States Scooping Up Assets From Millions of Americans

'Unclaimed Property' Fattens Public Coffers

By SCOTT THURM and PUI-WING TAM
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State governments, aided by corporate middlemen, are collecting billions of dollars a year from Americans by enforcing obscure laws to seize money from forgotten bank accounts and other so-called unclaimed property.


Angelina Jolie

All states have unclaimed-property laws. The idea behind them is to return dormant assets -- bank deposits, stock, uncashed payroll checks, valuables in safe-deposit boxes -- to their owners. The laws require banks and brokerages to hand over the assets to states. Most states then make some effort to locate owners and return the property.

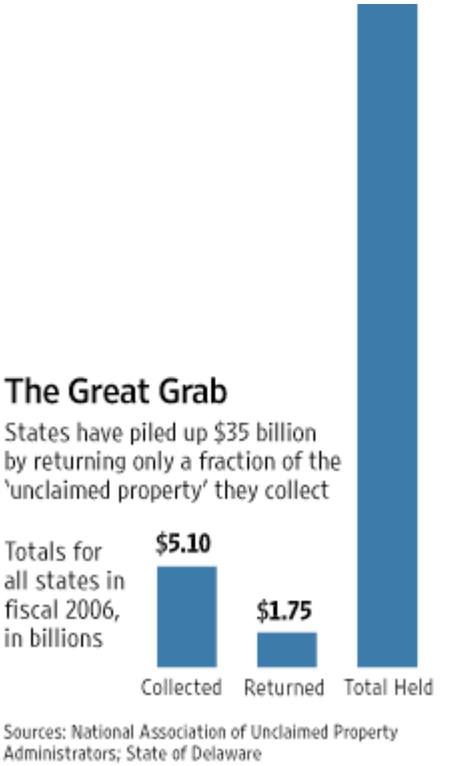
But states from Massachusetts to California have turned their programs into big money-makers, and routinely dip into unclaimed assets to cover state expenses. States have broadened laws to cover unredeemed gift cards and uncashed corporate checks to employees and suppliers. They've required businesses to turn over assets more quickly, and curtailed efforts to locate owners. And they've strengthened enforcement by hiring private auditors to examine corporate books in search of "lost" property. The auditors' reward: 10% to 15% of proceeds.

California is currently holding more than $5 billion in unclaimed property, nominally owned by more than eight million individuals and companies. Among the names appearing on the state's list of owners of seized assets: Google Inc. co-founder Sergey Brin, actress Angelina Jolie and baseball Hall of Famer Willie Mays.

"Somewhere along the line, a good idea got lost," says John Coalson, an Atlanta attorney who represents companies undergoing state unclaimed-property assessments. "What was intended to return property to its rightful owner has instead become a way for states to increase revenue without increasing taxes."

The 50 states collectively held roughly $35 billion in unclaimed property as of June 2006, according to the most recent data from the National Association of Unclaimed Property Administrators and from the state of Delaware. States collected about $5.1 billion in unclaimed property in 2006, up from $3.6 billion in 2003, the data indicate. On average, states identify owners and return about one-third of this property.

States regard property as "unclaimed" if the owner hasn't had contact with the custodian of an asset for a specified period of time. In the case of bank deposits, depending on the state, that means three to five years without deposits, withdrawals or any other customer contact. For stock, it's three to seven years without cashing dividend checks, voting proxies or otherwise contacting the issuer or brokerage.



Delaware, the legal home to many big companies, is an aggressive collector of such assets. State officials examine corporate accounts, looking for uncashed checks and credit balances. Unclaimed property has become Delaware's third-largest source of revenue, generating $365 million in the fiscal year ended June 30, 2007. That amounts to about 11% of state revenue, more than corporate-income tax or the state lottery.

Delaware is one of the states that don't make much effort to seek owners of unclaimed property. It's up to the owners to figure out if states have their assets and to file claims. If owners don't come forward, many states keep the cash and sell physical property, such as jewelry from safe-deposit boxes, on eBay.

Delaware's director of revenue, Patrick Carter, says the state returns less than 5% of the unclaimed property it collects, in part because it's difficult to link corporate credit balances with individual owners.

California officials stopped notifying owners whose property had been seized or listing their names in newspapers. Last June, a judge temporarily halted the program, ruling that the state wasn't following its rules for seizing and returning the property.

The ruling came in the case of Chris Lusby Taylor, a former Intel Corp. employee whose 52,224 shares of company stock had been handed to the state after he failed to cash dividend checks or vote proxies for three years. The state sold the shares. When Mr. Taylor discovered the transfer and filed a claim, the state offered him $200,000. A federal appeals court said Mr. Taylor was entitled to the current value of the shares, then roughly $3.8 million.

After the ruling, California lawmakers instituted changes intended to limit seizures and return more property to owners; the program is back in operation.

