

Santa Barbara Lawyer

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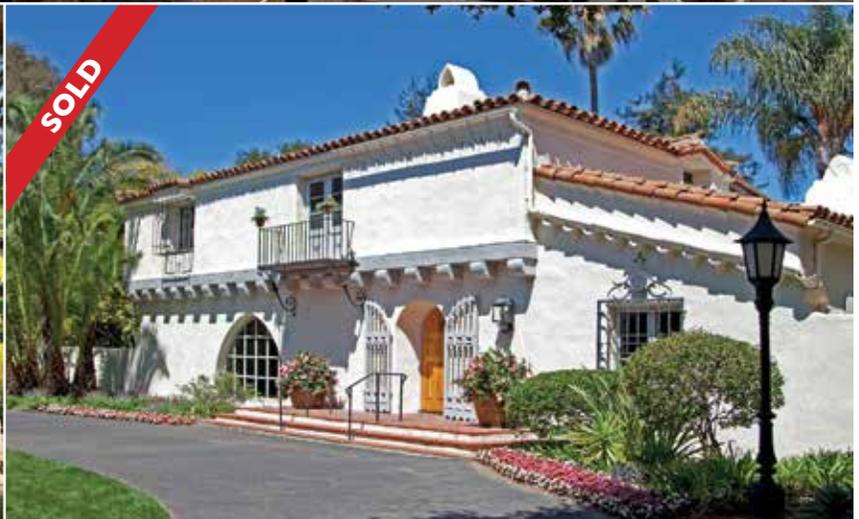
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Santa Barbara County Bar Association

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On the Cover

Vineyards in Los Olivos by Dean Henderson.



*Los Olivos vineyards
by Dean Henderson.*

Remembering Antonio R. Romasanta

BY JUDGE THOMAS ANDERLE AND THOMAS G. FOLEY, JR.

Tony Romasanta was my former partner and my longtime friend. He was brilliant, tenacious, well-versed in the law and common sense, and a good man. He came from humble beginnings and made an extraordinary life for himself and his family, and left a legacy to them and the legal community and the greater Santa Barbara area. His area of legal expertise was tax law and he utilized that knowledge in his business acumen to the advantage of many. Tony saw things through, accomplished much, and we are the better for having known him. I respected Tony.

I think I knew a more complex and deeper man than some knew. He cared very much for people in general, in their having good places to live, in having a loyal staff, and in meeting his commitments. He loved golf, scuba-diving, his boat, his home, his office. He loved his dogs. He read voraciously. He dearly loved his family and spent much of his time with them. One of the great blessings of his life was the swearing-in of his granddaughter Antonia to the practice of law on December 13, 2012. He was happy to have his children involved in various businesses of his. He was pleased to have his restaurant, Eladio's, named after his beloved father, at the corner of State Street and Cabrillo Blvd.



We saw Tony through brief ill-health, which he dealt with stoically and with a deep and abiding faith, as he walked the six or so blocks from his office to our Court a couple of times a month to visit, mostly with Marilyn. He usually shared his faith and his belief in where he was going, and had so many interests to share.

We'll miss him.

-Judge Thomas Anderle

THE OTHER BAR NOTICE

Meets at noon on the first and third Tuesdays of the month at 330 E. Carrillo St. We are a state-wide network of recovering lawyers and judges dedicated to assisting others within the profession who have problems with alcohol or substance abuse. We protect anonymity. To contact a local member go to <http://www.otherbar.org> and choose Santa Barbara in "Meetings" menu.

I worked with Tony as an associate and later his partner at Goux, Romasanta & Cappello. Tony had a varied clientele ranging from pawn brokers to publicly traded companies, including Sambo's and Motel 6. He and his long time secretary Angie Scholtz worked passionately for his clients. His long association with Julian Goux had a profound effect on the manner he practiced law. When explaining why he was adopting a particular strategy, he often quoted Mr. Goux. Once when I was helping him draft an appellate brief, in explaining why the brief should be shortened he said Mr. Goux told him a brief should be short enough that a justice could read it while in the men's room.

Tony was a master at understanding people. He listened to their concerns, and then developed arguments to get them to adopt his point of view. He convinced the City Councils of Carpinteria and Mammoth Lakes to issue permits for Motel 6 projects over vocal opposition in those communities. Tony met with the opponents in both communities, listened to their concerns, and convinced the client to address those concerns. At trials, Tony listened carefully to prospective juror's responses during voir dire, and unerringly knew which jurors should be excused. Trial lawyers know that there is very little time to exercise challenges or excuse potential jurors. When I would later

ask him why he believed a potential juror should be excused, he always had a response based on his deep knowledge of people and how their lifetime experiences might influence how they would vote in our particular case.

He loved Santa Barbara and cared passionately about local issues. He worked behind the scenes for decades to help shape policies at both the City and County. Throughout his career Tony cultivated relationships with public officials and members of the press to make sure they understood his perspective on issues that affected our community.

Tony regularly mentored young lawyers and business people in our community. I am one of the attorneys who benefited from his wisdom. ■

-Thomas G. Foley, Jr.



Judge Thomas Anderle, Antonia Eckert-Shaw, Antonio R. Romasanta, Charles V. Eckert III

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Controlled Groups and Why They Matter

A Brief Overview for Non-ERISA Counsel

BY CHRISTINE P. ROBERTS
MULLEN & HENZELL L.L.P.

What if a somewhat arcane area of tax law had potentially serious ramifications for attorneys across a broad range of practices, but was not consistently identified and planned for in actual practice? That is an accurate description of the rules surrounding “controlled group” status between two or more businesses, which I have seen arise in business formation/transactions, estate planning, employment and family law settings. The purpose of this overview is to briefly survey controlled group rules for non-ERISA counsel, so that they can become aware of the potential legal complications that controlled group rules can create.

1. Why Do Controlled Groups Matter?

The main reason they matter is because the IRS treats separate businesses within a controlled group as a single employer for almost all retirement and health benefit plan purposes. In fact, annual IRS reporting for retirement plans (and for health and welfare plans with 100 or more participants) requires a statement under penalty of perjury as to whether the employer is part of a controlled group. Therefore, controlled groups are potentially a concern where business entities have employees, and particularly when they sponsor benefit plans, whether retirement/401(k), or health and welfare plans.

Being part of a controlled group does not always mean that all employees of the member companies have to participate in the same benefit plan (although it can sometimes mean that). However, it generally means that separately maintained retirement plans have to perform nondiscrimination testing as if they were combined, which not infrequently means that one or more of the plans will fail nondiscrimination testing. This is an event that usually requires the employer sponsoring the plan to add more money to the plan on behalf of some of the additional counted employees, or to pay penalty taxes in relation to the same. Similar complications can arise in Section 125 cafeteria or “flexible benefit plans,” and for self-insured group health plans, which are subject to nondiscrimination re-

quirements under Code § 105(h). Nondiscrimination rules are meant to apply to *insured* group health plans under the Affordable Care Act (“ACA”), so additional complications could arise in that context when and if the rules are enforced by the IRS, following publication of regulatory guidance.

