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Legal Updates for Businesses

Welcome to the spring 2025 edition of our firm's Legal Updates for Businesses.

We all have heard that ancient saying "May You Live in Interesting Times". It goes without saying that we do live in times that are extremely interesting and that are producing so many truly difficult challenges and complexities for our businesses. Staying abreast of all the legal changes that are occurring on almost a daily basis surely is daunting but nevertheless remains critical. As your business advisors an important part of our job is to help you stay current, and this edition of our Newsletter is focused on doing just that. Whether understanding the new proposed federal income tax bill, changes to the New Jersey environmental cleanup requirements, how future commercial loans will be impacted by new policies, or the licensing of new health care businesses, we are here to help. Hopefully this Newsletter provides you with some insights of some of the new proposals in addition to reminding you of important ongoing issues such as HIPPA and copyrights.

Please reach out for us to assist you in managing and growing your businesses.

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Tax

One Big Beautiful Bill Act

By: Douglas R. Eisenberg, Esq.

The early question was whether the Republicans were going to present one or two new tax reduction bills to fulfill their promises made during the campaign trail. The "One Big Beautiful Bill" (hereinafter "BBB") answered that for now. The BBB was passed in the House of Representatives by a narrow margin on May 22, 2025 and now has advanced to the U.S. Senate where it faces an uncertain future. The BBB deals with many areas; however, this article will be confined to its tax provisions which, as noted, will be adjusted by the Senate and again renegotiated when the two Bills head to reconciliation. In any event, the highlights are as follows:

Rate Reductions – The BBB makes permanent the 2017 Tax Cuts and Jobs Act (the "TCJA") reduction in tax rates which included the rate reduction for individual taxpayers from 39.6% to 37%, while also providing for wider brackets, an increased standard deduction (currently $30,000 for joint filers) and the elimination of personal exemptions.

State and Local Tax Deduction – The so-called SALT deduction will increase to $40,000 from $10,000 for joint returns with "modified adjusted gross income" up to $500,000 and then phasing out above that amount. The cap would increase 1% per year from 2026-2033. The Bill will also reduce the effectiveness of SALT work arounds such as the pass through entity tax regimes.

Tip Income – The BBB essentially exempts tips and overtime pay from income for certain individuals through 2028.

Interest on Auto Lease – The Bill allows an interest deduction on financed U.S. built cars but limited to $10,000 with phase outs starting at $249,000 for joint filers. Personal interest is generally not presently deductible.

Child Tax Credit – The $2,000 per child tax credit is made permanent with an increase to $2,500 for the years 2025 through 2028, then indexed for inflation. It is estimated that over 40 million families receive this credit.

Alternative Minimum Tax – The Bill makes permanent the increases in AMT Exemptions and adjusts for inflation indexing.

Section 199A Deduction – This provision, also known as the Qualified Business Income deduction for pass through businesses, is increased from 20% to 23% beginning in 2025 but makes adjustments to its calculation including phase in changes.

Bonus Depreciation – The BBB reinstates 100% bonus depreciation for qualified property placed in service from January 20, 2025 to December 31, 2029.

1099 Reporting – The Bill raises minimum reporting threshold from $600 to $2,000 for payments made to independent contractors.

Estate and Gift Taxes – The Bill permanently increases the estate and gift tax exemption to an inflation indexed $15 million per individual ($30 million per couple).

Excess Business Loss Limitation – The BBB makes permanent the TCJA's limitation on excess business losses for noncorporate taxpayers (individuals, partnerships, S corporations). For 2025, the limit is $313,000 for single filers and $626,000 for joint filers, adjusted for inflation. Excess losses are carried forward as Net Operating Losses. The BBB modifies the calculation by including prior year's disallowed excess business losses in determining the current year's limitation, potentially reducing the ability to offset nonbusiness income and increasing carryforwards.

Conclusion

The budget hawks as illustrated by the recent scrap between Elon Musk and President Trump, have added a new wrinkle into the pending Bill. As with any major tax legislation, the final outcome will prove to be different from the current version of the Big Beautiful Bill, and we will provide updates as they become available.

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Commercial Lending-Tariffs

2025 U.S. Tariffs and the Commercial Lending Industry

By: James A. Dempsey, Esq.

On April 2, 2025, President Trump announced the launching of "Liberation Day" which ushered in a wave of sweeping new tariffs on imported goods coming into the United States. Since that day, there have been volatile swings in adjustments to the tariffs, and specifically as to which country to which they may apply. While Liberation Day certainly caused the financial markets to "buckle-in for the roller coaster ride" that ensued, the question as to exactly how the tariffs affect commercial lenders, finance companies and their borrowers remains.