California and other states have reaped hundreds of millions collectively from the demutualization of insurance companies -- the conversion of policyholder-owned companies to publicly traded ones. Policyholders typically are entitled to stock in the publicly traded company; unclaimed shares must be turned over to states.

Not every state views unclaimed property as a revenue generator. West Virginia says it gave back more assets than it collected in 2005. Missouri, Iowa and Kansas set up booths at county fairs to advertise their programs and identify owners. Oregon and Colorado hold unclaimed property in funds with the principal untouched, using only the interest.

'Just the Custodian'

"If you don't own it, it's not revenue," says Cynthia Wickham, Oregon's unclaimed-property administrator. "We're just the custodian."

Companies have challenged programs in some states. Biotech firm Biogen Idec Inc. and children's-shoe maker Stride Rite Corp. sued Massachusetts for classifying as unclaimed property money that one business owes another. The companies argued that state law excluded such assets. "It's clearly a money grab that's no longer about consumer protection," says Jim Dentzer, Biogen's former controller. A spokeswoman for the Massachusetts treasury declined to comment.

Last year, a Massachusetts state court ruled in favor of both companies in separate decisions. The rulings saved Biogen from having to pay the state $860,000, and Stride Rite from paying about $1.2 million. The state has appealed the Biogen decision.

Los Angeles lawyer David Epstein played a central role in the transformation of unclaimed-property laws. He calls the system "the best consumer-protection law ever devised" because it helps owners reclaim property that would otherwise be forgotten. Without the laws, Mr. Epstein says, the money returned to owners, which totaled $1.75 billion in 2006, would unfairly fatten corporate profits.

In the 1970s, Mr. Epstein helped California with an unclaimed-property case against Bank of America, which was eventually settled in 1988 when the bank agreed to pay $53 million. By then, Mr. Epstein had started a business, Unclaimed Property Clearinghouse, to help states enforce unclaimed-property laws, which at that time were widely ignored.


David Epstein

His company combed through corporate books on behalf of states and kept a share of seized assets. It first targeted securities, looking for shareholders who hadn't cashed dividend checks in seven years, then the legal standard for states to declare shares abandoned.

Mr. Epstein courted state officials to sign up by talking about the potential revenue such programs could produce, recalls Iowa Treasurer Mike Fitzgerald. Mr. Epstein also served as an adviser to a commission that drafted "model" laws -- later adopted by most states -- that broadened the definition of unclaimed property and shortened the waiting periods before states could seize the property. California, for example, shortened its waiting period from seven years to five years in 1989, then to three years in 1990.

Mr. Epstein soon faced competition. National Abandoned Property Processing Corp., or Nappco, specialized in another type of unclaimed property: uncashed corporate checks to employees and suppliers.

Many states bolstered their programs in the 1990s. Lawmakers in California, which faced budget problems, reduced state efforts to find property owners.

By 1998, California was collecting $300 million worth of unclaimed property a year, and returning less than half to owners, a 2003 state audit determined. Most of the rest went to fund state operations. Officials "started to raid this program and send it in the wrong direction," says state Controller John Chiang, who sponsored reform legislation passed last year.

Over time, the property of millions of Californians was transferred to the state without owners' knowledge. Surfing the Web in 2000, Richard and Jo-Ann Seitzinger, retirees in Northridge, Calif., stumbled across their names on the unclaimed-property list. They later learned that 200 shares of General Electric Co., where Mr. Seitzinger worked in the 1960s, had been transferred to the state in 1994. The Seitzingers lost track of the stock because of a record-keeping mistake by their broker, and Nappco classified the shares as dormant. The state sold the shares shortly after receiving them, for $17,000.

The Seitzingers filed a claim and received the $17,000. Mrs. Seitzinger thinks they deserved to be paid the $60,000 she estimates the shares were worth in 2000. "They never ever tried to find us," she says. "Our name is so unusual they could have found us easily."


Willie Mays

A spokesman for the state controller responds: "It's not that we can't find people. It's that the controller was prohibited by law from notifying them."

Finding Willie Mays

Because of that Catch-22, even famous people aren't contacted. Mr. Mays, the legendary home-run-slugging outfielder for the San Francisco Giants, nominally owns about $3,000 held by the state, including a $2,546.25 credit with American Express and a $70 gift certificate from San Francisco retailer Gump's.

Mr. Mays, 76 years old, says he hadn't been contacted and wasn't even aware the state had his property. "I'm kind of easy to find," he says, noting he's lived at the same address in Atherton, Calif., since 1971.

California is holding $1,173.49 in salary and wages paid by Stanford University to Google's Mr. Brin, presumably because he didn't cash paychecks, and $9.53 in dividends from the New York Times Co. A Google spokesman declined to comment.