Controlled group status can also mean that several small employers together comprise an “applicable large employer” subject to the ACA “pay or play rules,” and related annual IRS reporting duties. Small employer exceptions under other laws, including COBRA and the Medicare Secondary Payer Act, reference controlled group status when determining eligibility for the exception.



Christine P. Roberts

2. How Do I Identify a Controlled Group?

Determining controlled group status requires synthesizing regulations and other guidance across multiple Internal Revenue Code (“Code”) provisions and therefore is a task for a specialized ERISA or tax practitioner.¹ What follows are very simplified definitions aimed at helping counsel in any practice area flag potential controlled group issues for further analysis.

Strictly speaking, the term “controlled group” refers to shared ownership of two or more *corporations*, but this article uses the term generically as it is the more familiar term. “Ownership” in this context means possession of the voting power or value of corporate stock (or a combination thereof). Shared ownership among other types of business entities is described as “a group of trades or businesses under ‘common control.’” “Ownership” in this context refers to ownership of a capital or profits interest in a partnership or LLC taxed as a partnership.²

Complex interest exclusion rules mean that not all ownership interests are counted towards common control; exclusion may turn on the nature of the interest held (e.g., treasury or non-voting preferred stock) or on the party holding the ownership interest (e.g., the trust of a tax-qualified retirement plan).

The two main sub-types of controlled group are: parent-subsidiary, and “brother-sister,” although a combination of the two may also exist. A parent-subsidiary controlled group exists when one business owns 80% or more of an-

other business, or where there is a chain of such ownership relationships. As that is a fairly straightforward test, I will focus on the lesser known, but more prevalent, brother-sister type of controlled group.

A brother-sister controlled group exists when the same five or fewer individuals, trusts, or estates (the “brother-sister” group) have a “controlling interest” in, and “effective control” of, two or more businesses.

A controlling interest exists when the brother-sister group members own, or are deemed to own under rules of attribution, at least 80% of each of the businesses in question.

Effective control exists when the brother-sister group owns or is deemed to own greater than 50% of the businesses in question, looking only at each member’s “lowest common denominator” ownership interest. (So, a group member that owed 20% of one business and 40% of another business would be credited only with 20% in the effective control test.)

In order to pass the 80% test, you must use the interests of the same five or fewer persons (or trusts or estates) used for purposes of the greater than 50% test.³ Put otherwise, the two tests consider only owners with a greater-than-zero interest in each of the businesses under consideration. If, under this rule, you disregard shares adding up to more than 20% of a business, the 80% test won’t be met and that business generally won’t form part of the controlled group. (Although the remaining businesses may do so.)

The controlled group attribution rules are quite complex and can only be touched on here. Very generally speaking, an ownership interest may be attributed from a business entity to the entity’s owner, from trusts to trust beneficiaries (and to grantors of “grantor” trusts as defined under Code § 671-678), and among family members. Stock options can also create attributed ownership under some circumstances.

The attribution rules can have surprising consequences. For instance, a couple, each with his or her wholly-owned corporation, will be a controlled group if they have a child under age 21 together, regardless of their marital status, because the minor child is attributed with 100% of each parent’s interests under Code §1563(e)(6)(A). Community property rights may also give rise to controlled group status. Careful antenuptial planning may be necessary to prevent unintended controlled group status among businesses owned separately by the partners to the marriage.

Certain ownership structures that avoid controlled group status can still result in separate legal entities being considered a single owner for benefit plan purposes. Specifically, in the 1980s the IRS created “affiliated service group” (ASG) rules, set forth at Code § 414(m), in order to plug a loophole in the controlled group rules that doctors, dentists, lawyers

and other professional service providers, as well as providers of management services, were exploiting.

In one common scenario, two or more doctors (or lawyers, accountants, etc.) each establish their own professional service corporation which in turn sponsors a retirement plan covering only the doctor (and, sometimes, a spouse). Neither doctor owns anything of the other doctor’s professional service corporation, thus foiling controlled group status. However, the doctors share ownership in a third entity that employs office staff, but does not sponsor a retirement plan, or sponsors one that is less generous than the doctor’s individual plans. The ASG rules treat this arrangement as a single employer for benefit purposes, which generally means that the individual doctors’ separate retirement plans fail nondiscrimination testing.

The ASG rules are equally as complex as the controlled group rules and cannot be discussed in detail here; the point of mentioning them is simply to alert readers to the fact that avoiding controlled group status does not end the inquiry where professional and other service provider entities are involved.

In closing, any attorney who advises business owners should be aware that controlled group or ASG status can derail otherwise careful benefit plan designs and can have other, unintended consequences under federal laws including the ACA.

Further Reading: In addition to the referenced Code Sections and Treasury Regulations, IRS internal training materials on controlled groups and ASGs can be found at <https://www.irs.gov/pub/irs-tege/epchd704.pdf>. For a comprehensive secondary source, Goleta attorney S. Derrin Watson’s manual titled *Who’s the Employer* is available for online subscription at www.erisapedia.com. ■

Christine is a partner at Mullen & Henzell L.L.P. She has limited her legal practice to employee benefit plan matters under ERISA for over twenty years. She frequently advises clients with respect to controlled group status and resulting benefit issues.

ENDNOTES

- 1 The controlled group/common control rules are set forth in Code § 414(b) and (c) and § 1563, and Treasury Regulations thereunder, however attribution and other rules require reference to Code §§ 144, 267 and 318.
- 2 Controlled groups can arise in relation to tax-exempt entities, for instance if they own 80% or more of a for-profit entity, or even between tax-exempt entities where 80% or more of the directors or trustees of one organization are “representatives of” or “controlled by” the other organization. Treas. Reg. § 1.414(c)-5(b).
- 3 See *US v. Vogel Fertilizer*, 455 US 16 (1982).

How to Plan for Your Financial Future at all Phases of Your Legal Career

BY DIANNE DUVA, CFP®, FOUNDING PARTNER, ARLINGTON FINANCIAL ADVISORS

The Investing Basics for all Stages

There are only two ways to invest assets: as a lender or as an owner. Every investment boils down to one or the other. You own stocks and real estate. Or you lend people money by buying a bond, i.e. lend the government or a corporation money; they pay you back along with interest for a set period of time. You might ask, what about cash? Cash when stored in a bank is actually being lent to said bank and then lent out to their customers. Think bond.

Ownership is riskier and should pay better than being a lender. Lending should be slow and steady. You need a blend of both. Also, don't confuse insurance with an investment. Insurance is for the risk you cannot afford.

