



# Willson & Pechacek, P.L.C.

## Newsletter



General Edition

July 2006

## What Should You do if You're Injured in an Auto Accident?

by Bruce B. Green

**A**utomobile accidents can cause unanticipated medical bills. If the other driver is wholly or partially at fault, who should pay them? What if the other driver's insurance company denies liability, and refuses to pay?

There are three primary sources for paying these medical bills: the other driver's liability policy, your own major medical insurer, and the "med pay" pro-

visions of your own auto insurance policy. The latter, the "med pay" coverage on your own policy, is often overlooked by injured parties. If used correctly, it can pick up the deductibles and co-pays that your own health insurer doesn't cover.

For example, suppose you incur \$25,000.00 in medical expenses in an automobile accident. You have \$5,000.00 in med pay coverage under your own auto policy. As is often the case, the other driver's insurance company ini-

tially denies liability while it investigates the circumstances surrounding the collision and your claimed injuries. The hospital and your doctors, however, want billing information now. What do you do?

Until you resolve your claim against the other driver, you should submit your medical bills to your major medical provider. It should be responsible for paying these bills, even though the

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## Another New Tax Bill: The Tax Increase Prevention Reconciliation Act

by Lonny L. Kolln II

**O**n May 17, 2006, the President signed the "Tax Increase Prevention and Reconciliation Act" into law. This article highlights some of the major ways the Act affects individuals and businesses.

The Act extends so-called investor tax breaks. In 2003, Congress passed a measure lowering the tax rate on most dividends from 38.6% to 15% and lowering the capital gains rate from 20% to 15%. That measure was due to expire at the end of 2008, but the Act extends the lower rates through 2010.

The Act also extends the increased expensing for small businesses under §179. A taxpayer may elect under §179 to deduct as an expense, rather than to depreciate, up to a specified amount of the cost of new or used tangible personal property placed in service during the tax year in the taxpayer's trade or business. The maximum dollar amount that may be deducted is \$108,000.00 for 2006, as adjusted for inflation. Under the pre-Act law, the amount was to drop to \$25,000.00 for property placed in service in tax years after 2007.

A taxpayer's maximum annual §179 expensing amount is reduced dollar-

for-dollar by the amount of qualified expensing-eligible property that is placed in service during the tax year in excess of a phase-out amount. In 2006, that amount is \$430,000.00, as adjusted for inflation. Under the pre-Act law, that amount was to drop to \$200,000.00 for property placed in service in tax years beginning after 2007.

A §179 election or a revocation may be made without IRS consent on an amended federal tax return for the tax year to which the election or revocation applies.

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## Preventing Home Repair Scams and Disputes

by Jamie L. Cox

Summer is already upon us, which means it is prime time for home repairs, and prime time for outright scams or frustrating disputes. You can take action to avoid both problems.

Home repair scams by "itinerant" or traveling con-artists work like this: Con-artists stop at your door, give you a hard sell, and offer sensational low prices. It might be for roofing, painting, asphaltting your driveway, or landscaping your yard. Con-artists insist that you pay in advance, but they don't do the work, or they do minimal work and never return. Remember, legitimate contractors very rarely solicit door-to-door.

Be skeptical! The main rules are to check out a contractor, and to never pay large sums in advance to a contractor you don't know. You can ask anyone to leave your property. Help your older neighbors who might be pressured or intimidated into making payments by traveling con-artists.

Disputes with established local contractors may not be fraud, but they can be very frustrating and costly. Follow these tips to protect yourself when hiring a contractor:

- ♦ Check out the contractor before you sign a contract or pay any money. Ask if the contractor is registered with the Iowa Department of Labor (800-562-4692, ext. 25871). Check local references. Ask the Consumer Protection Division if it has received complaints against the contractor.
- ♦ Get it in writing! Before any work begins, agree on a written contract detailing work to be done, responsibility for permits, costs, and any other promises. Request a copy of the contractor's liability insurance certificate. Put start and completion dates in writing and consequences if the contractor fails to follow them (example: the contract could be nullified if the contractor doesn't start on time).
- ♦ Try to avoid paying large sums in advance to a contractor you don't know! If you have to make a partial advance payment for materials, make your check out to the supplier and the contractor. Insist on a "mechanic's lien waiver" in case the contractor fails to pay others for materials or labor. Be extremely cautious of financing offers from a contractor, including second mortgages. Check first with your own lender or attorney.
- ♦ Remember, in most cases, you have three business days to cancel a contract signed at your home. If you decide to cancel a contract after three business days, look for a "liquidated damages" clause in the contract which could hold you liable for a percentage of the contract amount.

If you have a dispute with a contractor or you think that you might be a victim of a con-artist, please contact your attorney.

*Accident ... (Continued from Page 1)*

negligent driver may ultimately be liable for them in the future. However, it will not pay any unfilled deductible for the year, or any co-pays. Assume these items amount to \$3,000.00. your major medical provider will pay \$22,000.00 toward your total medical bills. You can then seek payment of the remaining

\$3,000.00 from your med pay coverage, leaving you with nothing to pay for out of pocket.

Will you owe this money back to your own insurance company? It depends. If you resolve your claim against the negligent driver, you may or may not owe some of this money back, depending on whether the negligent driver had enough insurance coverage to

fully compensate you for all of your damages (not just medical bills). Most times, your health insurance carrier and the med pay carrier will accept a fraction of what they actually paid to resolve the matter. At the end of the day, this means more money in your pocket to compensate you for your injuries.

*Tax Act . . . (Continued from Page 1)*

Under pre-Act law, such elections or revocations could not be made in tax years beginning after 2007.

