ▶ Non-compliance
- ▶ Audit Target
- ▶ Inconsistent/Incomplete Filings



FINANCIAL

- ▶ Security Liquidations
- ▶ Market Risk
- ▶ Interest & Penalty Assessments



REPUTATIONAL

- ▶ Buy & Hold
- ▶ PII
- ▶ Customer Complaints

Best Practices



Minimize Exposure & Best Practices

COMPLIANCE

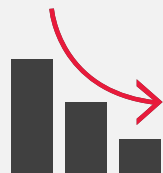
- ▶ Reporting Deadlines / Calendar
- ▶ Understand varying state rules / updates (industry/state)
- ▶ UP Liability Account
- ▶ Due Diligence
- ▶ Implement / Outsource Solution
- ▶ Maintain Consistent Filing History
- ▶ Maintain support that can demonstrate what a holder does not owe
- ▶ VDA or amnesty programs participation - relieve the risk without P&I
- ▶ Feasibility Review

WRITTEN EFFICIENT POLICY & PROCEDURES

- ▶ Document, Update, Review
- ▶ Retain Records
- ▶ Define & Assign Roles
- ▶ Policy & Procedure Testing/ cyclical updates

VOLUNTARY DISCLOSURE OR AMNESTY FILINGS

- ▶ Organization hasn't been meeting its multi-state filing obligations
- ▶ Mitigate Audit Risk.



ESCHEATMENT PROCESS

Financial services organizations must take proactive steps to manage potential risks related to unclaimed property to ensure compliance. Take these steps to better understand and mitigate unclaimed property risk.

Minimize Exposure & Best Practices

PRO-ACTIVE (NON-STATUTORY) OUTREACH & EFFORTS

- ▶ Pre 'At-Risk' Outreach efforts
- ▶ Client Opening Account Documents
- ▶ National Change of Address (NCOA)
- ▶ Social Security Administration's Death Master File (DMF)
- ▶ Better Address Search
- ▶ Leverage internal relationships (i.e., local branches)

TRACK & ENCOURAGE OGA

- ▶ Financial & Non-Financial
- ▶ ATM / Debit card transactions
- ▶ Website / App Logins / Online Activity
- ▶ Maintain & Track written correspondence
- ▶ Cyclical Outreach
- ▶ Holistic Client Linking

CONTINUOUS EDUCATION

- ▶ Internal
 - Branch
 - Advisors
 - Employees
 - Process Owners
- ▶ External
 - Client Education
 - Account Opening Docs
 - Cyclical Outreach



PRE-ESCHEATMENT PROCESS

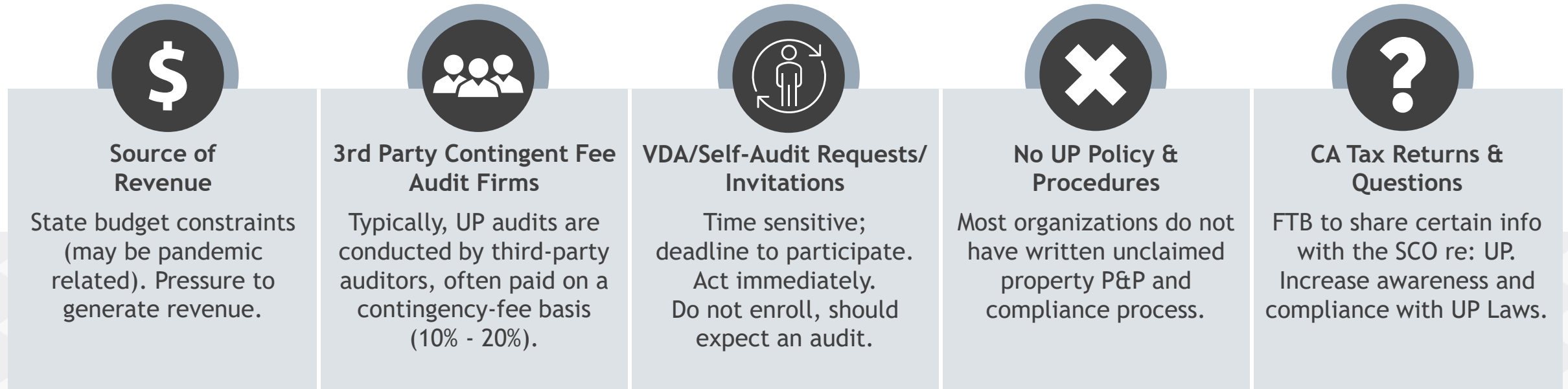
These efforts may result in retention of customers & minimized UP liability.

State Requirements & Trends



Unclaimed Property Trends

States are enforcing unclaimed property compliance more strictly. As part of this compliance enforcement effort, states are targeting companies for audit and/or holders are experiencing an increase in outreach from the states.