When investing, many people talk about the power of compounding interest, or earning interest on interest. The Rule of 72 is a shortcut to estimate the number of years required to double your money at a given annual rate of return due to compounding interest. So if you get a 10 percent interest rate it will take 7.2 years for your money to double. Compounding interest is what makes your money work for you.

Early Career

Many lawyers leave law school with what seems like an insurmountable amount of debt. This fact should not stop you from saving for your future. Young lawyers benefit immensely from saving in their firm's 401(k) Plan. Although an \$18,000 maximum contribution seems undoable, you should set aside some amount of your earnings. If your firm makes a matching contribution, it should be at least that amount. There is no good reason to leave "free" money on the table. As I often say, something is better than nothing. At the early stage of your career, you are used to living on first year wages and often you are working so many hours you do not have time to spend it. Regardless of your debt

burden, pick a number and stash the cash in your 401 (k). It can even be \$100 per month or pay period. Even this meager amount will start to add up over time.

Now that you have decided to save for your future be sure you invest those dollars in something that has growth potential. Remember this money is for after you turn 59 ½ years old as the minimum timeframe and ideally, if you plan appropriately, you will not draw on these funds until after you reach age 70 and the government makes you take a required distribution. When you start saving early, it enables you to get the most benefit from compounding interest and your money has the opportunity to get the most amount of doubling. Another prudent financial planning practice is to start an emergency reserve or saving account, with the goal of having three to six months of living expenses saved in cash. Additionally, now is the time to get your will and advance medical directives in place.

Mid-Career

You want to be steadily increasing your 401 (k) contribution to maximize your contributions. For 2017 that number is \$18,000. 401 (k) contributions provide two really powerful benefits. They lower your taxable income, and they provide tax-free growth of your money. As you start to increase your contributions to your retirement plan you will really see the power of compounding interest and you will see the numbers become bigger and bigger for the doubling. Your emergency reserve should now be six months of your living expenses sitting in cash to ensure you can financially handle an emergency. Now it is time to revisit and update your will and medical directive, and if you have started a family, you need to look to add guardianships and potentially a living trust. Additionally, consider term life insurance to protect your spouse and children. A guideline to determine how much life insurance is prudent is either ten times your salary or enough to cover your debts and any other big-ticket item for your children like college and school expenses. You want to ensure your spouse has choices. By this point most of you have already purchased



Dianne Duva

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Cuban Justice—Part II

BY DEVONNIE MANN, TYLER POTTER, VIKTORIA MORGAN, JOAN VIGNOCCHI, AMBROSIO BIGORNIA, JR., REANNA CARRILLO, AND ROGELIO TUAZON¹

What is usually the *Criminal Justice* column, again this issue, will be renamed the “*Cuban Justice*” column so that we can continue with the essays on Cuban law by the law students at the Santa Barbara and Ventura Colleges of Law (Colleges of Law or COL). We had an intensive eight-week course at the COL taught by Visiting Vermont Law School Professor Jared Carter. Then we traveled to Habana, Cuba for a one week course at the José Martí Studies Center (El Centro De Estudios Martianos). We continue in this Part 2 to share with the Bar more of what we learned about Cuban law.

Discrimination and Restriction on Freedom of Expression—the Cuban Gay Community By

Ambrosio Bigornia, Jr.

Article 19 of the Cuban Constitution states that everyone has the right to freedom of expression. Our lecturers demonstrated that they believe that these constitutional guarantees are robust and secure for all Cubans. In fact, the law professors, judges, and other speakers we heard from seemed to be fairly unfettered in their own remarks. As we toured Havana and the surrounding areas, the population seemed free and content.

However, there clearly was subject matter that was not to be spoken of, and there were also limitations on conduct. Whenever we questioned judges or law professors about crime rates or prison populations, we were told that such information was not available. And, for example, it is prohibited to photograph police officers, military personnel, or government buildings. It also appears that there still may be a residual official resistance to gay and lesbian rights.

Gays and lesbians have had a long history of discrimination by the Cuban government. Fidel Castro viewed homosexuality as counterrevolutionary. In a 1965 interview, Castro said, “We would never come to believe that a homosexual could embody the condition and requirements of conduct that would enable us to consider him a true revolutionary, a true communist militant.”² In other words, a revolutionary man could not be gay.

Beginning in 1965, gays and other “undesirables” were placed into concentration camps known as Military Units to Aid Production, or UMAPs by their Spanish acronym.³ Forced labor was used to “reeducate” gays and they were subject to beatings, food deprivations, and harsh work conditions under the hot Cuban sun.⁴ Signs at these camps read, “Work will make you men.”⁵ After international criticism and protests of the UMAPs, the Cuban government closed them down by the late 1960’s.

Towards the end of his reign as head of state, Castro acknowledged and accepted responsibility for the mistreatment of gays.⁶ But the damage was already done. To this day, Cuba remains under the influence of what one professor called the “machismo of Latin America.” Social discrimination based on sexual orientation persists.

The 33rd Annual Report on Human Rights to Congress reported that Cuban police routinely sweep gay areas in Cuba and harass gay men by fining them or threatening them with prosecution for “social dangerousness.”⁷ We spoke with a young Cuban gay man who gave us personal accounts of how the gay community is harassed by the police and of how their public conduct is restricted. “We don’t hold hands in front of the police,” he told us. “They give us tickets and the fines are expensive.”

Despite the history of oppression, gay rights seem to be headed in the right direction. Although societal discrimination persists, there is officially no discrimination policy based on sexual orientation in employment, housing, statelessness, or access to education or health care.⁸ Mariela Castro Espín, President Raúl Castro’s daughter, is an outspoken advocate for gay rights. She currently heads the national Center for Sexual Education and has called on the Communist Party to eliminate any discrimination that remains.

Cuban Property Law By Rogelio Tuazon

Real property law in Cuba is in a state of rapid transition. The Urban Reform Law of 1960, created by the revolutionary government of Fidel Castro, defined Cuba’s Residential Real Property. The law ended the sale of residences and private rental housing. Cubans leaving the country automatically forfeited their homes to the state. A 1984 amendment to the law allowed the sale of housing between private parties, only with the state’s authorization. But, in 2003, a new law prohibited private sales, but permitted owners to transfer property to heirs or swap it for another property. In 2011, Raúl Castro published Law 288, aimed to expand the private sector, to cut government size, and to reform agricultural and state enterprises.⁹

One of the provisions of the 2011 law was to allow

Cubans and legal residents to freely buy and sell homes. It contains the following conditions: 1) it permits ownership to one residence and one vacation home, 2) it legalizes housing swaps, if properly declared, 3) cash is the only acceptable method of payment, 4) the payment of asset transfer tax by buyer, and lump sum income tax by seller, and 5) a mechanism to update property titles by allowing people to register their homes in the municipal property registry; a pre-condition to transfer ownership.¹⁰

The 2011 law relaxed excessive prohibitions affecting the personal lives of Cubans. The legalization of residential real estate appears to be a step in the right direction, but it is far from perfect. The reform is a human rights advancement, as it expands economic freedom, and it provides Cuban people a sense of pride through property ownership. The foreign investment law enabling foreigners to lease land for 99 years, with a renewal option, is also an improvement. But Cuba's economic policies do not spur growth and do not provide a sense of security to foreign investors. Cuba needs to modify its current legal structure to provide greater protection and opportunity to investors, such as the rights of possession, use and enjoyment, and alienation.

