



SALT Alert! 2025-06: Michigan Supreme Court Ruling May Impact Companies Under Multi-Year Unclaimed Property Audits

On March 24, 2025, the Michigan Supreme Court issued an opinion¹ regarding a Court of Appeals decision in the consolidated case of Dine Brands Global, Inc. (Dine) and The Walt Disney Company (Disney) regarding whether an unclaimed property audit is considered an “action or proceeding” that would toll the statute of limitations provision of the Michigan Unclaimed Property Act (UPA). While finding that the examination is a “proceeding” under the UPA, the Court also held that the commencement of the audit did not toll the statute, thereby determining that the statute of limitations period was continuing to run during the multi-year audit process. The Supreme Court remanded the case back to the Michigan Court of Appeals to resolve additional questions, the outcome of which may be important for holders undergoing lengthy unclaimed property examinations.

Background

Using the services of a contracted third-party audit firm, the Michigan Treasurer initiated unclaimed property audits of Dine and Disney in 2013. The Treasurer requested to review records pertaining to accounts payable and payroll checks dating back to 2002. In 2021, the audit findings were presented to the companies. In August 2021, both companies filed lawsuits in Michigan circuit court seeking a declaratory judgment and an injunction against Michigan, arguing that since the audit had undertaken such an extensive period of time, certain property identified in the findings could no longer be included in the audit. The companies argued that because the Treasurer had not commenced an enforcement action in court, the statute of limitations continued to run during the audit, such that collecting some of the purported unclaimed property would be time-barred by the UPA.

Note that the section of the Michigan unclaimed property law relied upon by Dine and Disney provides, “...an action or proceeding shall not be commenced by the administrator with respect to any duty of a holder under this act more than 10 years, or ... after the duty arose.”² Michigan law further provides that the statute of limitations period is tolled if a holder or the Treasurer files a legal action in court to enforce compliance with the UPA.

Agreeing with the companies, the circuit court held that the audit itself is neither an “action” nor a “proceeding” under the statute quoted above, and that commencing

an examination does not toll the statute of limitations provision in the UPA. The Michigan Treasurer appealed the cases to the Court of Appeals which, in 2023, affirmed the circuit court's ruling in two separate opinions.³ The Treasurer appealed both decisions to the Michigan Supreme Court, which consolidated the appeals and remanded the cases to the Court of Appeal while retaining jurisdiction. It instructed the lower court to assume that an audit is a "proceeding" under the UPA and to address to questions: (1) whether the commencement of an audit tolled the statute of limitations in the Michigan unclaimed property law; and (2) whether the Treasurer must file a lawsuit within the time frame to avoid the lawsuit being time-barred. On remand, the Court of Appeals issued two unpublished opinions, with the second vacating the first in January 2024 and forwarding the decision to the Supreme Court for further consideration.

Michigan Supreme Court Decision

When the case returned to the Supreme Court, the Court ordered the parties to submit supplemental briefs addressing three questions:

- 1) Whether the Court of Appeals erred in interpreting the Michigan unclaimed property law when it concluded that an audit conducted by the Treasurer was not an "action or proceeding";
- 2) If the Court of Appeals did so err, whether the commencement of an audit tolls the statute of limitations in the unclaimed property law; and
- 3) Even if an audit is a "proceeding," must the Treasurer still file a lawsuit within the applicable time frame to avoid the lawsuit being time-barred.

Reversing the Court of Appeals, the Supreme Court first held that an audit is a "proceeding." It further indicated that the Treasurer must initiate an audit to determine whether a holder is in compliance with their legal duty to annually report and remit unclaimed property within the time allowed by law. Second, the Court stated that the commencement of an unclaimed property audit did not toll the limitations period in the unclaimed property law. The Supreme Court noted, "[b]ecause the commencement of an examination does not toll the statute of limitations under MCL 567.250(2), the period of limitations as to a holder's annual duty to report and remit property under MCL 567.238 and MCL 567.240 continues to run during an examination."⁴

With respect to the third question, the Court remanded the decision back to the Court of Appeals to address whether a new, enforceable duty is created upon issuance of the final notice of determination at the conclusion of the audit. If so, it remains to be seen if that action would reopen the limitations period for post-examination enforcement, even if that demand includes previously unremitted amounts related to years otherwise covered by the statute of limitations.

KPMG Observations

The Supreme Court decision makes clear that the commencement of the examination did not toll the statute of limitations while the audit is ongoing. However, the impact of that determination remains unclear against the backdrop of a potential "new" post-examination duty once a demand is issued. Michigan's statute of limitations provision is derived from the 1981 Uniform Unclaimed Property Act, which many other states have adopted or emulated. Holders under

audit in a so-called 1981 Act jurisdiction should monitor the case and may need to adapt or modify their audit strategies as a result.

KPMG will continue to follow the proceedings during their remand and review by the Court of Appeals.

Contacts

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Footnotes

¹ Dine Brands Glob., Inc. v. Eubanks, No. 165391, 2025 WL 898837 (Mich. 24, 2025)

² Mich. Comp. Laws Ann. § 567.250 (2) (in pertinent part)

³ 345 Mich. App. 227 (2023) and 345 Mich. App. 213 (2023)

⁴ Dine Brands Glob., Inc. v. Eubanks, No. 165391, 2025 WL 898837 (Mich. Mar. 24, 2025)
