



Editor: Diane Slomowitz

TAX FILING TIPS



By Bailey M. Larsen

No one knows the future of the Tax Code.

But we all should know that the April 18, 2017 tax filing deadline is rapidly approaching!

While tax season may not be your favorite time of year, the following tax filing tips can ease the process and prevent the assessment of tax penalties.

File on time. Individual tax returns are due on April 18th

this year.

File your returns on time to prevent the assessment of a late filing penalty.

Don't delay. Even though you have until April 18th to file your returns, do not wait until the last minute to file them.

If you rush to beat the deadline, you may miss out on tax savings, forget to include necessary information, or make another common mistake.

An error can delay the receipt of your refund, or could cause the IRS to further audit your tax return.

File for an extension. If you do not have all of the information necessary to complete your returns by April 18th or are otherwise not able to complete your tax returns by April 18th, you can file for an automatic six-month extension. Your extension must be filed by April 18th.

Note that if you anticipate that you will have a balance due on your tax return, you *must pay* any amount of tax liability due upon filing for the extension.

Make any payments due by April 18th. If you owe taxes but cannot pay the full amount

due by the April 18th due date, you should nevertheless file your returns on time, make a payment as large as possible, and apply for an installment payment agreement with the IRS.

Your payment will reduce potential penalties and interest charges.

Consider making a contribution to an IRA or other retirement plan. You can make IRA and certain other retirement plan contributions right

Continued on page 2

BIWEEKLY PAYCHECKS CAN CAUSE HEADACHES FOR EMPLOYERS



By Diane Slomowitz

Biweekly paychecks. Employees receive paychecks on the same day (say, Friday) every other week.

Depending on leap years, which day of the week payday falls on, and employer payment policies, biweekly paychecks can be complicated, time consuming and frustrating for employers.

Take leap year. Leap years

cause biweekly payroll problems every 11 or 12 years.

In 2016 leap year added an extra day to the calendar, via Monday, February 29.

For employers paying employees biweekly on Mondays, 2016 had 27 paydays, not 26.

To confuse matters more, take New Years. In 2016, for example, January 1 fell on a Friday.

If a biweekly Friday payday employer's policy provided that, when paydays fall on a

holiday paychecks are issued the previous business day, a 27th biweekly payday could have occurred in 2015.

This means that an employee could receive an extra paycheck.

Hourly workers are not affected by the number of paychecks they receive. But salaried employees can be.

An extra paycheck could give such employees more "cash in hand."

But that extra payment could

result in an employee's exceeding the maximum annual 401(k) or health savings plan allowed contribution.

While 2017 will have 26 biweekly pay periods, employers should look ahead to whether they will have 26 or the odd 27 pay periods in a subsequent year.

For an extra paycheck year, employers should first look to an employee's contract to see whether it requires biweekly

Continued on page 3



OVERTIME RULE DELAY: WHAT DOES IT MEAN FOR YOU?

Many business owners spent the second half of 2016 prepping and planning for the sweeping so-called “white collar” overtime rules to go into effect on December 1, 2016.

But a ruling at the end of November by a Texas federal judge put the proposed changes on hold. They have been on hold ever since.

This, with the recent moves to ease regulations, may signal a permanent block to the rule changes.

What does all of this mean for your business?

As recounted in this newsletter’s Winter 2016 issue by FOS attorney Mike Koutnik, on May 18, 2016 the Labor

Department made drastic overtime rule changes for certain administrative and professional employees.

The new rules raised the threshold for exempting employees from overtime pay requirements from \$23,660 per year to \$47,476 per year.

By more than doubling the pay threshold, the new rules made millions of Americans eligible for mandatory overtime pay.

The federal court’s ruling staying the imposition of the rule changes left many employers and employees in the lurch.

Those that anticipated the rule change and gave (or received) raises to avoid the new over-

time requirements, may be asking whether the increase in salary must be continued.

Does the court ruling harm businesses that were proactive in their approach to the rule change?

Does the benefit to employee morale outweigh any minor preemptive financial changes?