Financial market reaction and the business of lending are not necessarily mutually exclusive, and the markets also do not always reflect the health of the economy. The effect of the tariffs as of the writing of this article certainly will shape future portfolio performance and borrower business plans, particularly as to certain industries such as steel, aluminum, and car manufacturing to name a few.

In the current market, lenders need to proactively review their portfolios and particularly as to sensitive industries, open discussions with borrowers as to the upcoming quarters, projections and the effects of tariffs on a borrower's financial covenant compliance in their loan documents. Mitigating exposure and adjusting accordingly is critical when dealing with the financial pressures from the effect of tariffs. Thankfully, there also exist a number of portfolio surveillance software programs that can give both lenders and borrowers real-time data to address many of these business issues. Many borrowers today have also become sophisticated enough to understand the lending relationship is a true business partnership and confronting challenging issues hand-in-hand with their lender, is an approach for a steady and smooth transition through current choppy waters.

Ironically, tariffs have been around for quite some time and were the main source of income to the United States not that long ago. Like the typical ups and downs of the financial markets, the economy and the lending industry (particularly since the financial crisis of 2008 and more recently, the COVID era), both lenders and borrowers have learned that resiliency, portfolio assessment and proactively working as together as partners to stay ahead of the curve are critical to continued success. With these policies in place, the adage of "this too shall pass" certainly rings true and is a testimony to the strength and resiliency of the U.S. economy, markets and the commercial lending environment.

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Environmental

Reporting Obligations Proposed as Part of SRRA Amendments Could Have Chilling Effect on Transactions

By: Heidi S. Minuskin, Esq.

Pending amendments to the New Jersey Site Remediation Reform Act ("SRRA"), if adapted as proposed, could have a significant chilling effect on transactions in New Jersey.

Under existing law, if a prospective buyer wants to qualify as an innocent purchaser under New Jersey and federal environmental laws, the party needs to conduct due diligence which satisfies the requirements of "all appropriate inquiry" into the condition of the property. In New Jersey that means performing a Preliminary Assessment, a Site Investigation and, depending on what is found, remedial activities before taking title. Under applicable federal law, this means conducting a Phase I and Phase II, if necessary.

Typically, sellers will allow prospective buyers to conduct their desired due diligence, including sampling of the property, provided that they keep the results of the due diligence confidential. The reason is that often sellers do not know or have any reason to believe there has been a discharge on the property. Once a seller obtains that information, it has an affirmative obligation to notify New Jersey Department of Environmental Protection ("NJDEP") of the contamination and to begin remediating the contamination on a statutory timeframe regardless of whether the transaction moves forward. Currently the obligation to report is on the discharger and property owner.

The October 24th rule proposal seeks to modify the reporting obligations in SRRA by imposing an affirmative reporting obligation on a prospective buyer who, during the conduct of its due diligence, discovers contamination. Under the proposal, the prospective buyer would need to notify NJDEP and the owner of the contamination. The prospective buyer would have no obligation to address the newly discovered contamination, but the property owner would now have knowledge of a previously undisclosed condition that would require it to immediately begin addressing the contamination.

NJDEP asserts that this change is necessary to fulfill its obligation to promote policies for environmental protection and pollution prevention and "seeks to ensure property owners are provided notice of a discharge , as they may be subject to liability". However, the result will likely have the opposite affect—sellers may not allow buyers to conduct due diligence so the contamination is never found or addressed, or transactions will not move forward.

Many stakeholder groups, including the LSRP Association, as well as individuals have submitted comments objecting to the expansion of these reporting obligations. NJDEP is reviewing the comments and has until October 2025 to respond with its response and rule proposal. The regulated community hopes NJDEP reconsiders but we will keep track of any modifications once the rule is promulgated.

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Copyright

Copyright Infringement Claims

By: Ira J. Hammer, Esq.

Copyright owners and those pretending to be copyright owners have become much more aggressive in asserting claims against website owners for copyright infringement. In most cases, the basis for the suit is copied graphics or photographs. While it can be text, video or music, we see that far less often. In most instances, such graphics or photographs were copied from one website and used on another, without consideration of the potential copyright issues that might come along with the copied material. This article provides you with some guidance with regard to avoiding such claims and assessing such claims if they are asserted against you.

