PREPARED BY THE BUSINESS DEPARTMENT OF FITZGERALD, SCHORR, BARMETTLER & BRENNAN, P.C., L.L.O.

FSBB
SINCE 1888

BUSINESS WATCH

A Newsletter for Business Owners, Executives and Managers, Financial Consultants and Their Advisors

Summer , 2007

Inside this issue:

When the Feds Come Knocking 2
Recent Legislative session Not Just about Schools and Tax Cuts —New Legislation that will Impact Businesses 4
Dealing with Garnishment Summons 7
Employment Seminar Announcement 9
Our Services 10
In House 10

Fine? Indictment? Finding Safety in the New No-Match Letter Rule!

By Gregory B. Minter and Dustin J. Kessler

The "No-Match Letter"

Each year, employers are required to report wages for each employee on Form W-2 (Wage and Tax Statements). The Social Security Administration ("SSA") uses earnings information to determine eligibility for and the amount of Social Security benefits to which that worker may be entitled. Accurate earnings information is necessary to ensure that the SSA credits the correct earnings to the correct individual's record. Generally, employers file Form W-2 with the Internal Revenue Service ("IRS") between January 1 and March 31. Self-employed individuals report information on self-employment income to the IRS on Schedule SE. The IRS then sends this information to the SSA. Each year the SSA receives approximately 245 million wage reports on Form W-2 from employers, covering approximately 153 million workers.

The SSA sends processed Form W-2 data to the IRS on a weekly basis beginning in January. This file contains both employer and employee data. The file contains an employer record containing employer identification information, the W-2 records that were reported by that employer, and the total amount of wages reported for that employer's report.

Each W-2 record also contains an indicator that tells the IRS whether the name and Social Security Number ("SSN") of a given employee matches the SSA's records. If the combination of name and SSN on a Form W-2 does not match an SSA record, the SSA is unable to attribute the earnings to a worker's record. There are a number of reasons why reported information may not agree with SSA records, such as typographical errors, unreported name changes or inaccurate or incomplete employer records. Another potential cause may be the submission of information for an alien who is not authorized to work in the United States and who may be using a false SSN or a SSN assigned to someone else.

After the SSA processes the wage reports submitted by the employers, it attempts to resolve items that cannot be matched by sending letters to employees, employers and self-employed individuals to inform them when a reported name or SSN does not match SSA's records. These letters are referred to as "no-match" letters and their purpose is to obtain corrected information to help the SSA identify the individual to whom the earnings belong so that the earnings can be posted to the individual's earnings record.

Approximately two weeks after the release of the employee letters, the SSA sends employer no-match letters. Currently, these are sent to any employer who reported more than 10 no-matches that represented more than 0.5% of the W-2s submitted by that employer.

The Employer notice advises of the no-matches and asks for corrected information. The employer is asked to prepare Forms W-2c (Corrected Wage and Tax Statement) for each of the SSNs listed in the Employer notice that the employer is able to correct. This notice also specifically cautions employers that these letters do not make any statement about an employee's immigration status, are

(Continued on page 3)

When the Feds Come Knocking
By Matthew F. Heffron

Most of our clients are businesses or business people. Not one of them to my knowledge ever included in strategic business planning the possibility of going to jail or paying corporate criminal fines. So most businesses are bewildered by a government agent with a search warrant.

For most businesses this will never occur. For some, though, the odds are increasing for a run-in with federal criminal investigators. In the wake of a string of corporate scandals, the U.S. Department of Justice (DOJ) placed a heightened priority over the last few years on regulatory offenses and business crimes. Most recently, the focus is on employer-based immigration offenses, placing in the cross-hairs industries reliant on manual labor. DOJ-identified priorities typically filter to U.S. Attorney's Offices across the country – including the Nebraska and Iowa offices — and are punctuated by increased manpower to carry out investigations.

Corresponding to this build-up of investigators, federal investigations of businesses have become increasingly aggressive in the last few years. There are more search warrants executed on businesses, even businesses that are not targets of any grand jury investigation. Likewise, there are an increasing number of obstruction-of-justice charges filed against businesses, as well as against their lawyers.

