



Willson & Pechacek, P.L.C.

Newsletter



General Issue

FEBRUARY 2015

TIPA EXTENDS TAX RELIEF FOR INDIVIDUALS AND BUSINESSES (BUT ONLY THROUGH 2014)

By Lonny L. Kolln II

On December 19, 2014, President Obama signed into law the Tax Increase Prevention Act. This Act retroactively extends more than 50 tax breaks, but only through December 31, 2014. These extensions do not apply to tax years beginning on or after January 1, 2015. Therefore, the extension of these rules may be beneficial but only if you acted during 2014.

The following are some individual tax breaks that may benefit you:

1. Direct IRA distributions to charity. Direct distributions up to \$100,000.00 made in 2014 by taxpayers age 70½ or older from their IRA to qualified charitable organizations will not be subject to income tax. Such contributions can even be used to satisfy required distribution amounts and they are not subject to charitable contribution percentage of adjusted gross income limits because they are neither included in income nor claimed as a deduction on the taxpayer's return.
2. State and local sales tax deduction. Taxpayers can take an itemized deduction for state and local sales tax instead of the state and local income taxes. This option can be valuable for taxpayers who live in states with no or low income tax rates or who purchased major items, such as a car or boat.
3. Tuition and fees deduction. Eligible taxpayers can deduct qualified tuition and related expenses paid

on behalf of themselves, as well as their spouses and dependents. This deduction is allowed only to the extent the qualified tuition and related expenses are for enrollment at a higher education institution before 2015, except the deduction is allowed for expenses paid before 2015 if the expenses were in connection with an academic term beginning before 2015 or during the first three months of 2015. The tuition and fees deduction may be beneficial to taxpayers who are ineligible for education related tax credits, because the credits typically will provide greater tax savings. A taxpayer cannot take both the education credits and the deduction.

4. Educator expenses deduction. Eligible elementary and secondary school teachers can claim an above the line deduction for up to \$250.00 per year for expenses paid or incurred in 2014 for books, certain supplies, computer and other equipment, and supplementary materials used in the classroom.

The following are some business tax breaks that may benefit you:

1. Section 179 Expensing. TIPA extends higher limits under Section 179 back up to \$500,000.00 on qualified new and used assets. The deduction is subject to a dollar for dollar phase out once the cost of property placed in service during the tax year exceeds \$2,000,000.00. The expensing election can be claimed only to offset net income, not to reduce net income below zero.

2. 50% Bonus Depreciation. The additional first year depreciation allows businesses to recover the cost of depreciable property more quickly for qualified assets. Qualified assets include **new** tangible personal property with a recovery period of 20 years or less (such as farm equipment and office equipment). The bonus depreciation extension generally applies only to property placed in service before 2015.

This is a reminder that 50% bonus depreciation under the current rules is not allowed on purchases after December 31, 2014 and Section 179 expensing election drops back down to \$25,000.00 with a \$200,000.00 phase out threshold for tax years beginning on or after January 1, 2015. If a business is eligible for Section 179 expensing, it may obtain a better benefit from the expensing election than the bonus depreciation, because the expensing election can allow the business to deduct 100% of the assets cost. Moreover, Section 179 is available for both new and used property, unlike bonus depreciation which can only be used on new assets.

Please do not hesitate to contact us should you have any questions on how the Tax Increase Prevention Act affects your 2014 income tax returns.

Lonny L. Kolln II is a Partner at Willson & Pechacek P.L.C. and is currently on the Elder Law Section of the Iowa Bar Association and was recognized as a "Rising Star" by Super Lawyers in the areas of Estate Planning and Probate.

Employment At-Will: What Does It Mean?

By Jamie L. Cox

Iowa, Nebraska, and every other state except Montana follow the basic premise that employees who do not have a written contract for employment are considered to be employed "at-will". At-will employees generally can be fired for good cause, bad cause, or no cause at all, subject to certain exceptions. This article briefly describes these exceptions to employment at will.

Public Policy Exception. In more than 40 states, including Iowa, employees cannot be fired for reasons that violate an established public policy. For example, an employee cannot be fired in retaliation for enforcing a statutory right, for refusing to participate in an illegal activity, or for whistleblowing (disclosure of mismanagement, corruption, illegality, or some other wrongdoing).

Implied Contract Exception. In most states, including Iowa and Nebraska, courts may find an employer entered into an implied contract with employees by making certain promises to them – usually in an employee handbook. For example, employee handbooks or other written policies might contain promises to employees

that the employer will follow certain procedures before firing them. These assurances may create an implied contract with employees to do what the employer said it would do. In effect, that turns an at-will employee into a contractual one. Also, an implied contract may be made when a supervisor assures an employee that his or her job is secure. This and other similar statements could create an oral employment contract which a potential employee could sue to make enforceable. Finally, an employer's initial letter offering an employee a job could be construed as an employment contract depending on the manner and structure of the letter.

Federal and State Employment Laws Exception. Perhaps the largest and well known exception to at-will employment is that an employer cannot fire an employee in violation of federal or state employment laws. For example, federal laws such as Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, the Americans with Disabilities Act, and the Age Discrimination in Employment Act, and state laws such as the Iowa Civil Rights Act and the Nebraska Fair Employment

Practices Act, guard against terminations for illegal reasons such as discrimination and retaliation.

If you are an employee or employer who has questions about your rights or obligations under the employment at-will laws, please contact our office at your earliest convenience.