Ms. Jolie, the actress, shows up on the California list due to unclaimed salaries and wages from several companies, including Walt Disney Co. In total, she has $9,210.31 currently being held by the state. Ms. Jolie's manager didn't respond to requests for comment.

If Ms. Jolie and Messrs. Mays and Brin don't apply to recover their property, California can keep it.

The growth of the audit industry and changes to state programs troubled some state officials. Mr. Epstein says complaints have been limited. In 1993, he sold his company, which was later bought by Affiliated Computer Services Inc., a technology outsourcing firm. Mr. Epstein serves as an adviser to ACS.

Audit firms say they follow rules set by state officials. A California review ordered by Mr. Chiang, the state controller, found "no evidence" that the firms "illegally or inappropriately collected or delivered" property.

'Lost Customers'

At ACS, a spokesman says the company advocates "increased efforts on the part of companies to locate their lost customers, shareholders and vendors, as well as initiatives that provide states with the resources to increase the number of people reunited with their property."

accounts. Some states return a greater percentage of it to owners than other states do. Value of property collected in fiscal 2006, in millions:

State	Amount collected	Returned to owners	Total held by state	State	Amount collected	Returned to owners	Total held by state
Ala.	$66.6	$22.9	$265.0	Mont.	$4.6	$1.3	$27.5
Alaska	6.4	3.1	50.0	Nev.	32.2	7.2	197.0
Ariz.	69.7	17.7	469.8	N.H.	10.0	4.4	80.0
Ark.	16.0	7.3	100.0	N.J.	227.0	82.0	2,000.0
Calif.	656.0	292.0	5,100.0	N.M.	16.5	2.7	87.1
Colo.	52.6	14.2	300.0	N.Y.	509.0	151.0	7,000.0
Conn.	71.1	26.0	675.0	N.C.	98.9	24.0	525.0
Del.	325.0	n.a.	2,400.0	N.D.	3.4	2.0	28.0
D.C.	244.6	13.9	244.6	Neb.	12.9	10.2	74.0
Fla.	354.7	101.5	1,300.0	Ohio	210.2	64.4	1,000.0
Ga.	36.1	8.9	684.0	Okla.	39.0	12.4	175.0
Hawaii	15.0	5.1	156.3	Ore.	35.0	9.0	219.0
Idaho	n.a.	2.5	54.0	Pa.	150.0	200.0	1,000.0
Ill.	226.2	83.0	1,660.0	R.I.	26.7	10.9	168.0
Ind.	50.0	54.7	325.0	S.C.	24.7	8.7	183.0
Iowa	15.6	12.7	170.0	S.D.	7.4	2.2	25.5
Kan.	18.3	11.5	181.5	Tenn.	40.2	20.7	285.1
Ky.	45.0	8.7	2.0	Texas	448.2	106.0	1,500.0
La.	48.3	15.6	330.4	Utah	22.7	8.9	130.0
Maine	25.1	10.4	122.4	Vt.	7.0	4.5	39.0
Md.	140.5	50.9	550.0	Va.	73.7	37.9	753.6
Mass.	121.6	46.9	1,459.3	Wash.	93.7	34.6	540.0
Mich.	159.8	43.2	1,100.0	W.Va.	9.3	11.0	101.0
Minn.	112.7	24.8	271.0	Wis.	35.6	19.4	324.0
Miss.	26.4	9.9	50.0	Wyo.	4.5	1.4	22.3
Mo.	59.2	21.8	474.8	**Total**	**5,105.0**	**1,746.3**	**$34,979.1**

Sources: National Association of Unclaimed Property Administrators; State of Delaware

In 2001, after taking over as head of Delaware's program, Mark Udinski looked into whether companies were submitting the required annual reports on unclaimed property. He found only about 2,300 reports for the 280,000 companies incorporated in Delaware.

Mr. Udinski launched an enforcement program. He added state auditors and hired outside audit firms. Delaware now contracts with four firms -- ACS, Kelmar Associates, Audit Services U.S. and Specialty Audit Services. Collections from unclaimed property rose to $365 million in fiscal 2007, from $163 million in 2001.

Delaware auditors typically ask for documentation going back to the early 1980s; if documents aren't available, the auditors use a sampling of recent records to estimate how much a company owes the state.

Waste Management Inc. received an audit notice from Delaware in 2004. Don Carpenter, the company's vice president of tax, and his aides reviewed three years of records for items such as uncashed payroll checks, then extrapolated the results over 20 years. Following what Mr. Carpenter describes as "a bit of negotiation," Waste Management paid $19 million in 2006 to settle its unclaimed-property obligations.

Critics say Delaware's estimation practices violate the spirit of the law, because the state has no way of returning to individuals the money it collects based on the estimates. Mr. Carter, Delaware's director of revenue, defends the state's methodology and the work done by outside auditors.

"We think companies are paying way too little," he says. "We try and meet in the middle."

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