Many website owners assume that if they see graphics or photographs that they like on another website and the other website (a) does not have the copyright symbol © or the word copyright at the bottom of the page; or (b) claims to have the right to allow you to freely use that website's graphics or photographs, there are no issues with copying such material on the website owner's website. However, in some instances, the website on which the material is found has not obtained any license from the author or owner of such website material. We advise our clients to avoid using graphics or photographs from other websites if possible because of the difficulties in verifying that someone has the right to allow you to use copyrighted materials except when you are dealing with someone you know to be the owner of such materials.

In most instances, copyright registration is a prerequisite for a copyright owner to bring a copyright infringement lawsuit and to obtain statutory damages and attorneys' fees. The fact that an owner of a copyright registration does not have to prove actual damages to obtain a damages award and further can obtain attorneys' fees if the owner prevails gives the owner both leverage and an incentive not to settle. Recognizing that owners of lesser known copyrighted work might find it difficult to demonstrate how they had been damaged by an infringement, Congress created statutory damages which allows the Judge to award damages that the court considers to be "just" in an amount from $750 to $30,000 for each infringed work. If the owner is able to show that the infringement was willful (e.g. the infringer continues to use the work after receiving a cease and desist letter, for example), the range increases to as much as $150,000 per work. On the other hand, if the infringer can prove that the infringer was unaware of the copyright registration and had no reason to be aware of the copyright registration), the award can be reduced to as low as $200 per work.

If you receive a cease and desist letter alleging that you have infringed another party's copyright rights, it is important to verify that the person asserting the claim has the right to do so. The first step is to determine if the claimant has provided copyright registration numbers for the each of the works that was allegedly infringed. The claimants who provide copyright registration numbers probably own the copyrights and are probably asserting a legitimate claim. You can check the registration number on the Library of Congress. If the claimant does not provide a registration number, that is often a hint that the claimant either is not the right person to be making the claim or that the work has not been registered. The danger in settling with a person who does not own the registration is that you might still be liable to the actual owner of the copyright.

We regularly handle copyright infringement. If you receive a claim that you have infringed a party's copyright rights, please let us know if we can be of assistance.

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Health Care-HIPAA

Small Health Care Providers Cannot Escape HIPAA Enforcement

By: Deborah A. Cmielewski, Esq.

A recent Health Insurance Portability and Accountability Act (HIPAA) settlement by the United States Department of Health and Human Services (HHS), Office for Civil Rights (OCR) with Vision Upright MRI (Vision) is a sharp reminder that small health care providers are not immune from regulatory scrutiny.

Vision is a provider of MRI and related services, including x-rays and CT scans, operating in California. In December of 2020, OCR notified Vision that it was investigating the provider's HIPAA compliance plan after becoming aware that Vision was allegedly maintaining or storing electronic protected health information (ePHI) on an unsecured server, and that an unauthorized third party had gained access to it. The server contained medical images of 21,778 individuals. Following its review, OCR determined that Vision did not complete individual patient notifications within 60 days of discovering the breach of ePHI, and further, that it had never conducted a risk analysis. Both requirements are contained in the HIPAA rules.

Vision entered into a Resolution Agreement and Corrective Action Plan, and agreed to pay a resolution amount of $25,000 to OCR. The rigorous Corrective Action Plan outlines a number of initial and ongoing requirements, with strict timelines for completion and document submission. In many cases, the Corrective Action Plan requires Vision to furnish draft documents and plans for pre-review, comment and approval by OCR.

The Corrective Action Plan includes the following obligations:

·Implement corrective action by making breach notifications to affected individuals; the media; and HHS, following the provision of draft individual and media notices to OCR for review, comment and approval;

·Conduct an initial (and periodic) risk analysis, after providing the proposed scope/methodology to OCR for review, comment and approval;

·Develop (and later roll-out) an enterprise-wide plan for risk management in conjunction with OCR to address issues identified in the risk analysis;

·Prepare, maintain, revise and distribute written HIPAA policies and procedures, after providing drafts for comment by OCR;

·Report to OCR workforce member failure to comply with policies and procedures;

·Develop a training program, including input and comment by OCR, and implement the program to workforce members; and

·Submit implementation and ongoing progress reports to OCR.

Many small health care providers and vendors subject to HIPAA fail to prioritize their compliance plans, due to lack of staff, limited resources and/or a belief that OCR will concentrate its efforts on more substantial targets. Unfortunately, this can lead to long-term negative consequences.

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Commercial SBA Loans

Anticipated Changes to the Small Business Administration (SBA) 7a and 504 Loan Programs Take Effect

By: Heidi K. Hoffman-Shalloo, Esq.

