

UNCLAIMED PROPERTY ALERT

California Proposes Formal VDA Program through January 1, 2024 - AB 2773

California does not currently have a formal (or informal) Voluntary Disclosure Agreement (VDA) program. Unless a holder can demonstrate reasonable cause, the unclaimed property statute requires the Controller to assess interest at the rate of 12 percent per year on property that is reported late (i.e. property held in excess of the state's statutory dormancy period). The fear of interest assessments makes some holders reluctant to turn over late property to the state.

On February 16, 2018, California introduced AB 2773 which proposes to establish a formal VDA program. The bill would add Section 1577.6 to the California Code of Civil Procedure. Under the new section, companies with property that was not reported prior to the report due date may enroll in the VDA program by doing all of the following:

- Completing a participation agreement with the Controller
- Reviewing all books and records and reporting all property due to the state in the past 10 years (starting from the date when the agreement to enter the program was signed)
- Making payment of the property (in full or through a payment plan) within 12 months from the date the agreement was accepted by the Controller (or another date determined by the Controller)

For holders that participate in the VDA program, complete the voluntary disclosures in good faith, and act consistently with the program requirements, the Controller will waive interest and penalty otherwise owed.

In order to be eligible for the program, a holder must not be the subject of an active audit or investigation at the time the agreement is submitted. After participating in the VDA program, a holder cannot be audited for periods covered by agreement unless the Controller reasonably determines that the holder has made a fraudulent or willful misrepresentation in the voluntary disclosure. The Controller may also adopt regulations for the implementation and enforcement of the VDA.

If passed, Section 1577.6 will expire on January 1, 2024 unless additional legislation is passed.

What does this mean to you?

If passed, holders with past due property will be able to come into compliance without fear of penalties and interest being assessed. Companies and financial organizations will have the opportunity to conduct a thorough review of their records to determine if they are holding past due property with a last known address in California.

Georgeson will continue to monitor the progress of this bill and send future notifications upon passage.

[The full text of the bill can be found here.](#)

For additional questions concerning this alert, contact Dana Terry at dterry@georgeson.com or 201-539-1998.

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