Those businesses that made the tough decision to move salaried employees to hourly positions, may be asking if it is legally safe to make the switch back.

How will employees receive that information? What if the court ruling is reversed or the rule changes again?

Practically, all those tough

conversations and decisions about the new rule may now seem pointless.

As a matter of law, employers are currently only obligated to comply with the previous \$23,660 threshold for mandatory overtime pay.

As a matter of principle, on the other hand, employers who made anticipatory salary changes will have to determine if it is wise, in business, employee morale and other senses, to return employees to their pre-rule status.

And, although not ideal, as a practical matter all we can do is wait and see, including whether the current administration supports, or more likely opposes, the now-in-limbo rules.

Tax Tips?

Continued from page 1

up to the tax filing deadline and include them in your 2016 tax return in order to reduce your taxable income.

For 2016, the maximum IRA contribution is \$5,500 (\$6,500 if you are age 50 or older by the end of the year).

If you have any questions related to filing your 2016 tax returns, contact your FOS CPA tax attorneys to assist you.

YOUNG TOP RATED



FOS shareholder **Allan Young** has been named a 2016 Top Rated Lawyer in taxation law by ALM Media Properties, LLC.

Al’s honor was based on his obtaining the highest possible (“AV”) rating from his legal peers.

ALM Media Properties, LLC is an attorney review and promotion organization.

TAKE INSPECTION CONTINGENCIES SERIOUSLY

Offers to purchase typically condition a purchase contract on a third-party’s physical inspection of the property.

If the inspection discloses a material deficiency under the offer, depending on the offer language, the buyer may rescind the offer and obtain return of the earnest money.

Or, depending on the offer language, the buyer may require that the seller fix the problems within a certain number of days.

If the seller balks, the buyer

could, again, call off the deal.

Even provisions appearing straightforward, may be rife with pitfalls for both buyer and seller.

For example, a defect or deficiency to the buyer may be an innocuous trifle to the seller. And the parties may differ as to whether a problem has been adequately fixed.

Your FOS attorney can draft the best real estate contract for you and guide you through any inspection issues.

EASEMENTS DON'T LAST FOREVER



By Michael G. Koutnik

You and your neighbor both access the street through a driveway which is located on the neighbor's property.

To confirm your right to use the driveway, your neighbor has provided you with an easement approved by your FOS attorney.

Now that the easement is recorded, you're done, right?

Not necessarily.

Under an often overlooked Wisconsin statute, an easement must be reaffirmed every 40 years or its enforcement rights will be lost.

Section 893.33(6) does two things. It states that actions to

enforce easements can be brought for 40 years after the easement's recording.

It also provides that a re-recording of the easement within the 40-year period will allow an action to be filed for 40 years from the re-recording.

This means that if no action is taken in those four decades, your rights in an easement—your driveway access—will be lost.

This is true, according to the Wisconsin Court of Appeals, even if you purchased the property during the easement's lifespan, did not know about the statute, and/or used the easement after its statutory expiration without objection.

But if you re-record the easement 39 years after its first

recording, your practical enforcement period will be extended 40 years after that re-recording.

So, those with easement rights should be sure to re-record any easements affecting their property within 40 years (even earlier is better) after the most recent recording or re-recording of that easement.

40 years is a long time. Why bother?

Because you may buy a piece of property to which an easement was recorded 35 years prior. Then, you would only have five years to act before losing easement rights.

Or, you may own a piece of land which you intend to remain in your family for generations. You can only protect your family's easement rights

by re-recording any easements as required.

If you benefit from (or are subject to) an easement and have questions regarding its viability, contact your FOS attorney.

"FIELD OF DREAMS" ALS FUNDRAISER TO HONOR BRUCE O'NEILL

Bruce O'Neill's birthday would have been March 31, 2017. To honor Bruce, and raise funds to find the cure for ALS, the O'Neill family has rented the Times Cinema for March 30, 2017.

The movie will be "Field of Dreams," one of Bruce's favorites. Baseball, literature, magic, cornfields; what more do you need?

