

MILLER, MONSON, PESHEL, POLACEK & HOSHAW

A PARTNERSHIP OF PROFESSIONAL LAW CORPORATIONS

FEBRUARY 2017 NEWSLETTER

501 WEST BROADWAY, SUITE 700
SAN DIEGO, CALIFORNIA 92101-3563

TELEPHONE: (619) 239-7777

FAX NUMBER: (619) 238-8808

IN THIS ISSUE

- Time to Update Your Business Records *by DeEtte L. Loeffler, J.D., LL.M., Taxation*
- Federal Tax News *by DeEtte L. Loeffler, J.D., LL.M., Taxation*
- State Tax News *by DeEtte L. Loeffler, J.D., LL.M., Taxation*



Time to Update Your Business Records

by DeEtte L. Loeffler, J.D., LL.M., Taxation

If you own a closely-held business, this is a great time to review your legal records for the entity and make sure they are complete and filed away where you can find them. Here are a few of the things you want to look for and complete (if they have not yet been done).

Statement of Information. If you own a California entity, you are required to file a Statement of Information with the Secretary of State to verify your key business information including the current business address, officers or managers, and agent for service of process. Corporations are required to file this form annually, by the date on which they were formed. For example, if the corporation was formed on January 3, 2001, you must file your form SI550 no later than January 3 of each year thereafter. Limited liability companies (LLCs), general partnerships (GPs) and limited partnerships (LPs) are required to file an LLC-12 or LP-2 every other year.

Statements of Information for corporations can now be filed electronically on the Secretary of State's website. Go to <https://businessfilings.sos.ca.gov/>. Forms for partnerships and limited liability companies

must still be completed on paper. Forms can be found at <http://www.sos.ca.gov/business-programs/business-entities/forms>.

Meeting Minutes. It is important to treat your business as separate from yourself. One important way of doing this is to hold annual or more frequent meetings to make decisions for the business and to keep minutes of these meetings. The Operating Agreement for your business may provide specific requirements for how meetings are to be conducted. Be sure to comply with these requirements. Usually, decisions regarding who will serve as officers and managers should be reflected in these minutes, as should decisions regarding distributions, admission of new members, or the sale/purchase of major assets. Minutes should be signed by the secretary and kept with your other key business documents (such as your Articles, bylaws, operating agreement, and key employment agreements). If you are not certain what Minutes should look like, your attorney can assist you to prepare them or can provide a sample for your use. Annual meetings must generally be held around the anniversary of the formation of your business unless another date is specified in the Operating Agreement or agreed to by the owners.

Income Taxes. Your business is required to file income tax returns annually, even if it is "just a pass through" entity which allocates all of its income and losses to the owners individually. Federal and state income tax returns are

generally due by April 15th of following the year in which the income was earned (although for 2017, the date will be April 18th). You should work with your tax preparer to ensure tax returns are filed and the appropriate tax forms provided to the business owners in sufficient time for them to complete their own income tax returns in a timely manner. Copies of business returns should be maintained with your other business records for at least 3 years following the date on which the returns were filed.

Property Taxes. If your business owns real property (or is responsible for paying the taxes on a long term or triple net lease), taxes are assessed on January 1 for the following fiscal tax year (which runs from July 1 to June 30 of the following year). Tax bills are mailed in February and November, with tax payments due no later than December 10th (first installment) and April 10th (second installment). If you make improvements during the tax year, additional assessments may be imposed. Keep copies of all property tax payment records for at least 3 years and for at least 7 if improvements were made to the property.

Amend Partnership or Operating Agreements. If the nature of your business, or its size, has changed in the last 12 months, review your business documents to ensure they meet your current situation and business goals. Changes in the law may also affect your business, so it is wise to consult with your business attorney to ensure your business documents are in compliance with current law. If any ownership interests have changed hands, it is wise to amend your Partnership or Operating Agreement (or to issue stock for a corporation) to reflect the new ownership interests. If your agreement includes a price for purposes of a buy-out, you should confirm this price is accurate based on the current value of the business. Making these updates annually will ensure your CPA can properly allocate taxable income and will simplify matters in the event of a dispute between owners or a creditor claim.

