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Quarterly Newsletter

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Law Targets Identity Theft

You open your mail and suffer a horrible shock. A credit card statement appears for a card you never applied for and, worse yet, the statement includes a bill for thousands of dollars of merchandise that you never purchased. When you check your credit record, you find dozens of unpaid bills that aren't yours. You are refused loans, housing, cars, and even job opportunities on the basis of a terrible credit record that isn't your fault. Welcome to the not-so-wonderful world of identity theft.

What Is Identity Theft?

Consumers should be aware of the growing problem (some have called it an epidemic) of identify theft or ID theft. It occurs when a person takes another's personal information to commit fraud or theft. If your credit card has been out of your hands (for example, taken by a waiter), someone may run it through a small device that can read the magnetic stripes on the back of credit cards. These devices, called "skimmers," are readily available, and sell for around $300. The "skimmer" can then load the data onto another credit card to use at will.

The identity thief then makes purchases and ruins the victim's credit by not paying the bills. There is also a new type of identity theft called phishing. The word comes from an analogy: fraudsters use email lures to "fish" for confidential passwords and financial data from a "sea" of Internet users. A typical example is when a consumer receives an e-mail telling her that she needs to update her account information for a bank or PayPal account. The e-mail contains a link. If the consumer clicks on the link, she is directed to a copycat website (which looks like a bank's website) that asks for personal account information. The consumer might be asked to fill in her credit card details, address and password. This information will then be used for identity theft. Up to one in twenty people who receive such an email fall for the scam.

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Taking Care of Your Business's Legal Needs

As a business owner, you're probably always on the lookout for ways you can save money and minimize risk. One of the best ways to do both of these things is to anticipate legal problems and cut them off before they become a big deal.

From time to time, ask us to do a review of the legal side of the business. This kind of legal audit can uncover omissions that could be troublesome, such as the absence of corporate minutes. It can point out changes you need to make in documents as a result of new laws and regulations. And it can provide you with the opportunity to discuss potential problems and be better able to deal with them, at an early stage when they can be resolved efficiently and cost effectively.

Some companies do a legal audit a month or so before the end of the company's taxable year. This enables the audit to include year-end tax planning issues. You can often save substantially on taxes by either completing a transaction in the current tax year or deferring the transaction until the next taxable year.

Many businesses have the audit done a month or so before the company's annual meeting and use the audit as a planning vehicle for action that needs to be approved at the annual meeting.

Here are just some of the issues you can review in your legal audit:

- basic constituent documents, such as the articles of incorporation, bylaws and stock transfer records of a corporation, the articles of organization and operating agreement of a limited liability company or the partnership agreement of a partnership. Reviewing these periodically can disclose issues that need to be addressed
- because of changing circumstances or laws. It might even be advisable to change from one kind of business (a partnership, let's say) to another (a corporation);
- employment agreements;
- all leases, licensing agreements and other contracts with third parties, with particular emphasis on termination dates, renewal options and the like;
- insurance policies;
- all standardized contract forms used by the business, for example, purchase order forms, warranties, brochures and the like;
- internal policy and procedural manuals, for example, an employee policy and procedure manual, or an antitrust compliance handbook;
- transactions that require additional documentation, such as official minutes;
- regulatory compliance—for example, assumed or trade name filings, environmental regulations, ERISA problems, Securities and Exchange Commission requirements;
- structural changes in the business organization—for example, conversion to another business form, adoption of a retirement plan or a fringe benefit plan;
- filing of annual reports with the Secretary of State and other regulatory bodies;
- tax planning issues, for example, S Corporation status, legal audit, alternative minimum tax review;
- filing of tax returns, licenses and reports;
- pending and potential litigation involving the company; and
- recent legal developments affecting the business.

When the "Legal" Light Flashes

Besides your periodic legal audit, you're well advised to be sensitive to problems that *might* have a legal dimension. Make it a practice to call us when certain kinds of issues come up, set out the facts, and ask for guidance. Most of the time, at the cost of a few minutes of our time, you'll learn it's either nothing to worry about or something you can deal with by taking a few precautions. If it is a problem, you'll be able to work with us to solve it before it becomes bigger. Here's a list of major actions/transactions where you should at least strongly consider getting legal help.