Doors open at 6:30 p.m. Space is limited. Suggested contribution is \$25; each \$25 contributed to ALS Wisconsin gets a chance to win FOS's first-row seats for the April 3, 2017 Brewers Opening Day game.

See you there!



Biweekly Paychecks

Continued from page 1

payments. If it does, those payments should continue, even with the extra paycheck.

If a contract provides for an annual salary, or there is no contract, an employer can consider whether to prorate annual pay over 27 pay periods instead of 26.

This decision will depend, among other things, on the impact of wage and overtime laws on lower prorated

paycheck amounts.

Also, employee morale may be affected if the employer does not explain the reason for its paycheck "reductions" to account for a 27-paycheck year.

To avoid these problems, employers should consider moving from biweekly to twice monthly pay periods.

Twice monthly pay policies ensure that employees receive two, and only two, paychecks per month.

Before changing pay period

policies, however, employers should make sure the change complies with any employment contracts.

Don't make a change in the middle of a 27-paycheck year, but in a year with 26 pay periods.

And make changes prospective, not retroactive.

Contact your FOS attorneys if you have questions or concerns about your business' pay procedures.



622 N. Water Street
Suite 500
Milwaukee, WI 53202
Phone: 414-273-3939
Fax: 414-273-3947
www.foslaw.com

Fox, O'Neill & Shannon, S.C. provides a wide array of business and personal legal services in areas including corporate services, litigation, estate planning, family law, real estate law, tax planning and employment law. Services are provided to clients throughout Wisconsin and the United States. If you do not want to receive future newsletters from Fox, O'Neill & Shannon, S.C. please send an email to info@foslaw.com or call us at (414) 273-3939.

Address label

IN THIS ISSUE

Page 1 Tax Filing Tips/Biweekly Paychecks Can Cause Headaches

Page 3 Easements Don't Last Forever/O'Neill Fundraiser

Page 2 Overtime Rule Delay: What Does It Mean For You?

Page 4 Dead Man's Statute Will Soon Be Dead/FOS In The News

This newsletter is for information purposes only and is not intended to be a comprehensive summary of matters covered. It does not constitute legal advice or opinions, and does not create or offer to create any attorney/client relationship. The information contained herein should not be acted upon except upon consultation with and the advice of professional counsel. Due to the rapidly changing nature of law, we make no warranty or guarantee concerning the content's accuracy or completeness. This communication may be considered advertising for legal services in some jurisdictions.

THE DEAD MAN'S STATUTE WILL SOON BE DEAD

FOS IN THE NEWS



By Lauren E. Maddente

Imagine that you and your siblings grew up learning the ins and outs of your father's furniture business, and eventually joined your father in its operations.

Now imagine that your father often said that he wanted the business to stay in the family, even after his death.

Further imagine that, during an exceptionally profitable year, your father dies. And your short-sighted siblings vow to sell the business.

Until recently, Wisconsin's

Dead Man's Statute would have prevented you from testifying as to your father's statements regarding the business.

The Statute prohibited "interested" persons from testifying to any prior "transaction or communication" with someone now dead.

It also prohibited an interested shareholder, officer, or trustee from testifying to prior communications or transactions, affecting business interests, with one now dead.

Effective July 1, 2017, however, by virtue of the Wisconsin Supreme Court's Order, the Dead Man's Statute will be

repealed. The truth or falsity of an interested person's testimony regarding a decedent will then be allowed, measured under the same standards as other testimony.

It will also bring Wisconsin in line with the roughly 37 other states that repealed or never had such a statute.

The Statute was intended to "protect" a decedent who could not protect himself.

Its repeal, however, nonetheless, will allow consideration of all relevant facts in a case.

FOS associate **Lauren Maddente** has become a member of the Association for Women Lawyers' community outreach committee.

FOS shareholder **Matthew O'Neill** gave a presentation regarding the Electoral College to the Marquette University Law School Federalist Society on February 22, 2017.

FOS attorneys are available to speak on various legal topics for your company or organization. If interested, contact Judy Janetski at jkjanetski@foslaw.com.