<10% estimated compliance with UP laws nationwide

Applicable CA Tax Returns & Questions

CC 1. Has this business entity previously filed an unclaimed property Holder Remit Report with the State Controller's Office? Yes No
 2. If "Yes," when was the last report filed? (mm/dd/yyyy) ● _____ 3. Amount last remitted ■ \$ _____ . _____

Sign Here	Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			
	Signature of officer ▶	Title	Date	● Telephone
Paid Preparer's Use Only	Officer's email address (optional)			
	Preparer's signature ▶	Date	Check if self-employed ▶ <input type="checkbox"/>	● PTIN
	Firm's name (or yours, if self-employed) and address ▶ _____			● Firm's FEIN
	_____			● Telephone
May the FTB discuss this return with the preparer shown above? See instructions <input type="radio"/> Yes <input type="checkbox"/> No				

Conclusion



HOW TO PREPARE FOR ESCHEATMENT RISK

Top Questions to Start the Conversation

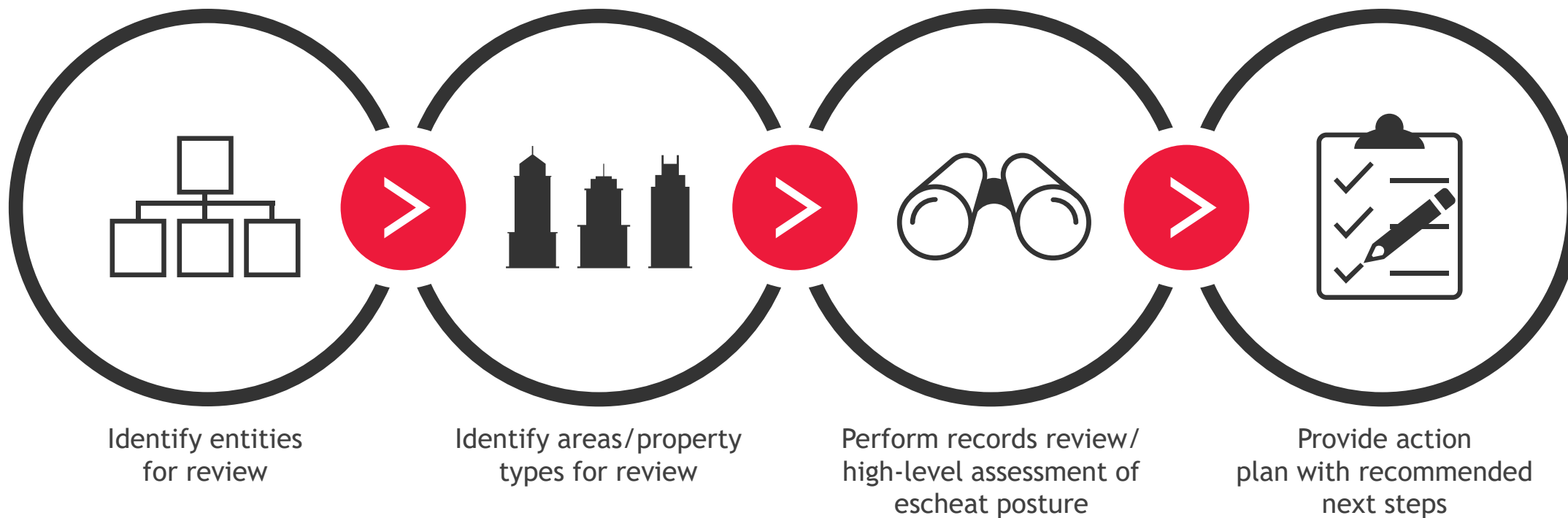
#	Question
1	▶ Has your company and subsidiaries filed unclaimed property returns in the prior year? ▶ If yes, what property types have been reported in the past (e.g., outstanding accounts payable checks, outstanding royalty payments, etc.)?
2	Has your company and subsidiaries filed unclaimed property returns in each of the prior 7 years?
3	Has your company ever been audited or filed VDA with any state for unclaimed property in the past 10 years?
4	Does your company maintain unclaimed property policies and procedures?
5	When were unclaimed property policies and procedures implemented?
6	Has your company reviewed its records to determine if there are any amounts due (employees, customers, vendors, etc.) that are generally older than 3 years for non-payroll related items or 1 year for payroll related items for the current year?
7	Are there any mitigating factors that led to the company not filing unclaimed property in the past (e.g., bankruptcy, newly formed company, etc.)?
8	Is the company in the process of looking at this issue to determine if there are potential exposures in this area?



Company's tax department or company's tax preparer should gain understanding of historical unclaimed property practices within the company.

Feasibility Studies

Feasibility studies can help companies understand the scope of unclaimed property exposure and internal control risks, from accounting systems review to the availability of records and documentation. The study can help implement an effective unclaimed property.



Thank You!



A modern office interior featuring a staircase with a glass railing on the left, a reception desk with the BDO logo on the right, and large windows overlooking a city skyline. The scene is dimly lit, with light coming from the windows and the BDO logo on the desk.

About BDO USA

At BDO, our purpose is helping people thrive, every day. Together, we are focused on delivering exceptional and sustainable outcomes – for our people, our clients and our communities. Across the U.S., and in over 160 countries through our global organization, BDO professionals provide assurance, tax and advisory services for a diverse range of clients.

BDO is the brand name for the BDO network and for each of the BDO Member Firms. BDO USA, P.C, a Virginia professional corporation, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms.

www.bdo.com

Material discussed is meant to provide general information and should not be acted on without professional advice tailored to your needs.

© 2024 BDO USA, P.C. All rights reserved.