Jamie L. Cox is a Partner attorney at Willson & Pechacek, P.L.C. Mr. Cox is one of 12 Iowa attorneys appointed by the President-Elect of the Iowa State Bar Association to sit on the Labor and Employment Law Section Counsel. Mr. Cox is also recognized as a "Rising Star" by Super Lawyers® in the areas of Employment & Labor, General Litigation, and Personal Injury – General: Plaintiff. Super Lawyers® is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high-degree of peer recognition and professional achievement, selected by independent research, peer nominations and peer evaluations.

Avoiding Common Pitfalls in Residential Landlord-Tenant Relationships

By Ben Wischnowski

Whether you own one residential rental property or several, it is likely that you will encounter various disputes with tenants from time to time. While it would be unreasonable to expect that eviction proceedings can be avoided altogether by proper planning, there are several practices a landlord can follow to minimize the likelihood that common landlord-tenant disputes will make their way to court. Always keeping in perspective the general principle that Iowa law strongly discourages “self-help” remedies on the part of landlords, this article addresses two common areas of contention in residential landlord-tenant arrangements.

Landlords routinely ask lawyers for guidance on how to deal with late or unpaid rent. Regardless of the terms of a lease, Iowa law places strict limits on the amount of late fees that a landlord may collect for rent. These limits take the form of dollar caps (as opposed to maximum rates of interest), and they vary according to the amount of monthly rent provided for in a particular lease. Where monthly rent equals or falls below \$700 per month, a landlord may lawfully charge late fees of \$12 per day, with

total late fees not to exceed \$60 for any one month. In contrast, where monthly rent exceeds \$700 per month, a landlord may charge late fees of \$20 per day, with total late fees not to exceed \$100 for any one month. Late fees must be expressly provided for in the rental agreement in order to be charged.

Whereas the issue of late fees only arises when a tenant fails to comply with the terms of a lease, the return or retention of a security deposit is a question that a landlord confronts at the close of every rental arrangement. Therefore, it is all the more crucial that a landlord understand the legal duties surrounding the handling of security deposits. First, the security deposit cannot exceed two months’ rent. Additionally, a landlord is required to keep security deposits in a separate bank account from the landlord’s personal funds. Within thirty days from the termination of the rental agreement and receipt of the tenant’s mailing address, the landlord must either return the security deposit in full or provide the tenant with a written statement explaining the withholding of any portion of the security deposit. The Iowa Code provides certain limited reasons for retaining any portion of the security deposit. For the situation in which a tenant does not provide a mailing address or

other instructions to a landlord within one year of the termination of the rental agreement, the tenant forfeits all rights to the security deposit.

This article does not address the potential grounds for eviction or eviction procedure in general, and it limits the discussion to *residential* leases under Iowa law. Since the notices that a landlord must give to a tenant vary from lease to lease, it is critical to discuss your particular rental arrangement with a lawyer prior to taking any action.

The law firm of Willson & Pechacek P.L.C. is pleased to announce Benjamin J. Wischnowski became a partner in the firm effective January 1, 2015. Ben was admitted to the Iowa State Bar in 2012 and to the Nebraska State Bar in 2013. He joined Willson & Pechacek as an associate attorney in January, 2013. Ben received a Bachelor of Arts from the University of Pittsburgh in 2009 where he graduated in three years summa cum laude, with majors in history and political science. In 2012, he graduated from the University of Iowa College of Law with special honors and distinction. While at Iowa, he was Note and Comment Editor for the “Iowa Law Review”. Ben is working primarily in the areas of taxation law, estate planning and probate law, business law, real estate law and civil litigation.

Willson & Pechacek, P.L.C.
Newsletter

Willson & Pechacek, P.L.C.
421 West Broadway, Suite 200
P.O. Box 2029
Council Bluffs, Iowa 51502
(712) 322-6000

Website: www.willsonpechacek.com
Email: info@willsonpechacek.com

Branch Offices:

Carroll, Iowa (712) 792-0001
Harlan, Iowa (712) 755-1111
Oakland, Iowa (712) 482-6999
Treyner, Iowa (712) 487-3444
Clarinda, Iowa (712) 542-2141

Social Security Benefits in a Nutshell

By Lee Rankin

Social Security Benefits are just another piece in the retirement planning puzzle. It is important to review how the benefit calculation applies to you and how it fits into your retirement plan.

Social Security benefits are calculated using a formula based on a person's best 35 years of inflation adjusted wages and net earnings from self-employment. At full retirement age, a formula is applied to these indexed earnings to determine what is known as the Primary Insurance Amount (PIA). This formula contains two different thresholds known as "bend points" and percentages are applied to the three portions created by the bend points to calculate the PIA.

The bend points are increased each year due to inflation, but the percentages remain the same. The annual PIA for someone

retiring at full retirement age in 2015 would be the sum of:

- 1) 90% of the first \$9,912 of indexed average earnings, plus
- 2) 32% of indexed average earnings between \$9,912 and \$59,760, plus
- 3) 15% of indexed average earnings between \$59,760 and \$118,500.

For 2015, the full retirement age is 66 years old. However, an individual may start drawing a reduced social security benefit at age 62 or may delay receiving benefits until age 70. Generally speaking, once benefits are started, only cost of living adjustments will apply thereafter. Therefore, receiving benefits early permanently reduces (and a late retirement permanently increases) the Social Security Bene-

fits an individual receives in their lifetime.

The following table illustrates the percentage applied to a retiree's PIA for the age in which benefits begin:

Age 62:	75%
Age 63:	80%
Age 64:	86 2/3%
Age 65:	93 1/3%
Age 66:	100%
Age 67:	108%
Age 68:	116%
Age 69:	124%
Age 70:	132%

Individual circumstances will determine when best to start drawing social security benefits. If you would like to discuss how Social Security affects your retirement planning, please give us a call.