- Assessing and negotiating franchise agreements;
- Creating standardized forms such as purchase orders and contract confirmations that the company will use in the business;
- Buying or selling a business;
- Negotiating loan terms;
- Negotiating leases of land or equipment;
- Buying or selling property;
- Negotiating agreements to license others to use patents, trademarks or other intellectual property rights that you own, or negotiating to obtain a license to use rights from someone else;
- Negotiating other types of contracts;
- Responding to a lawsuit that's been filed or one that is seriously threatened (responses might involve negotiating with the other side, coming up with legal strategy, filing appropriate motions in response to the other side's motions, conducting pretrial steps, etc.);
- Filing a lawsuit on behalf of the business;
- Dealing with the government over a serious issue (e.g., something important involving how the business is regulated);
- Dealing with tax authorities over a serious issue;
- Seeking new investors (raises issues under securities laws);
- Opening offices or beginning to do business in other states or countries;
- Devising strategies for dealing with a business in trouble (bankruptcy and other options);
- Making provisions to pass along your business interests to family members, minimize taxes upon death (estate planning).

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The Law

The good news is that federal laws have been passed to make identity theft a crime. Identity theft is illegal under the Identity Theft and Assumption Deterrence Act of 1998. The Fair and Accurate Credit Transactions Act provides that consumers can issue a one-call fraud alert to one of the three nationwide consumer-reporting agencies, Equifax, Experian, or Trans-Union. The fraud alert requests creditors to contact you before opening any new accounts or making any changes to your existing accounts. Another provision of the law requires financial institutions and creditors to institute "reasonable policies and procedures" for "red flag" guidelines regarding identity theft. In 2004, the Identity Theft Penalty Enhancement Act was signed into law. It provides greater penalties for identity thieves. It creates the crime of "aggravated identity theft" punishable by up to two years in prison when committed in connection with other felonies. Many states have also passed ID theft laws. Arizona passed the first such law in 1996. You can contact a local consumer protection agency or attorney general's office, or ask us, to learn more about the laws in your jurisdiction.

How to Avoid Identity Theft

Being aware of the risk of identity theft and looking out for it is one way in which you can reduce the risk of it happening to you. There are several steps you can take to minimize exposure to identity thieves:

1. Sign new credit cards as soon as they arrive. Cut up and throw away expired credit cards. Destroy all unused pre-approved credit applications.

2. Keep a list of your credit card numbers, expiration dates, and the toll-free telephone number of each card issuer in a safe place, so that you can report missing or stolen credit cards and possible billing errors

3. Use passwords for your bank and credit card accounts. Do not use easily obtainable passwords such as your mother's maiden name or the name of your spouse.

4. Don't lay your credit card down on a counter or table. Hand it directly to the clerk or waiter. Keep an eye on your card after you give it to a clerk. Make sure that he or she imprints only one charge slip and, if he or she makes an error and has to imprint a second charge slip, tears up the first one. Take your card back promptly after the clerk is finished with it, and make sure that it is yours.

5. Never leave your credit card or car rental agreement in the glove compartment of a car. Never leave your credit card in an unlocked desk drawer, grocery cart or hotel room

6. Open credit card bills promptly, and compare them with your receipts to check for unauthorized charges and billing errors. If your monthly statement doesn't arrive on time, call the issuer immediately.

7. Write or telephone the card issuer promptly to report any questionable charges. As a practical matter, most consumers would prefer to call the card issuer's 800 number for billing questions, and most disputes can be settled in this way. (You can find the correct 800 number on your billing statement.) However, written inquiries will leave a better paper trail and better preserve your legal rights. Written inquiries should not be included with your payment. Instead, check the billing statement for the correct address for billing questions. Either a written or telephone inquiry must be made within 60 days of the statement date.

8. Never give your credit card or checking account number over the telephone unless you make the call. Never put your credit card number on a postcard or on the outside of an envelope.

9. Do not write your credit card number on your check, and do not allow the merchant who takes your check to do so either.

10. If any of your credit cards is missing or is stolen, report the loss as soon as possible to the card issuer. Follow up your telephone calls with a letter to each card issuer. Send each letter by certified mail and keep a copy. The letter should contain your credit card number, the date the card was missing and the date you called in to report the loss.

11. If you do not receive a bill from a regular creditor, contact your creditor to make sure that they still have your current address. An identity thief may have changed your billing address.