FEDERAL TAX NEWS

by DeEte L. Loeffler, J.D., LL.M., Taxation

Income Tax Returns Due April 18th. The federal income tax filing season will open on January 23rd of this month. Under a new law, the IRS will not begin issuing refunds for those claiming the Earned Income Tax Credit (EITC) or the Additional Child Tax Credit (ACTC) until February 15th and the IRS estimates no refunds will be received before the end of February. Tax returns will again be due on Tuesday April 18th, because April 15th falls on a Saturday and Monday the 17th is a holiday in Washington DC.

IRS Announces New Lower Standard Mileage Rates. The IRS released the following new, lower standard mileage rates for business, charity, and medical purposes for 2017:

- 53.5 cents per mile for business miles driven (it was 54 cents in 2016);
- 17 cents per mile driven for medical or moving purposes (it was 19 cents in 2016)
- 14 cents per mile driven in service of charitable organizations (no change).

Alternatives to the Home Mortgage Deduction Investigated. The home mortgage deduction has been under attack for several years as a benefit that disproportionately benefits upper income taxpayers. On December 6, 2016, the Tax Policy Center published a report sponsored by the National Low Income Housing Coalition. The report evaluated three alternatives to the current home mortgage deduction: (i) permitting a 15% non-refundable interest credit on up to \$1 million of debt, (ii) lowering the permissible debt to \$500,000, and (iii) a combination of these two options. The report determined a tax credit would benefit the most taxpayers. The report concluded that all three options would increase tax revenue over the next ten years, with the most to be raised by applying both the 15% credit and the lower cap on eligible debt (estimate in the report at \$241 billion over the next 10 years). The report estimates that 42-49% of the increased revenue would come from residents of just three states: California, New

York and New Jersey, where housing costs tend to be greater, with the average tax increase in California being \$2,100. While the source of funding for the report is not exactly neutral, they are correct that the mortgage deduction is one of the federal government's larger tax expenditures. We anticipate this particular tax benefit will continue to be scrutinized closely as a potential source of increased revenue in the year ahead.

STATE TAX NEWS

by DeEtte L. Loeffler, J.D., LL.M., Taxation

Sales Tax Rate Drops. The state sales tax rate dropped by 1/4 of one percent (0.25%) to 7.25% on January 1, 2017 due to the expiration of Prop 30. Counties may add to the tax. For 2017, rates in San Diego County are 7.75%, down from 8.0%.

California Saw Increased Job Growth in 2016. California saw an increase in jobs and a decrease in unemployment in 2016. The Employment Development Department reported the unemployment rate at 5.3 percent (a drop of 0.2 percent since 2015). Job growth increased by 2.3 percent, which amounted to 377,200 more jobs than in 2015.

San Diego Cannot Tax Travel Website Fees. San Diego has attempted to extend its hotel occupancy tax to any fees added by online travel websites (such as Hotels.com). In December 2016, the court ruled that taxes can only be collected from the hotels themselves and not the additional charges found on independent websites. There are instances in which travel websites will charge a higher rate than the retail rate for a hotel room. With the new court ruling, San Diego can only collect taxes from the retail rate and not the inflated rate.

Disclaimer: This newsletter is provided to share knowledge and expertise with our colleagues with the goal that all may benefit. The content of this newsletter is for general informational purposes only.

The information contained within this newsletter is not intended to serve as legal advice or as a guarantee, warranty or prediction regarding the outcome of any particular legal or tax matter. Nothing contained within this newsletter should be used as a substitute for legal advice and does not create an attorney-client relationship between the reader and Miller, Monson, Peshel, Polacek and Hoshaw. Legal advice depends on the specific facts and circumstances of each individual's situation. You should not rely on this newsletter without first consulting with a qualified, licensed attorney.

MILLER, MONSON, PESHEL, POLACEK & HOSHAW

A Partnership of Professional Law Corporations
Providing quality legal services since 1959

THOMAS M. MONSON
MARY J. PESHEL
TIMOTHY C. POLACEK
WILLIAM D. HOSHAW†
SUSAN L. HORNER
DeETTE L. LOEFFLER
BRADFORD N. DEWAN
JUDY S. BAE
PHILIP R. FREDRICKSEN†
†OF COUNSEL

RALPH GANO MILLER
1926 - 2016

<http://www.mmpph.com>

©Miller Monson Peshel Polacek & Hoshaw, 2017