Cuba has pursued a different path regarding non-resident interests in commercial real property.¹¹ Cuba lost its largest trading partner following the collapse of the Soviet Union. It needed to implement drastic economic reforms in attracting foreign investment and other sources of capital. In 1995, Cuba opened its doors to foreign countries. The popularity of hotels and condominium development by foreign investors soared. They built hotels based on 25 to 50-year leases and sold condominiums as fee simple, but it abruptly terminated in 2000. In July 2010, the government passed a new law granting businesses the authority to improve and use land owned by the state up to 99 years with a possibility of renewal.

Foreign nationals cannot own real estate in Cuba. But, even for Cuban nationals and legal residents, no one can own more than two residences, despite their ability to buy more. Loans are only available for home repair and construction, and to assist small farmers. The lack of mortgage financing severely impedes ownership expansion. Additionally, market knowledge is in its infancy stage. The lack of a home sales database, coupled with the government failure to make municipal records of home sales transactions public, makes it difficult to determine market behavior. It also produces inaccurate establishment of actual fair market value of properties. The system currently in place has already been subject to fraud and exploitation. This includes underreporting of the purchase price to drastically reduce payment of taxes. The law needs amendments,

making it mandatory for buyers and sellers to declare the true purchase price that would aid in establishing accurate and predictive market values and behavior.

The new law legalizing the sale and purchase of residential properties is a good change. However, the law continues to lack policies allowing expansion of new real estate developments. Government red tape makes it harder to speed up procedures for remodeling, rehabilitating, and construction. The idea of a freehold estate does not conform well within the political, economic, and social context of a political culture based on Marxist notions of communal and state-owned property. Cuba must integrate measures to stimulate and advance property ownership by establishing a hybrid economy, combining centralized politics with market based economic policies.

Law Office Collectives By Viktoria Morgan

The Cuban legal profession has experienced significant changes since the 1959 Revolution. Prior to the revolution, the profession was highly regarded and well paid. Since the revolution, under Fidel Castro, himself a lawyer, the profession was branded bourgeoisie and deemed unnecessary. In the mid 1960's, the profession was resurrected and the practice of law again became more prevalent. After the near abolishment and resurrection of the profession, in 1964 the Board of Governors proposed to the Ministry of Justice the creation of Collective Law Offices. The Ministry of Justice established an avenue for legal representation to all in 1965: The Bufetes Colectivos (Law Office Collectives) were formed.

In Cuba, attorneys are not allowed to practice law independently. All attorneys are required to be members of a collective or they work directly for the state. Several collectives are located throughout the country in all provinces and most municipalities; however, all are overseen by the National Organization of Collective Law Offices, or Organización Nacional de Bufetes Colectivos (ONBC). Each municipality's Bufetes may have anywhere from 1 to 1000 members, based on population. Habana, for example, has upwards of 1000 attorney members.

These collectives are the middleman of sorts between clients and attorneys, but are still required to "coordinate" and "collaborate" with a counterpart state entity.¹² Clients do not hire an attorney, but select one from the Bufetes in their community. The people cannot represent themselves. "The network of collective law offices provides legal representation in all matters of law to natural and legal persons, foreigners and Cuban citizens residing abroad."¹³ The legal

Continued on page 16

U.S. Exporters Get Huge Tax Break

BY JOE BISHOP, CPA
NASIF, HICKS, HARRIS & CO.

Hidden within the U.S. Tax Code are incentives that often go unnoticed, leaving taxpayers to pay more than their fair share of taxes. International exporters have an incentive in the form of an Interest Charge Domestic International Sales Corporation, also referred to as a DISC.

Congress created the DISC in 1972, during an economic time when the U.S. struggled to keep companies from exporting the manufacturing of their products to other countries. Sound familiar? The DISC provides U.S. exporters with an income tax incentive to create their products domestically and sell internationally.

DISC Income Tax Benefit

Since 2002, qualified dividends have been taxed as long-term capital gain instead of ordinary income. In 2017, the highest tax rate for capital gains is 20 percent, while the highest tax rate for ordinary income is 39.6 percent, a 19.6 percent difference.

A DISC provides an opportunity to convert a portion of your international income that would otherwise be ordinary income into capital gain income.

For example, if you are a U.S. manufacturer and exporter and your tax adviser calculates DISC income of \$1 million, then you could potentially save \$196,000 in taxes. Stated in a more painful way, if you are a U.S. manufacturer and exporter and you are not utilizing a DISC, in the aforementioned example you are overpaying the IRS \$196,000.

How Does a DISC work?

A U.S. company must be the last in the supply chain to manufacture, produce, grow, or extract their product within the United States. No more than 50 percent of the final sales price of the exported product can be attributed to imported components. The product must be used by an end user who resides outside of the U.S.

Distributors that buy a qualified product within the U.S. and export the product within one year can qualify.

The company that creates the product, known as the related supplier, pays a commission that is calculated by your tax professional to the DISC. The related supplier takes an ordinary deduction for the commission paid to the DISC. The DISC receives the commission income but pays no tax, as the DISC is exempt by statute from taxation. The DISC then declares and pays the shareholder(s) of the DISC a qualified dividend, which is taxed at long-term capital gain rates.



Joe Bishop

The DISCV provides U.S. exporters with an income tax incentive to create their products domestically and sell internationally.

Who Can Use a DISC?

The Central Coast has many industries that export their products and should be taking advantage of a DISC including:

- Manufacturers
- Software providers
- Farms
- Wineries and Vineyards
- Engineers and architects working on international projects
- Companies that rent or lease equipment to international end users
- Distributors

Other Uses of a DISC

While the benefits are fact-dependent, there are other uses for a DISC that may be appealing to exporters. For example:

DISC stock can be owned by a Traditional IRA or a Roth IRA. The IRS has challenged this structure, but each time the courts have ruled against the IRS. Most recently, the 6th Circuit Court of Appeals upheld the ownership of DISC stock by a Roth IRA.

A drawback from the Roth IRA ownership of the DISC is that the income from the DISC will be taxed currently at corporate income tax rates. The benefit is that the after

Continued on page 35



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Cuba, *continued from page 13*

services fee structure is on a sliding scale. If one cannot afford an attorney, even at the lowest fee schedule, then one will be appointed at no cost. The cost paid by the client is not the pay received by the attorney.