The Nature of a Search Warrant

Both state and federal law enforcement agents may obtain a search warrant enabling them to search corporate offices upon the simple showing of "probable cause" that the search will yield evidence of criminal activity. "Probable cause" is the lowest of evidentiary standards, which, loosely translated, means evidence probably will be found on the premises.

As a general rule, law enforcement agents must have a search warrant, signed by a judge, before entering to conduct the search. Generally, the search must be conducted during daytime hours (although there is a provision for nighttime searches in rare circumstances). Law enforcement agents may conduct a limited search without a warrant where they have reason to believe that evidence is being or will be destroyed. In that case, they can perform a protective sweep and secure the premises while awaiting the arrival of a search warrant.

Responding to a Search Warrant

If you are one of the select businesses who have the pleasure of greeting federal agents with a search warrant in hand in the company's lobby, this is what you do:

1. **Call your lawyer and put him on the telephone with the agent.**

2. **Ask the law enforcement agents to wait until your lawyer arrives before starting the search.**

3. **Ask for identification.**

4. **Review a copy of the search warrant for accurate description of the premises and for items to be seized.**

5. **Instruct and dismiss on-site employees.**

6. **Monitor the search, taking copious notes.**

7. **Protect the attorney-client privilege.**

8. **Ask for copies of crucial operating documents, particularly computer backups.**

9. **Get a copy of the search warrant inventory before they leave.**

10. **Be ready for media inquiries.**

Now let's add some flesh to the skeletal instructions listed above.

1. Call Your Lawyer. Your business lawyer probably will not have a clue about

(Continued on page 6)

Matt Heffron works primarily in commercial litigation, trucking litigation and white-collar criminal defense. Formerly, he was a federal prosecutor for seven years and was chief of one of the criminal divisions of the U.S. Attorney's Office in Phoenix, Arizona.

No-Match Letter Rule

(Continued from Page 1)

not a basis for taking any adverse action against an employee, and that taking such action could subject the employer to anti-discrimination or labor law sanctions.

U.S. Immigration and Customs Enforcement ("ICE") sends a similar letter (currently called a ''Notice of Suspect Documents'') after it has inspected an employer's Employment Eligibility Verification forms (Forms I–9) during an investigation audit and after unsuccessfully attempting to confirm, in agency records, that an immigration status document or employment authorization document presented or referenced by the employee in completing the Form I–9 was assigned to that person. Under recently passed regulations, the SSA no-match letters for 2006 will be accompanied by an ICE no-match letter.

In the last year, ICE has significantly increased its enforcement actions with numerous worksite raids, including one at the Swift and Company facility in Grand Island, in an effort to target employers who are employing illegal aliens.

The "Safe Harbor Procedures"

The new regulation issued by the Department of Homeland Security ("DHS"), and now effective, is intended to provide "safe harbor procedures" for responding to no-match letters.

The employer under the regulation is placed in the "rock and a hard place" context. It must take action after receiving the letter or it may be, in the "total facts and circumstances test", deemed to have constructive knowledge of unauthorized employment in the event of a civil or criminal investigation. On the other hand, while the DHS says that it will not subject the employer to an action for discrimination if it follows the regulation procedures, that does not preclude a terminated employee from making such a claim. Certainly, if the employer precipitously terminates an employee named in the no-match letter, it may be subjected to a discrimination claim by both the government and employee.

The new regulation expands the definition of "constructive knowledge" of unauthorized employment in three situations: (1) the employee's request for the employer's sponsorship for a labor certification or visa petition; (2) receipt of a no-match letter; and (3) receipt of a no-match notice from the DHS. No safe harbor is available under the regulation for the first situation. Where the request is made by an employee who admits being unauthorized or where the request is inconsistent with information provided by the employee in the I-9 process, the employer may be charged with actual or constructive knowledge of unauthorized status if the employer permits the employee to continue such employment.

When the no-match letter arrives, the employer should immediately note the date of receipt on the letter and in its records. The response process starts on the date of such receipt. The DHS utilizes the date of the post mark of the letter to establish the 93-day period so it is important to document the actual date of receipt.

