Morgan Stanley Agrees to Resolution of Multi-State Unclaimed Property Audit

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The California State Controller announced an Audit Resolution Agreement with Morgan Stanley on December 23, 2014, which sets forth the terms and conditions for finalizing and resolving an unclaimed property audit that Verus Financial LLC is conducting of the company. Thirty-four states, in addition to California, are participating in the audit. The Agreement follows settlements between the Controller and several life insurance carriers regarding their use of the Death Master File to identify deceased insureds and escheatable life insurance benefits, and signals an expansion of state regulators' and auditors' focus beyond unclaimed life insurance benefits. Morgan Stanley reportedly approached the Controller to enter into a similar agreement. The Agreement will require Morgan Stanley to identify and escheat to the State lost or abandoned brokerage services or customer service accounts, including employee stock plan accounts, retail brokerage accounts, and retirement accounts. The audit's scope is broad and encompasses "property maintained in, related to, or originating from all brokerage services or customer accounts at" Morgan Stanley that were reportable, or potentially reportable, as unclaimed property on or before December 31, 2014. The Agreement expressly excludes: (i) property of owners and beneficiaries who live in non-signatory states; (ii) education and health savings-related accounts; (iii) property related to employment-based defined benefit plans; (iv) property previously escheated or that becomes escheatable on or after January 1, 2015; and (v) property that Morgan Stanley transferred to a third party prior to commencement of the audit and no longer controls. The Agreement sets forth detailed provisions for determining when accounts become escheatable. **Non-retirement accounts generally become escheatable when dividends or distributions related to the account have been unclaimed by the account owner, mailings have been discontinued to the account owner or returned to Morgan Stanley as undeliverable, and/or there has been no owner-generated activity on the account during the dormancy period.** The dormancy period begins on the date the first unclaimed distribution was issued or on the date of receipt of the last piece of returned mail. The standards for determining whether a retirement account is escheatable vary depending on the type of account and whether the owner is deceased. Generally, property in a retirement account is escheatable if there has been no owner-generated activity regarding the account during the dormancy period, which begins on the date that distributions from the account must commence in order to avoid a tax penalty.

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