By way of example provided by the Director of the ONBC with whom we met, if a person is arrested and detained for murder, seven days later a family member may contact their local Bufete. They select an attorney or the Bufete Director assigns one to the case. Unless there is a conflict of interest, such as family relationship, the attorney cannot decline to take the case. The client (or family member) pays the collective 450 Cuban Pesos up-front. The assigned attorney works the case through completion. Upon completion, the attorney is paid 100 Cuban Pesos. The better the attorney is, the more cases she or he will be assigned. The attorney's caseload is demanding, and it is not uncommon for each attorney to consistently manage 50 active cases.

The Cuban Peso is currently worth about \$0.0037 US dollars. So, for 450 Cuban Pesos, or about \$17.00 US, a Cuban citizen can hire an attorney for a murder defense. The attorney, however, is paid approximately 100 Cuban Pesos, or \$3.75 US. The attorney must manage many cases to make a living. Even a successful law professor at the University of Habana, who is not a practicing lawyer, makes about 1100 pesos a month,¹⁴ and has a modest but comfortable life, by Cuban standards.¹⁵ So, following this example, an attorney would need to complete roughly 11 murder cases (or a larger number of lesser paying cases) per month to earn enough to afford to have the same modest lifestyle as the University of Habana law professor.

The news is not all bad, however, as the ONBC provides a resort called the Lawyer's House. This resort has accommodations, a pool, a bar, food, and is also the location of their educational seminars. Members are encouraged to bring their families to the Lawyer's House on vacation, as well as attend legal seminars there - all free of charge. The ONBC provides ongoing legal education and holds an annual conference which most of the attorneys readily attend. And both law professors and lawyers receive free medical care, free education, free housing, and free allotments of basic foods. The lawyers and professors we met all seemed to be content with their lives, although, at least one said that his teenage son and his generation may want more access to goods and personal property. We will see

what the future brings as Cubans have more contact with the United States and other Western countries.

The Status of Cuban Women By Joan Vignocchi

We think we know the story of the Cuban Revolution. We have a picture of Fidel Castro and his band of bearded men fighting in the jungle. Of course, this picture leaves out the women who made the Cuban Revolution possible. One of these women was Vilma Espín, a pivotal figure who convinced the CIA to support the Revolution (at first). Vilma was married to Raúl Castro until her death in 2007. She is famous for starting the Federation of Cuban Women, an organization that is still working for gender equality today. Cubans are proud to tell you that Mariela Castro Espín, her daughter, noted in last month's article, inherited her activism for gay and transgender rights from her mother who fought for women's rights and gender equality.

Cuba leads the world in the number of women in government.¹⁶ Women serve in 49 percent of all elected seats in the Cuban legislature, the National Assembly of People's Power (NAPP).¹⁷ 80 percent of judges are women. Habana's ONBC Director, a woman, noted that 75 percent of the lawyers in the Habana region are women, as are most of the law students at the University of Habana. Cuba is also the first country to elect a transgender woman.

Knowing these statistics, for us, was augmented by experiencing the culture that celebrates strong women. We met a panel of judges who serve in the Economic Crimes courtroom in the Habana Municipal and Provincial courts. They were all women, as were most of their staff. Two-thirds of these judgeships are elected positions, so not only are women working in these high-status careers, they are elected by their neighbors to do it.

One of the judges we met was visibly pregnant. She will receive her full salary during her maternity leave for 6 weeks before the birth and for 12 weeks after. Then, either the mother or the father will be entitled to 60 percent of their salary for up to 40 more weeks. All education in Cuba is free, including child care, so both parents can work.

Before the Revolution, maternal deaths were mostly due to illegal abortions. In 1965, when Cuba implemented free national health care, contraception and abortion became legal and free. Back alley abortions are still illegal. Women may only obtain abortions for free at the hospital. Cuban maternal mortality rates are impressively low for an impoverished country.¹⁸ Contraception is promoted via the

In Cuba,
attorneys are
not allowed to
practice law
independently.

National Center for Sex Education (CENESEX). Its primary goal is to reduce teen pregnancy, STIs, HIV transmission, and to promote “the development of a culture of sexuality that is full, pleasurable and responsible, as well as to promote the full exercise of sexual rights.”¹⁹ It also is the world’s pioneer in gender reassignment surgery, which is free under the national health care system for people who qualify.

Before the Revolution, there was a very low literacy rate among the entire Cuban population and especially among women. After the revolution, Vilma Espín was a leader in getting women into the workplace, setting up child care centers, and spreading literacy.²⁰ Within a few years, Cuba had achieved over 99 percent literacy rates.

Problems still exist, just as they do everywhere. The top jobs in government and scientific institutions still mostly go to men, and the machismo element of the culture is still evident in the expectations that women hold down jobs and do the cooking and housework. This is another area Cubans and Americans share in common. The Cuban people we met were shocked to learn that American women on the average earn substantially less than men.²¹ Women feel safe in Cuba, even in tourist areas where rich foreigners are drinking a lot of alcohol. All crime, including rape, is very low. Domestic violence is still an issue, as it is everywhere in the world. Domestic violence in Cuba is categorized along with any other assault or physical violence as a crime. There is no special legislation like the VAWA²² to deal with it, nor is there an attitude that the woman is to blame. Any offensive contact is treated the same no matter who the perpetrator is.

Cuba is changing economically, but women’s rights and gender equality are so ingrained in Cuban society that the status of women will continue to keep improving. Even the machismo culture celebrates women for their hard work and contributions to the family and society, not just for their looks or for their ability to create children.

Conclusion

Again, the students at the Santa Barbara and Ventura Colleges of Law want to thank Dean Gardina, administration, faculty, and staff of the COL and of TCSES, Visiting Professor Carter, the Cuban American Friendship Society, the José Martí Studies Center and the Cuban faculty and other professionals who made this educational opportunity possible. We hope that what we have shared about Cuban law was of interest to the Bar. ■

ENDNOTES

1 Each author is a candidate for the degree of Juris Doctor at the

Santa Barbara and Ventura Colleges of Law: Devonnice Mann (B.A., Univ. of Arkansas, J.D. cand. 2019), Tyler Potter (B.A., Univ. of Michigan, M.A., Middlebury Inst. Int’l Studies, J.D. cand. 2018), Viktoria Morgan (B.A. Cal. St. Long Beach, J.D. cand. 2018), Joan Vignocchi (B.A., UC Santa Barbara, J.D. cand. 2018), Ambrosio Bigornia, Jr. (B.S. UCLA, JD cand. 2018), Reanna Carrillo (B.A. UC Riverside, J.D. cand. 2018), Rogelio Tuazon (B.S., University of Santo Tomas, Philippines, M.B.A., Regis University, J.D. cand., 2018). Introduction and editing by Robert Sanger, faculty member at the Colleges of Law. ©Santa Barbara and Ventura Colleges of Law.