The Small Business Administration has been busy implementing changes to its 7a and 504 loan program guidelines. The initial changes to operating procedures commenced in March of this year following an Executive Order directing SBA to cease public benefits being issued to any illegal aliens not entitled to such benefits. On April 22, 2025, SBA also announced that its highly anticipated changes to the standard operating procedures of the SBA 7a and 504 loan programs would become effective June 1, 2025 and would apply to those loans receiving an SBA loan number on or after June 1, 2025. Both announcements made via Information Notices were a rapid response by SBA to what was believed by the new administration to be deficiencies within the program guidelines and procedures. The new guidance, which has been introduced by SBA, largely re-implements certain program requirements that were in effect before 2021.

What does this mean for non-citizens now applying for an SBA loan? The Administration has announced that they are putting American citizens first through a series of reforms which requires 100% of the beneficial ownership of a business funded by the SBA to be by U.S. Nationals, Lawful Permanent Residents or U.S. Citizens.

If an applicant does not fall into one of the three categories, it is now ineligible for a loan guaranteed by the SBA. This means that non-citizens holding other types of visas may no longer be eligible for financing under the new guidelines.

What does this mean for lenders who are administering the program or borrowers who are applying for funding under the program on or after June 1, 2025? This means that not only will certain past practices be re-implemented, but also 7a underwriting criteria will be restored, the SBA Franchise Directory with streamlined procedures will be re-implemented, and the prior administration's philosophy that lenders should "do what you do" when administering certain aspects of the program will be eliminated. However, it is important to note that the policies do more than re-implement the old, they also provide clearer guidance on certain criteria and institute several new standards that the administration believed were lacking or were of concern. Here is just a sampling of the new topics being addressed:

- Multi-step partial changes of ownership are no longer permissible;
- Merchant cash advance and factoring arrangements are ineligible for debt refinancing;
- Substitute guarantors may no longer replace a required guarantor;
- All lenders with delegated authority must process their loans with delegated authority and may not go General Processing (2 exceptions);
- The maximum 7a loan was decreased from $500,000 to $350,000 and the SBSS score for 7a small loans was increased;
- Sellers must guarantee loan for 2 years in the event of partial change of ownership;
- New guidelines and eligibility standards for businesses owned by non-citizens;
- Reduced restrictions on vehicle collateral; and
- New alternatives for IRS verification when records cannot be located.

If you are an SBA applicant or a lender and have any questions regarding eligibility under either of the SBA loan programs or questions regarding the most recent Standard Operating Procedures in effect, please call.

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Health Care-Licensing

New Jersey Proposes Integrated License for Outpatient Healthcare Providers to Advance Health Care Coordination

By: Christina Principe, Esq.

On April 4, 2025, the New Jersey Department of Health (NJDOH), in collaboration with the New Jersey Department of Human Services (DHS), announced a proposed rule to create a single, integrated license for outpatient healthcare providers. This initiative aims to reduce longstanding regulatory barriers, promote care coordination, and improve access to behavioral health, addiction treatment and primary care services – all in one convenient location.

Under the current fragmented regulatory system, facilities offering primary care, mental health, and addiction treatment services in a single location are required to secure three separate licenses, each with its own regulatory requirements. The proposed integrated license would replace this fragmented system, significantly easing administrative burdens and enabling a more coordinated, patient-centered model of care.

Under the new framework, outpatient facilities would be able to:

·Operate under one license for primary care, mental health, and substance use disorder treatment;

·Maintain unified medical records across service types;

·Use shared treatment spaces without needing separate physical infrastructure;

·Offer adjunctive and integrated services without requiring full additional licensure; and

·Provide withdrawal management services and addiction medications more readily.

If adopted, the rule could accelerate the integration of behavioral health and addiction services into primary care settings, reduce startup and operational costs for new clinics, and improve billing and administrative efficiency through consolidated oversight. The proposal aligns with national efforts to implement a comprehensive "whole-person care" model and addresses critical gaps in access to integrated services—particularly for individuals with complex or co-occurring needs. State officials emphasize that such integrated care models can improve health outcomes, reduce stigma, and mitigate disparities in behavioral healthcare delivery.

The proposal has been submitted to the Office of Administrative Law and will undergo a formal 60-day public comment period. Providers and industry participants are strongly encouraged to submit feedback and begin evaluating how this could impact their operations. Following the comment period, DHS will respond to feedback before publishing the final rule adoption.

Providers currently licensed under multiple regulatory frameworks should assess their eligibility for the new license and consider strategic planning for consolidation or expansion.

Our team is actively monitoring developments and advising clients on preparing for this transformative regulatory change.

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