Steps to Take if You are a Victim

If you discover that you are a victim of identity theft, you should take immediate steps. First, notify the card issuer. Contact the fraud departments of any one of the three major credit bureaus, and ask them to place a fraud alert on your card. Close the accounts that have been opened without your knowledge, or any accounts of yours that have been tampered with. Call the Federal Trade Commission's Identify Theft Hotline toll-free at 1 877 IDTHEFT. Then, file a police report. Make sure you get a copy, so that you can show it to your creditors as evidence of identity theft. Our firm can help you take any of these steps.

If you are a victim of identity theft, you will have to spend time and money to repair your credit record and clean up the mess made by an identity thief. The best offense is a good defense: be aware of identity theft; keep close track of your credit card records; and report any suspicious activity on your card immediately.

Advantage ACCS Computer Consulting Services

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- **Computer Repair and Upgrades**
- **Software and Hardware Installation**
- **New Desktop and Laptop Setup**
- **Virus and Spyware Removal**
- **Wired & Wireless Networks**
- **Server Setup and Design**
- **LAN/WAN Design & Implementation**
- **Network Administration Services**

Lowering Taxes on Your Property

In every state, property taxes help pay for schools, police protection, fire fighting and other services. While we may disagree strongly on how much we should be taxed for these services, we all agree that the system should be fair. Owners of similar properties should pay similar taxes. But collecting property taxes involves a complex process of assessment, and mistakes are made all the time. This article will help you understand how the system works. We will be able to advise you on what to do if your tax bill seems to be out of line, and could help you save hundreds or even thousands of dollars.

The Assessment Process

In most states the assessor or board of assessors, who are local government officials, place a value on your property for tax purposes. Generally they follow a formula for assigning value. The local government then imposes a certain amount of tax per dollar of assessed value, which results in the tax bill you receive in the mail. The process of arriving at individual property tax bills is complex. Each property in the municipality is described on a "property record card." This includes a legal description of the land and the buildings and other improvements on the land, including square footage, construction materials, depreciation and other physical attributes. It may include a recent sale price or the assessor's estimate of the value of the improvements based on replacement cost. Each property is reassessed on a regular basis, whether every year or every three or four years. There's usually a complicated schedule for getting from appraised value to the dollar amount of taxes owed. After crunching all the numbers, city employees send you a notice of assessed value, followed before long by the actual tax bill. The Internet may help you here. If your county assessor has a web page, you may be able to compare the assessed value of your neighbors' homes and comparable homes in the area.

Fighting City Hall

But what if you think the tax levy is out of line? What if your assessment has jumped dramatically since last time but your neighbors' assessments haven't? The time to object is when you receive notice of assessed value. If you wait to receive the actual tax bill, it may be too late.

At this stage, procedures are usually informal. You can gather any evidence you think will show that your property isn't worth as much as the assessor thinks it is, and then present your argument.

Here's what you might want to look at:

Assessment notice. Look for obvious mistakes in the notice you received, such as an incorrect address or the wrong number of bedrooms.

Property record card. If your county assessor has the information posted on the Internet, check the record on your property. Otherwise, go down to the assessor's office and ask to see your property record card or a printout of the computer record. Make sure the acreage, square footage and other details are correct.

Special tax breaks. Some jurisdictions give tax breaks to certain categories of property owners, such as a 10 percent tax waiver for owner-occupied homes, for owners 65 and older, or for disabled veterans. Ask the assessor's office what breaks you qualify for and make sure that exemption is reflected in the assessment notice. Tax breaks aren't given automatically; you have to apply for them.

Property condition. Is your home overrun by termites or badly damaged by fire? The assessor might not know about it. Take repair estimates or photos with you to show that your house isn't worth what they say it is.

Comparable homes. Do a bit of research to learn what similar homes in your neighborhood have sold for recently. If you can't find it on the Internet, local real estate brokers should have sales information, or check with the county registrar of deeds. You can even ask at the assessor's office to see the assessed value of comparable homes. Be sure you have the address of each house you talk about, and if possible the tax parcel ID number (available from the county collector's office or the township assessor).

Appraisal. You may want to hire an appraiser to provide a second opinion on the value of the property. When choosing an appraiser, look for someone well qualified, with a reputation for competence, and who would be credible as a witness.

Tax Appeals

If your negotiations with the assessor don't go your way, you may be able to appeal the decision through an equalization board, assessment review board or board of appeals. Again, you'd present your evidence and explain why you believe your assessment should be lowered.

If that doesn't work and you really want to push it further, the next step would be taking it to a state court or tax tribunal. Consult our firm to find out what your options are and how to proceed.