Within 30 days of such receipt, the employer must check its records to determine if the no-match resulted from its clerical error, contact the SSA to correct such error, and verify that the corrected name and Social Security number now match the SSA records. The employer should document the manner, date and time of such verification. It is also advisable to update the I-9 form or complete a new form (retaining the original) but do not do a new I-9 verification.

If the employer determines that the no-match was not the result of a clerical error, it must promptly request that the subject employee confirm that the name and Social Security number in the employer's records are correct. If the employee says the information is incorrect, the employer must correct

(Continued on page 5)

Gregory B. Minter practices in the areas of Corporate, Business, Securities and Immigration Law.

Dustin J. Kessler is a member of our Business, Securities and Immigration Departments.

Recent Legislative Session Not Just About Schools and Tax Cuts — New Legislation that will Impact Businesses

By Joshua W. Weir

While most media coverage of the most recent legislative session of the legislature focused primarily on changes affecting metro area schools and tax cuts, the legislature passed several bills that will directly affect businesses both large and small. The following is a brief summary of several bills passed by the legislature that may have an impact on your business.

Legislative Bill 674

LB 674 provides that an employer may use an employee's social security number only for state and federal tax purposes, and specifically prohibits the use of an employee's social security number in lieu of or in addition to an employee identification number.

However, the bill does not mandate a blanket prohibition on use of social security numbers. Use of social security numbers by employers is permissible with the following restrictions. Employers are prohibited from doing the following under the new law:

- Posting, displaying, or otherwise making available to the public or co-workers more than the last four digits of an SSN;
- Requiring an individual to transmit more than the last four digits of his or her SSN over the Internet unless encrypted or over a secure connection;
- Requiring the use of more than the last four digits of an SSN to access an Internet site unless a password or other unique identifier is also required; and
- Using more than the last four digits of an SSN as an employee number.

The amendment specifies that employers may only use more than the last four digits of a social security number for internal administrative purposes and commercial transactions voluntarily entered into by the employee to purchase goods and services from the employer. Administrative purposes are defined to include transmission to third parties for personal benefit and employment screening purposes. The internal administrative purposes exception does not permit the following uses:

- As an administrative number for occupational licensing;
- As an identification number for drug-testing purposes except as required by law;
- Storage in company files with unrestricted access or in files accessible by temporary employees who are not bonded or otherwise insured; and
- For posting company information.

An employer who utilizes an employee's social security number in violation of the act is guilty of a Class V misdemeanor, punishable by a maximum penalty of a $100 fine. LB 674 also provides that a conviction for misuse of an employee's social security number is admissible in a civil action as evidence of the employer's negligence.

Legislative Bill 255

LB 255 was passed in response to a recent Nebraska Supreme Court decision, *Roseland v. Strategic Staff Management*. The decision held that "accrued vacation time, which is part of an employment agreement, is due and payable as wages upon termination of employment."

The bill clarifies that all unused paid leave (i.e. sick leave) earned by an employee, other than unused vacation leave, will not be payable to the employee upon his or her departure from employment unless otherwise agreed to by the employer and employee. The jury is still out with regard to the treatment that Nebraska courts will give to "paid time off" policies which do not distinguish between sick and vacation leave … so, stay tuned.

Legislative Bill 265

LB 265 increases the state's minimum wage from $5.15 to $7.25 per hour over the next two years. Wages will be raised to $5.85 initially, then to $6.55 the next year and $7.25 the following year. LB 265 mirrors the new federal minimum wage.

Legislative Bill 497

LB 497 allows spouses and parents of military personnel deployed for 179 days or more the ability to take unpaid family military leave while the deployment is in effect. For employers with between 15 and 50 employees, up to 15 days of unpaid family military leave will be allowed. For employers of more than 50 employees, up to 30 days of unpaid family military leave will be allowed. Any employee who takes family military leave will be entitled to regain the position they held when the leave period began. An employer will not be able to discharge, fine or dis-

(Continued on page 9)

No-Match Letter Rule!

(Continued from page 3)

its records, advise the SSA of the correction and verify the match of the corrected information. Again, the employer should annotate the date, time and manner of taking such action.