For tax years prior to 2010, the Act extends the \$100,000.00 expense election limit and the \$400,000.00 phase-out ceiling, as adjusted for inflation, and the right to amend or revoke an expense election without IRS consent for two years.

The Act puts a temporary "band-aid" on the so-called alternative minimum tax (AMT) problem. Originally enacted to make sure that "wealthy" Americans did not escape paying taxes, the AMT, which is a parallel tax system that does not permit several of the deductions permissible under the regular tax system, such as state, local and property taxes, has started to affect more middle-income taxpayers. This is, in part, due to the fact that the AMT parameters are not indexed for inflation. In recent years, Congress has provided a measure of relief from the AMT by raising the AMT exemption amounts, allowances that reduce the amount of alternative minimum taxable income, reducing or eliminating AMT liability. However, these exemption amounts are phased out for taxpayers whose income exceeds specified amounts. For 2005, the AMT exemption amounts were \$58,000.00 for married filing jointly; \$40,250.00 for single taxpayers; and \$29,000.00 for married filing separately. However, for 2006, those amounts were scheduled to fall back to the amounts that applied in 2000: \$45,00.00, \$33,750.00,

and \$22,500.00, respectively. This would have brought millions of additional middle-income Americans under the AMT system, resulting in higher federal tax bills for many of them, along with higher compliance costs associated with filling out and filing the complicated AMT tax form.

To prevent the unintended result of having millions of middle-income taxpayers pay tax under the AMT rules, Congress has once again relied on a temporary fix to the problem. This time, a one year extension of the 2005 AMT exemption amounts, increased slightly. Under the Act, for tax years beginning with 2006, the AMT exemption amounts are increased to \$62,600.00 for married filing jointly; \$42,500.00 for single individuals; and \$31,275.00 for married filing separately.

The Act eliminates income limitations on Roth IRA conversion beginning in 2010. Under the pre-Act law, only taxpayers with \$100,000.00 or less in modified adjusted gross income could convert a regular IRA into a Roth IRA. A taxpayer making the conversion generally must pay tax on the money he or she takes out of the regular IRA, but once it is in the Roth IRA, he or she will not pay tax on the money or the money it earns. Generally speaking, Roth IRA conversions appeal to taxpayers who either think their tax rate will go up in retirement, or believe that the value of their account will rise significantly and, thus, are willing to make an up-front tax payment when they convert in order to reap large tax savings in later years.

Under the Act, beginning in 2010,

taxpayers with more than \$100,000.00 of modified adjusted gross income will also be able to convert a regular IRA into a Roth IRA. To make such conversions more attractive in 2010, the Act permits taxpayers who convert in 2010 to spread the income and the resulting tax payments on the converted funds over two years - 2011 and 2012.

The Act increases the Kiddie tax age limit from under 14 to under 18. The threshold amount at which the Kiddie tax kicks in is two times the amount allowed as a standard deduction for a dependent who has only investment income. For 2006, the amount is \$850.00, so the Kiddie tax begins to apply when the child has more than \$1,700.00 in unearned income.

Under the Act, the age limit below which a child's income from investments is taxed at the parents' rates is raised from 14 to 18. The Act specifies, however, that the Kiddie tax does not apply to a child who is married and files a joint return for the tax year. It also adds an exemption to the Kiddie tax for distributions from certain qualified disability trusts. The new provisions apply for tax years beginning after December 31, 2005.

Although the Act extended several major components of previous tax acts, it did not extend all of them. There is already in the pipeline a separate "trailer" bill that could extend other key components of previous tax acts and/or add entirely new provisions. If you have any questions regarding how these tax law changes could affect you, please contact your tax preparer.

## New Partners

Willson & Pechacek, P.L.C. announces that Jamie L. Cox, Lonny L. Kolln II, and Kirk E. Goettsch have been named partners in the law firm.

Jamie is a 1994 graduate of Wapello High School in Wapello, Iowa. After earning his bachelor's of art degree in sociology and history with honors from the University of Iowa in May, 1998, Jamie earned his J.D. from the University of Iowa College of Law in May, 2001. He is a member of the American, Iowa, Nebraska, and Pottawattamie County Bar Associations, is licensed to practice in state and federal courts in Iowa and Nebraska, and is practicing in the area of civil litigation. Jamie is the secretary of the Council Bluffs Youth Soccer Association and a

youth soccer coach. He is also the Editor of the Willson & Pechacek, P.L.C. Newsletter.

Lonny is originally from Denison, Iowa, and earned his Bachelor of Arts in political science graduating Summa Cum Laude from the University of Northern Iowa in May, 1999. He graduated from the University of Iowa College of Law in May, 2002, with Distinction. Lonny is licensed to practice in Iowa and Nebraska, and practices in the areas of corporate law, real estate, estate planning, probate, and taxation. He is a member of the American, Iowa, Nebraska, and Pottawattamie County Bar Associations and the Council Bluffs Estate Planning Council.

Kirk is a 1978 graduate of Holstein High School in Holstein, Iowa. Af-

ter earning his B.S. in Animal Science from Iowa State University in May, 1982, Kirk earned his J.D. from the Drake University Law School in May, 1985. He is admitted to practice in state and federal courts in Iowa and Nebraska, and before the U.S. Tax Court. Kirk is a member of the Iowa, Nebraska, and Pottawattamie County Bar Associations, and is practicing primarily in the areas of business and estate planning, tax, real estate, probate, and commercial litigation. From 1990 to 1998, Kirk served as the Ida County Attorney. Kirk has served on numerous social service agency and charity boards, and a hospital foundation board. He currently serves as the treasurer of his church and the coach of a youth baseball team.

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