- 2 James Kirchick. *Fidel Castro’s Horrific Record on Gay Rights*. Nov. 2016. <http://www.thedailybeast.com/fidel-castros-horrific-record-on-gay-rights>
- 3 Id.
- 4 Id.
- 5 Jorge Olivares, “Becoming Reinaldo Arenas: Family, Sexuality, and The Cuban Revolution” 2013.
- 6 33b Ann. Hum. Rts. Rep. Submitted to Cong. by U.S. St. 2754, 2766 (2010). U.S. Congressional Report of the situation of Human Rights in Cuba.
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Continued on page 25

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¡Cuba!

Left: The Countryside in Vinales. At bottom of page: The Malecon seawall along the Avenida de Maceo.



A Continuing Education Classroom at the National Organization of Lawyers' Collectives



Outside of the Lawyers' Collectives





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My career started as a trial lawyer for the IRS Office of Chief Counsel and I have spent more than 25 years in private practice resolving problems with the IRS and state tax agencies.

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Duva, *continued from page 10*

a home or have started a home purchase nest egg. If you haven't made the biggest financial purchase of your life yet, be sure to meet with a qualified lender to better understand what you qualify for and how much of a down payment you will need to amass.

Pre-Retirement

At this point in your career, you are being sought out for your services. You want to keep up your 401 (k) savings but you also want to start an after tax investment account. The goal of this account is to save between seven and ten years' worth of living expenses. Why, you might be asking? It is to take advantage of the Rule of 72. Now no one can predict the stock market, but if you give your 401 (k) nest egg seven to ten years of time before you start taking distributions, your retirement savings should double that last time. Often this last doubling is the most crucial as we are talking about the largest number of dollars at work. The math works the same to get you from \$200 to \$400 as it does to get you from \$2,000,000 to \$4,000,000. Everyone always likes the latter example better but it is still just compounding interest either way!

At this stage of your career you should again review your estate plan to see if you want to make any changes as your children start to have children and family dynamics often change. Perhaps you want to include your favorite charities. Also be sure to evaluate your medical directives and medical power of attorney.

Finally, at all career stages, it is paramount to sit down with a Certified Financial Planner to review your specific situation. If you're just getting started it's best to start down the right path. Mid-career, it is important to make sure you are still headed down the right path and determine if you need to make small shifts to better accomplish your goals. Pre-retirement you need to understand the financial implications of retiring before you unplug from your career and paycheck. Often, it is not that you cannot retire, but rather it's a matter of ensuring that you are giving yourself options so you can live the very best life possible in retirement. ■

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Verdicts & Decisions

Zembo v. Mingledorff

SANTA BARBARA COUNTY SUPERIOR COURT (ANACAPA DIVISION)

CASE NUMBER:	15CV00661
TYPE OF CASE:	Personal Injury
TYPE OF PROCEEDING:	Jury Trial
PRESIDING JUDGE:	Hon. Colleen K. Sterne
LENGTH OF TRIAL:	5 Days
LENGTH OF DELIBERATIONS:	2.2 Hours
DATE OF VERDICT/DECISION:	August 2, 2017
PLAINTIFF:	Gianna Zembo
PLAINTIFF'S COUNSEL:	Brian Hong of Grassini, Wrinkle & Johnson
DEFENDANT:	Gabriel Mingledorff
DEFENDANTS' COUNSEL:	Carmin K. Shaffer of Law Offices of Keevil L. Markham
DEFENDANT'S INSURANCE CARRIER:	USAA
CROSS-DEFENDANT:	Juan Morales
CROSS-DEFENDANT'S COUNSEL:	Matthew P. Harrison of Lewis, Brisbois, Bisgaard & Smith LLP
EXPERTS:	Plaintiff Expert: Marc H. Bienstock, DDS, M.D. (Oral and Maxillofacial Surgeon) Defendant Expert: Richard Boudreau, DDS, Ph.D. (Oral and Maxillofacial Surgeon)

OVERVIEW OF CASE: On November 21, 2014, Plaintiff Gianna Zembo (“Zembo”) was attending a party at a home located in Goleta, California. Defendant Gabriel Mingledorff (“Mingledorff”) was also present in the residence at this time. Cross-defendant Juan Morales (“Morales”) was a renter of the home.

Zembo was injured as a result of her teeth and chin being struck by a table being handled by Mingledorff, in Morales’s home.

FACTS AND CONTENTIONS: Zembo contended that Mingledorff was intoxicated at the party and that he negligently lifted the table causing it to strike her in her face, causing harms and losses to Zembo.

Mingledorff contended that he slipped and hit the table causing it to strike Zembo. Mingledorff admitted he was intoxicated and partially negligent, but denied being a substantial factor in causing the incident. Mingledorff disputed the nature and extent of Plaintiff’s harms and losses.

Mingledorff filed a cross-complaint contending that Morales was at fault for the incident and that Morales was responsible for Zembo’s claimed injuries and damages. Specifically, Mingledorff contended that Morales i) failed to keep the area where the incident occurred reasonably safe; ii) that the floor where the incident occurred was slippery; and iii) that the table was defective. Morales denied any fault on his part, and further denied any responsibility for Zembo’s claimed injuries and damages.

SUMMARY OF CLAIMED DAMAGES: Plaintiff claimed past economic damages for medical expenses in the amount of \$15,991.47 and future economic damages for medical expenses ranging from \$68,000.00 to \$122,000.00.

Plaintiff claimed past non-economic damages in the amount of \$200,000.00 and future non-economic damages in the amount of \$800,000.00.

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RESULT: The jury returned the following verdicts, ultimately finding Mingledorff 100% at fault for Zembo's injuries:

12-0 against Defendant Mingledorff on the issue of liability;

12-0 against Defendant Mingledorff on the issue of past economic damages;

11-1 against Defendant Mingledorff on the issue of future economic damages;

11-1 against Defendant Mingledorff on the issue of past non-economic damages;

11-1 against Defendant Mingledorff on the issue of future non-economic damages; and

10-2 on finding no negligence against Cross-Defendant Morales.

THE JURY AWARDED DAMAGES AS FOLLOWS:

Past Economic Damages:
\$15,991.47

Future Economic Damages:
\$91,000.00

Past Non-economic Damages:
\$15,000.00

Future Non-economic Damages:
\$15,000.00

TOTAL DAMAGES
\$136,991.47



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Kathleen is a graduate of the McGeorge School of Law and the University of Notre Dame's MBA (Taxation) program. She brings a wealth of experience to Allen & Kimbell, including state and federal tax litigation, international tax compliance work, and a prior CPA practice. Before entering law school, Kathleen taught accounting at the UC Davis Graduate School of Management and at Notre Dame's Mendoza College of Business. Before moving back to Santa Barbara, she was most recently a partner in a Sacramento tax litigation firm.

