



This Week in State Tax (TWIST)

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Multistate: U.S. Supreme Court Rules Against Delaware in Dispute of Escheatment of Certain Financial Instruments

On February 28, 2023, the United States Supreme Court issued a unanimous opinion in a case that pitted the State of Delaware against almost 30 other states¹. The question before the Court was which state has the right to escheat the proceeds of certain abandoned prepaid financial instruments issued by MoneyGram that were used to transfer funds to a named payee.

As background, Delaware had argued that these instruments should be escheated under the general rules set forth in *Texas v. New Jersey*. Applying these rules to the instruments in question resulted in them being escheated to Delaware, MoneyGram's state of incorporation. A collective of other states argued that the rules set forth in *Texas* did not apply, and the Disposition of Abandoned Money Orders and Traveler's Checks Act (FDA) governed the matter. The FDA provides that if the books and records of a banking or financial organization or business association show the state in which a money order, traveler's check, or similar written instrument (other than a third-party bank check) was purchased, that state is entitled to take custody of the sum payable on the instrument if it ended up being escheated. As such, the dispute was whether the two types of MoneyGram issued instruments were "similar" to a money order so that they were covered under the FDA and escheated to the state where the instruments were purchased.

A Special Master was appointed by the Court to review and report on the case. The Special Master initially agreed that the MoneyGram instruments fell under the FDA. However, after an initial set of oral arguments, the Special Master reversed his initial conclusions in part.

In its opinion, the Court rejected the arguments advanced by Delaware and the Special Master and held that the instruments in question were similar to money orders in both function and operation. Notably, they were prepaid written instruments used to transmit money to intended payees. The instruments were also similar to "money orders" because, as with the circumstances giving rise to the FDA, they too would escheat inequitably to the state of incorporation of the company holding the funds because such companies do not maintain records of the last known address of the purchasers of such instruments.

This decision may have deeper implications, as it may extend other financial products, such as cashier's checks. For more information on *Delaware v. Pennsylvania and Wisconsin*, please contact Will King | +1 (214) 840-6107 | williamking@kpmg.com or Marion Acord | +1 (404) 222-3053 | marionacord@kpmg.com.

¹ Delaware v. Pennsylvania and Wisconsin AND Arkansas, et. al. v. Delaware, 598 US ____ (2023)



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