Verification of the new corrected data may be made by accessing http://www.socialsecurity.gov/employer/ssnv.htm or by telephone at 1-800-772-6270.

If the employee says that the employer's records are correct, the employer must promptly tell the employee of the date of receipt of the no-match letter and advise the employee to resolve the discrepancy with the SSA no later than 90 days from the date of receipt of the no-match letter. Note that the employer is not obligated to tell the employee how to resolve the discrepancy.

If the discrepancy cannot be resolved within the 90 day period, the employer must complete a new Form I-9 using the same procedures as at the time of hire except: (1) the employee must complete section one and the employer must complete section 2 of the form within 93 days of the date the no-match letter was received; (2) the employer cannot accept any documents (or a receipt for a document) referenced in the DHS notification or any document containing a Social Security number specified in the no-match letter to establish employment authorization or identity; and (3) the employee must present a document that contains a photograph in order to establish identity or both identity and employment authorization. The new Form I-9 must be retained with the original Form I-9.

We suggest that the employer retain photocopies of all documents presented and attach them to the Form I-9. The date on the new Form I-9 will demonstrate compliance with the 93 day regulatory time.

If the employer cannot verify the employee's employment authorization, the employer has two courses of action. It can terminate the employee or retain the employee and risk the possible determination of constructive notice of unlawful employment and possible prosecution civilly or criminally for such action.

It should be noted that the DHS requires that the employer respond to the local DHS office to resolve any discrepancy raised in its notice. It may require a quicker response to its notice than the regulation provides for an SSA no-match letter.

The employer may seek to verify that the employee's name and Social Security number match at the time of hiring by going to the resources described above. Alternatively, it may join E-Verify, a rebranding of the Basic Pilot/Employment Eligibility Verification Program, which has been in existence since 1997.

The E-Verify Program allows participating employers to electronically compare employee information from the Form I-9 against the records of the SSA and DHS. Results are supposed to be returned in seconds. It is the only official U.S. government source that provides employers with real-time data that takes subjectivity out of verifying employment eligibility. It is not, however, a substitute for the Form I-9 process, which is still required.

Neither the E-Verify Program nor any other employment verification efforts by the employer, other than compliance with the regulation's procedure, qualify the employer for the safe harbor under the no-match regulation. However, these efforts are considered by DHS in respect to the "good faith" defense to employer sanctions.

The criminal penalty for any person who engages in a pattern or practice of hiring unauthorized aliens is a fine of not more than $3,000.00 for each unauthorized alien, imprisonment for not more than six months for the entire pattern or practice, or both, notwithstanding the provisions of any other federal law relating to fine levels. DHS and U.S. attorneys may invoke additional criminal sanctions in certain cases where they believe the conduct was willful and contumacious. One such sanction is a RICO charge.

Civil penalties for knowingly hiring an unauthorized alien are: First offenses – not less than $110 nor more than $1,100 for each individual with respect to whom the violation occurred. In setting the penalty, consideration is given to: (1) the size of the employer; (2) its good faith; (3) the seriousness of the violation; (4) whether the person was an unauthorized alien; and (5) the previous history of violation by the employer.

The AFL-CIO, ACLU, and other labor movements have filed an action in the U.S. District Court for the Northern District of California for a declaratory judgment that the regulation violates federal and U.S. Constitutional law and for a temporary and permanent injunction against the SSA sending the no-match letters and the enforcement of the regulation. On August 31, 2007, the Judge issued an order temporarily blocking the implementation of the regulation and stopping the SSA from sending out the no-match letters. A hearing to permanently bar implementation of the regulation is scheduled for October 1, 2007.

Please contact Greg Minter or Dustin Kessler if you have any questions about the no-match regulation or other immigration law questions. ▶

When the Feds Come Knocking

(Continued from page 2)

criminal matters. But with federal agents in the lobby, you will not have time to find one who does. Your lawyer ought to be able to get on the telephone with the agents and learn some information or at least slow them down until he or she can arrive. Tell your lawyer to find someone who has handled white-collar (i.e., business crime) investigations before. Do not accept his explanation that he can handle it – he can't. The subtleties of fending off a federal white-collar investigation are learned in the trenches, not from reading the law.