Kathleen loves everything about Santa Barbara, especially the ocean and the people. She was active in many local charitable and professional organizations in Northern California, and looks forward to getting involved in the Santa Barbara community. Kathleen's practice at Allen & Kimbell will focus on Trust and Estate Administration and Taxation issues.

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Motions

Law Firm Ambrecht & Associates Announces Law Firm Name Change to Ambrecht & McDermott, LLP

After 37 years in business, the esteemed Santa Barbara-based estate planning and tax specialty law firm of Ambrecht & Associates is now, officially, Ambrecht & McDermott, LLP, including John W. Ambrecht and Brooke C. McDermott as named partners of the firm.

The name change honors the long-term efforts of partner Brooke C. McDermott. "Brooke has been with our law firm for almost 10 years and is a valuable member of our team," said John W. Ambrecht, who founded Ambrecht & Associates in 1980. "The new name represents our firm's continued commitment to excellent legal assistance for our clients."

Ambrecht & McDermott has focused on untangling complex issues regarding estate, tax and succession planning, with an emphasis on conflict resolution among generations and helping families to build wealth well into their futures.

McDermott is the Firm's Managing Partner and brings to the firm her specialized skills in highly complex estate matters, including trust planning and administration, and gift and estate tax controversies. Working with individuals and families to achieve their financial, family and charitable



Brooke C. McDermott



John W. Ambrecht

goals, she also advises on probate, estate and trust administration issues, such as preparation of estate tax returns, IRS audits and distribution of bequests to beneficiaries.

A summa cum laude graduate of the University of Connecticut, McDermott earned her Juris Doctor from Suffolk University Law School in Boston and her Master of Laws in Estate Planning from the University of Miami, School of Law. She currently serves on the board of The Santa Barbara Public Library Foundation as Treasurer. She is a member of the Santa Barbara County Bar Association, previously serving as chair of its Probate Section. She is also a member of the Santa Barbara Estate Planning Council.

Ambrecht & McDermott, LLP is located at 1224 Coast Village Circle, Suite 32, Santa Barbara. For more information, visit www.taxlawsb.com or call 805-965-1329.

Buynak, Fauver, Archbald & Spray Announces Addition of New Attorney; Nathan Hardy Joins Firm

Buynak, Fauver, Archbald & Spray, LLP is pleased to announce the addition of Associate Nathan Hardy. Mr. Hardy is a skilled advocate with a background in litigation and considerable experience working with and advising public agencies. He also has vast understanding of government ethics and public entity law, in areas as diverse as campaign finance and Brown Act compliance.



Nathan Hardy

"We were impressed with Mr. Hardy's experience working with special districts, government agencies, and public utilities. His advocacy of public policy is a direct complement to our team's goal to crafting policies that support long term economic growth in our community and allow businesses to prosper." said Partner, Trevor Large.

Mr. Hardy previously worked for the Los Angeles City Ethics Commission, where he served as Director of Policy. Prior to that, he was an in-house counsel with Southern California Edison Company, working on regulatory compliance and renewable resource policy issues before the Public Utilities Commission.

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Deadline

Please RSVP BY Monday, October 16, 2017.

Mr. Hardy attended the USC Gould School of Law and served as a judicial extern to the Honorable Margaret M. Morrow of the U.S. District Court for the Central District of California. Mr. Hardy can be reached via email at NHardy@BFASLaw.com and by phone at (805) 966-9071.

The Santa Barbara Lawyer editorial board invites you to "Make a Motion!" Send one to two paragraphs for consideration by the editorial deadline to our Motions editor, Mike Pasternak at pasterna@gmail.com.

Cuban Justice, continued from page 17

- 10 Antonio R. Zamora, *The Impact of Cuba's New Real Estate Laws on the Island and the Diaspora*, Association for the Study of the Cuban Economy (Nov. 30, 2012). Available at http://www.ascecuba.org/asce_proceedings/the-impact-of-cubas-new-real-estate-laws-on-the-island-and-the-diaspora.
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- 12 Human Rights Watch, www.hrw.org/reports/1999/cuba/Cuba996-01.htm.
- 13 ONBC; ww.ecured.cu/Organizaci3n_Nacional_de_Bufetes_Collectivos.
- 14 Cuba has two forms of currency: the Cuban Peso, which is used by Cubans, and the CUC, which is used primarily by foreigners. While there, US citizens exchange their US dollars for Cuban CUC's which are exchanged at the rate of \$1 US to 0.87 CUC. While interviewing the professor, he stated his income in CUCs rather than Pesos so he earns 40 CUC per month. 100 Cuban Pesos, is worth about 3.77 CUCs.
- 15 Interview with Law Professor (name intentionally withheld) during in-country travel.
- 16 http://www3.weforum.org/docs/WEF_GenderGap_Report_2013.pdf#page=20
- 17 <http://nytlive.nytimes.com/womenintheworld/2015/06/09/the-cuban-woman-a-rising-power/>
- 18 <http://en.granma.cu/cuba/2017-08-02/cuba-consolidates-maternal-infant-health>
- 19 <http://www.cenesex.org/>
- 20 http://www.aauw.org/files/2013/01/Cuba_whitepaper.pdf
- 21 A recent Pew study has found women earn 83% of what men do, which is 17% less. <http://www.pewresearch.org/fact-tank/2017/04/03/gender-pay-gap-facts/>.
- 22 Violence Against Women Act of 1994, 42 U.S.C. §§ 13701 - 14040.

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ALTERNATIVE DISPUTE RESOLUTION SECTION SANTA BARBARA COUNTY BAR ASSOCIATION

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November 8, 2017 – 5:30 to 7:30 p.m.

LOCATION TO BE ANNOUNCED

MCLE – 2.0 HOURS (0.5 Hr. Ethics)

Peter Robinson co-founded the Straus Institute for Dispute Resolution, adjunct to the Pepperdine University School of Law. He is renowned for his dynamic speaking style and the valuable information he presents. Despite his consuming schedule, he has set aside November 8 for us to provide a great program.

RSVP is a must as SEATING IS LIMITED – Price: \$40.00 or \$35 per person if more than one individual per firm.

RSVP to at davidcpeterson@charter.net or (805) 441-5884, or Lida Sideris at sblawdirector@gmail.com. Checks Payable to “SB County Bar Association”, and Mail to Bar Office: 15 West Carrillo Street, #106, Santa Barbara, California 93101

The In-House Counsel & Corporate Law Section and The Intellectual Property/Technology Business Section of the Santa Barbara County Bar Association present

To Dissolve or Not to Dissolve:
Navigating the Waters of the
Shareholder Dispute

When business partners go their separate ways, the process may be contentious and fraught with serious legal complications. Our speakers will examine some key considerations in this situation, including:

- Understanding voluntary and involuntary dissolution
- Deciding whether to pursue dissolution in light of the associated risks
- Identifying intellectual property issues in dissolution
- Understanding advantages and disadvantages of being a buyer or seller in a dissolution and buyout
- Knowing your client's rights under Section 2000 of the California Corporations Code, including whether an appraisal and buyout of the departing shareholder is in the client's best interests
- Selecting appraisers, determining "fair value," and dealing with claims in litigation

Speakers

Robert M. Heller and Todd M. Lander

Freeman Freeman & Smiley, Century City

Robert M. Heller, Of Counsel at Freeman Freeman & Smiley, is the leader of the firm's Shareholder and Corporate Litigation Group. He is an expert in shareholder dispute law, including governance issues, the disputed direction of a company, suppression of minority owners' rights, compensation of principals, buyouts, and breach of fiduciary duty.

