

Get Ready for the Countdown: Final Delaware Unclaimed Property Regulations Published

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On October 1, 2017, the Delaware Department of Finance published final regulations in the [Register of Regulations](#) repealing its former unclaimed property regulations and promulgating a new reporting and examination manual. See [21 DE Reg 336 \(Oct. 1, 2017\)](#). The final reporting and examination regulation contains no substantive changes from the [revised version that was re-proposed on August 1, 2017](#). As published, the regulations are set to be adopted and take effect on October 11, 2017.

This development is significant for holders that are currently under audit and considering enrolling in the Secretary of State's Voluntary Disclosure Agreement Program (VDA Program) or converting the audit to an "expedited audit" because October 11 marks the start of the 60-day period allotted for holders to notify the Secretary of State and/or State Escheator of their intention. See 12 Del. Code § 1172(b)-(c). At the conclusion of this 60-day period, any holder that has not provided a notice of intention will not be permitted to elect the respective option. Specifically, the notice must be in writing and *received* in a form and manner provided by the State Escheator and/or the Secretary of State within the 60-day period permitted by statute. To be eligible for enrollment in the VDA Program, the audit must have been authorized on or before July 22, 2015. However, to convert to an expedited audit, the audit must have been authorized before February 2, 2017.

Practice Note

If you are currently caught up in a Delaware unclaimed property audit, the expiration of your window of opportunity to elect another route is right around the corner and the time to act is now. This comes in light of the [news that the Secretary of State will be mailing notices to potential audit targets in two weeks](#)—which also contain a 60-day VDA program enrollment deadline. Holders are encouraged to contact the authors to discuss the implications of each option and whether VDA Program enrollment or expedited audit conversion makes sense for your audit.

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