2. **"Wait Until my Lawyer Arrives."** While your lawyer is on the way to your business, ask the law enforcement agents at the door to identify the agent in charge of the search. Ask that agent, or have your lawyer ask on the telephone, to delay the execution of the search warrant until your lawyer can be present. You or your lawyer truthfully can tell the agent that the presence of counsel will make it easier to properly assist in gathering materials responsive to the warrant. (Don't be surprised, though, that some senior law enforcement agents may have difficulty withholding their laughter at the implication that a defense attorney may make the search run more smoothly.) If the law enforcement agents refuse to wait for the arrival of counsel, ask them at least to call the prosecutor concerning your request, before beginning the search.

3.**Ask for Identification of the Law Enforcement Agents.** Ask for all of the agents' business cards or other forms of credentials. If they don't all have business cards, write down the information listed on their "creds," (wallet-sized photo IDs carried by many federal agents), or information on the badges of state or local police. This could be important at a later time if the business, or corporate officers, are charged with a crime, and the search warrant needs to be challenged.

Also, ask for the name and telephone number of the prosecutor who is working with the investigation. If it is a federal search warrant, there almost certainly will be an Assistant United States Attorney ("AUSA") involved in the investigation. At the very least, there was one involved in authorizing the application for a search warrant. The attorney who will defend the case for you will want to contact that prosecutor soon after the search to determine a number of matters, including whether or not the client is a target of the investigation or merely a witness. Also, if a federal prosecutor is actively involved, it is a sign that this is a federally driven investigation, as opposed to one in which federal agents merely are assisting their state and local counterparts. If the case is likely to be prosecuted in federal court, the defense attorney's strategy is likely to change to some degree. If there is no federal prosecutor actively involved in the investigative stage, it may well be a state-driven investigation.

4. **Review a Copy of the Search Warrant.** Law enforcement agents are required to give a copy of the search warrant to the person whose premises are to be searched. After you get a copy, immediately review the search warrant thoroughly. Occasionally, the address listed or the description of the premises will be inaccurate. In that case, point it out to the agent-in-charge and tell the agent you believe the warrant is invalid and should not be executed. Also, review the search warrant closely concerning the items to be seized, so that you will be able to determine that only such materials actually are seized.

5. **Instruct and Dismiss On-Site Employees.** As soon as possible, gather together all on-site corporate officers and employees, preferably out of earshot of the searching agents. Send all non-essential employees home for the day. There is no work that will be accomplished the rest of the day and watching the search will be unnecessarily stressful and demoralizing to employees.

There also is the benefit that sending employees home will eliminate the possibility of law enforcement agents conducting interviews during the search. Many employees feel almost powerless to resist such an interview, under the oppressive conditions of the pervasive law-enforcement presence. No one can be forced by law enforcement to stay at the scene for more than a very short period of time. Otherwise, this would constitute a warrantless arrest, without probable cause. However, if the agents mistakenly require the corporate officers or employees to stay for more than a brief period, do not resist. It is not worth an obstruction-of-justice charge.

Ask all corporate officers and employees to inform you, or one of the corporate managers remaining on the scene, as soon as any government agent requests an interview. This will help your defense attorney know who the defense needs to interview and get a better idea of where the government's investigation is headed.

6. **Monitor the Search.** Make sure that someone is in charge of keeping a close eye on the manner in which the search is being conducted. Note what areas are being searched and what is being taken from each area. If you have a video camera available, or even a regular camera, record the search as it progresses. As the agents are searching,

(Continued on page 8)

Dealing with Garnishment Summons

By Thomas R. Ostdiek

Sooner or later any business with employees must deal with garnishments, subpoenas or other legal processes. Handling these matters is out of the normal experience of most small business owners and their staffs. Ignoring such legal processes or carelessness in responding to them can have significant consequences, however.

The most common legal process received by an employer is the garnishment of wages. Garnishment is the legal process by which a party owning a judgment against a person can obtain money owed to the party. The garnishment proceeding is commenced by causing a summons and garnishment interrogatories to be served on the employer of a person against whom a judgment has been obtained. The employer is required to answer the garnishment interrogatories by stating whether the judgment debtor is employed at the business. If the answer is "yes," the employer must then answer the interrogatories regarding the employee's wages.