Todd M. Lander is a Partner at Freeman, Freeman & Smiley, where he litigates in the areas of corporate and shareholder disputes, intellectual property, and real estate. He handles cases in both the state and federal courts and at the trial and appellate levels, including the Ninth Circuit, and before administrative and industry tribunals, including the Trademark Trial and Appeal Board.

Date and Time

Tuesday, October 24, 12 pm

Location

Santa Barbara College of Law, Room 1, 20 East Victoria Street, Santa Barbara

Reservations

Reserve via email to Chris Kopitzke,

Chair of Intellectual Property/Technology Business Section, by Thursday, October 19, ckopitzke@socalip.com

Cost and Payment

\$25.00 – includes lunch

Checks payable to Santa Barbara County Bar Association

Mail by Thursday, October 19 to SBCBA

15 W. Carrillo St., Suite 106, Santa Barbara, CA 93101

MCLE

One hour credit applied for

The SBCBA Tax Section Presents:

The Accountant's Role in Assisting the
Attorney in the Examination Process:
Advice from the Trenches

POSTPONED

Please note new date of Oct. 16th!

When

Monday, October 16th from 12:00 pm to 1:30 pm

Where

Santa Barbara College of Law, 20 E. Victoria St.

MCLE

One hour of General MCLE Credit

Speaker(s)

Gary Howard

Gary Howard is the Managing Partner of GL Howard and Company CPAs, LLP. With over 25 years of experience working with tax controversy and white collar crime issues, he is recognized as one of the top CPAs in the area serving clients in such matters. His firm handles the accounting, litigation support, tax compliance and planning, and tax controversy needs of closely-held corporations and their shareholders. The firm serves Southern California clients (throughout Orange and Los Angeles Counties), as well as nationwide and internationally.

Price/Payment

\$35. To pay via credit card, please call the SBCBA at (805) 569-5511.

Please make checks payable to the SBCBA and send to the following address:

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Santa Barbara, CA 93101

Questions:

Contact Trish Durflinger at trish.muzinichlaw@gmail.com.

The SBCBA Employment Law Section Presents:

Solving the Misclassification Puzzle:
Are Your Workers Contractors,
Employees, Exempt or Non-Exempt?
Be Sure You're Doing It Right!

When

November 9, 2017, 12:00-1:00 p.m.

Where

Santa Barbara College of Law

MCLE

1 Hour (General)

Speaker(s)

Alex W. Craigie, The Law Offices of Alex W. Craigie
Alex is an AV-Preeminent rated trial attorney recognized for bringing an innovative and cost-effective approach to helping small and mid-sized California companies prevent, address and resolve employment disputes. He counsels employers and routinely defends claims of harassment, discrimination and retaliation, as well as misclassification, wage-hour, rest and meal period claims.

About the Event

No topic in employment law creates more confusion than worker classification. On the one hand, there is the question whether a worker can be legitimately treated as an "independent contractor," thus avoiding payroll laws and taxes. Equally vexing to many employers is the question whether an employee is "exempt" or "non-exempt." In both instances, mistakes in classification can be costly, as illustrated by the frequent seven, eight and even nine figure settlements and verdicts covered in the media. This one hour MCLE presentation will demystify the topic of classification. Attendees will be given the tools necessary to understand when a worker can properly be classified as an independent contractor, and whether an employee is exempt or nonexempt. Who should attend? Anyone who faces, or whose clients face, these questions.

Price

\$20 SBCA Members/\$25 Nonmembers

Contact Information/R.S.V.P.

Please RSVP by November 2nd to alex@craigielawfirm.com or (805) 845-1752. Please send checks to:

Alex Craigie
The Law Offices of Alex W. Craigie
791 Via Manana
Santa Barbara, CA 93108

The Santa Barbara County Bar Association Proudly Presents:

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Justices of Division Six*

“Taking the High Road”

1 hour Legal Ethics MCLE

*Please join us on
Wednesday, October 25th, 2017
5:30 pm - 7:30 pm
The Santa Barbara Club - 1105 Chapala Street*

MCLE Ethics Credit (pending)

SBCBA Members: \$50 (After October 11th, \$60)

Non-Members: \$60 (After October 11th, \$70)

Students/Paralegals: \$20

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Call SBCBA at (805)569-5511 for more information.

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**For information on upcoming MCLE events,
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Bishop , continued from page 14

tax dividends grow inside the Roth IRA permanently free of income tax.

Companies can use the DISC to compensate key contractors or employees who are directly responsible for their international sales.

Instead of getting bank financing to expand operations, companies can use a DISC to loan their tax deferred income back to themselves in the form of a Producer's Loan.

In this scenario, the related supplier receives a deduction in the current year and the DISC lends the pre-tax cash back to the related supplier. The loan term is limited to five years and there are various other compliance requirements.

Many businesses that qualify for these tax advantages do not get them. While a DISC can be useful, this article oversimplifies the complexities of DISC compliance as prescribed by the Tax Code. Finding a professional with experience with the use of a DISC is imperative to determine if this structure can benefit your bottom line. ■

Contact Joe Bishop at 805-979-9383 or email jbishop@nhhco.com. Co. The Nasif, Hicks, Harris & Co. office is at 104 W. Anapamu St., Suite B in Santa Barbara. Visit www.nhhco.com.

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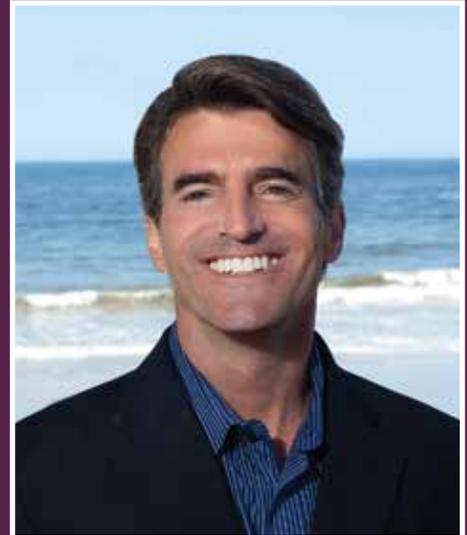
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