It is imperative that the employer answer the garnishment by the deadline stated in the garnishment documents — in Nebraska, ten days after receipt of the summons and garnishment interrogatories – particularly if the judgment debtor is not employed at the time the garnishment is received. Failure to respond within ten days sets up a rebuttable presumption that the employer owes money to the judgment debtor. If the employer fails to file a response, the judgment creditor will often file a motion asking the Court to declare the employer liable for the entire judgment. Although the presumption can be overcome by proving in court that the judgment debtor is not employed by the business, the employer will incur attorneys fees and other costs to present its proof in court. Moreover, if the employer fails to show up at such hearing, a judgment may be entered against it for the entire debt owed.

Tom Ostdiek is a member of our Real Estate, Foreclosure and Bankruptcy Departments.

If the judgment debtor is an employee, the interrogatories related to wages owed the employer must be completed accurately. In addition to responding to the garnishment interrogatories, the employer must thereafter retain the portion of the employee's wages that are subject to garnishment and pay them into court upon receipt of an appropriate order. If the employer does not withhold the required amount from the employee's wages, the employer is nonetheless liable to the judgment creditor for the amount it should have withheld.

In Nebraska the garnishment is usually effective for an initial period of 90 days. That period can be extended an additional 90 days if the judgment creditor files a notice of extension during the last 15 days of the initial 90 day period. The garnishment expires at the end of the extension period. Thereafter, the judgment creditor must start the entire process over by causing a new garnishment summons and interrogatories to be served on the employer if money is still owed on the judgment.

Dealing with garnishment proceedings can be irritating and time consuming. However, ignoring a summons in garnishment or carelessness in responding thereto can have costly consequences. Every employer should have clear policies for handling garnishments. The attorneys at Fitzgerald, Schorr, Barmettler & Brennan, P.C., LLO can assist you with any questions or concerns you may have.►

When the Feds Come Knocking

(Continued from page 6)

and just after they leave, memorialize everything that happened, including conversations with the agents.

7. Protect the Attorney-Client Privilege. If you think certain documents being taken are covered by the attorney-client privilege, ask that the agents put those documents in a certain boxes or evidence pouches and that those documents be marked "privileged" and sealed at the time of the search. Such segregation of documents will assist in an immediate motion in court for the return of attorney-client documents after the search.

8. Ask for Copies. Ask to make copies of all documents essential to the continued operation of the business. This especially is true of computer files. Also, request to copy materials that are attorney-client privileged. Copy the most important documents first, as you may not be given much time (if you are allowed to do so at all).

The government normally is not required to return essential documents. And often, it takes a long time for busy law enforcement agents to complete their review of voluminous records taken from your business. Your business may be irremediably crippled by a delay in returning essential materials.

9. Get a Copy of the Inventory: The agents are required to leave an inventory listing all of the items seized. You will be able to compare the government's list against the list you were making during the course of the search warrant.

10. Prepare for a Media Inquiry. During the search warrant, or as you are waving good-bye to the departing agents, don't be surprised if you start receiving calls or visits from the news media. Certain members of the media have an uncanny way of arriving immediately in the wake of law enforcement. If your business is publicly traded, adverse publicity is likely to affect share price. Many localized businesses also will suffer in the bottom line because of adverse publicity. No matter what you say to the press, the business will suffer. But you can mollify that effect with a pithy statement prepared with an eye toward readability.

Depending on the newsworthiness of your business, consider assigning an appropriate management officer to draft a sound-bite. The search can be pretty monotonous at times, and one of the monitors could be assigned the task of drafting a media statement, without it detracting unnecessarily from the monitoring responsibilities. So long as it is truthful, the statement should include, "The corporation is cooperating fully with the investigation." "No comment" is almost always wrong, as it has a connotation of guilt to the general public.

Conclusion

Responding to a search warrant, or to any aspect of a white-collar investigation, is not a pleasant experience. Most businesses will never have to face it. But for those which do, being unprepared could make a bad situation much worse.

Please contact Matt Heffron if you have any questions. ▶

BUSINESS WATCH is published periodically by the Business Department of the law firm of **Fitzgerald, Schorr, Barmettler & Brennan, P.C., L.L.O.,** and should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only. You are urged to consult legal counsel concerning your own situation and any specific legal questions you have.

Questions, comments, and address changes can be directed to Larry P. Grill, Office Administrator, 13220 California Street, Suite 400, Omaha, Nebraska 68154-5228 (402) 342-1000.

Need a past article from *Business Watch*? Visit our home page at www.fitzlaw.com. Articles from the past two years of *Business Watch* or our sister publications *Tax Break* and *Legacy* can be located by topic.

New Legislation that will Impact Businesses

(Continued from page 4)

criminate against any employee who takes unpaid family military leave. During the leave period, employees will be able to maintain their benefits at their own expense.

Legislative Bill 223

LB 223 provides that, effective January 1, 2008, businesses employing 25 or more employees will be required to withhold for state income tax purposes at least 3 percent of gross wages paid (less qualified deductions), unless evidence is provided for a justifiable lower percentage.

Conclusion

If you have any questions regarding these or other new bills passed by the legislature and how they may impact your business, we would be happy to discuss them with you.►

Joshua W. Weir is a member of our Litigation and Real Estate Departments.

ANNUAL EMPLOYMENT LAW SEMINAR

Fitzgerald, Schorr, Barmettler & Brennan, P.C., L.L.O., will present its annual Employment Law Seminar on Thursday, September 27, 2007. The seminar is free and open to all interested persons. The seminar will begin at 1:30 p.m. at the Georgetowne Club and will provide timely updates concerning several employment related topics. A wine and cheese reception will follow.

For reservations or information, please contact Anne Massengale
at (402) 342-1000.

PREPARED BY THE BUSINESS DEPARTMENT OF FITZGERALD, SCHORR, BARMETTLER & BRENNAN, P.C., L.L.O.

13220 California Street,
Suite 400
Omaha, Nebraska 68154

Phone: 402-342-1000
Fax: 402-342-1025
Email: fitzlaw@fitzlaw.com

We're on the Web!

www.fitzlaw.com

Our Services

Business
*Business Counseling
*Corporations, LLCs & Partnerships
*Entity Taxation
*Business Succession Planning
*Dispute Resolution & Litigation
*Financing & Lending
*Business Contracts

Employee Benefits
*Defined Contribution & Defined Benefit Plan Documents
*Consulting on Operation & Correction of Retirement Plans
*Retirement Benefits for Executives & Tax-Exempt, Religious & Governmental Employees

Immigration Law
*Business/Employment
*Employer Sanctions
*Family & Medical
*Consular Practice

Intellectual Property
*Trademark & Copyright Registration
*Computer Software Protection & Licensing
*Contracts & Licenses
*Trademark, Patent, Copyright & Computer Litigation

Securities
*Private Placements
*IPOs & Registered Offerings
*Federal & State Securities Issues & Litigation
*Industrial Development & Other Bonds

Employment Law
*Employee Policies
*Hiring – Firing
*Discrimination Prevention/Complaints
*Employment Contracts
*Labor Disputes

Public Bodies
*Municipalities
*Local Government Transactions
*Post Secondary Educational Institutions
*Governmental Financing

Real Estate
*Conveyances
*Development
*Leasing
*Like-Kind Exchanges

IN HOUSE

Camille R. Hawk, Thomas R. Ostdiek and Matthew J. Boever are the presenters of a Lorman seminar entitled “Foreclosure and Repossession in Nebraska” scheduled for December 7, 2007.

Bruce D. Vosburg has been elected to the Board of Directors of the Nebraska Appleseed Center for Law.

Gregory B. Minter has been reappointed to the Business Visa Advocacy Committee of the American Immigration Lawyers Association for another one year term.

Frank J. Mihulka has been appointed as Nebraska State Chair for the American College of Mortgage Attorneys and recently completed an update of the Nebraska section of ACMA’s National Mortgage Law Summary handbook.