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Established in 1985, DTC Lawyers is one of New Hampshire's leading law firms, with offices in Exeter and Portsmouth. We are a full-service firm with our lawyers offering personalized representation to small businesses, large institutions and individuals. We represent and advise our clients in the areas which include general business and commercial law, municipal, development and real estate law, telecommunications, utility and internet law, employment and labor law, family law, environmental law, appellate, litigation, bankruptcy, and probate/estate planning.

Our attorneys provide affordable, quality legal services and personal attention to small and large businesses, agencies, boards, municipalities and individuals. Our focus on the client has enabled DTC to provide general counsel services, as well as special representation on specific matters to our clients. It allows us to be trusted counselors and advisors as well as advocates.

While situated on New Hampshire's seacoast, our clients come from throughout New England. We represent many firms and individuals relocating to New Hampshire from across the nation.

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Recent Changes to Landlord Tenant Law

In 2006, the New Hampshire Legislature enacted several changes to New Hampshire landlord tenant law, which became effective January 1, 2007. Many of these changes benefit landlords. It is important, therefore, to be aware of these changes and utilize them where applicable.

The most prominent change is the replacement of the term "Notice of Quit" with "Eviction Notice". Due to past confusion over the verb to "quit", the Legislature amended the title to "Eviction Notice". All forms referencing "Notice to Quit" should be altered to read "Eviction Notice".

The New Hampshire Legislature also amended the security deposit statute. Now, a landlord no longer needs to provide a tenant with a receipt for the security deposit if the tenant pays the security deposit with a personal check, bank check or check issued by a government entity. If a landlord takes a security deposit, however, the landlord must now provide the tenant with a written notice that permits the tenant to list conditions in the rental unit in need of repair.

The landlord is now entitled to apply a security deposit to lawful charges contained in a lease, in addition



to unit damage, back rent or real estate tax increases. These charges, however, must be clearly articulated in the lease and must not contravene any other portion of the landlord/tenant law.

The most pronounced change in landlord tenant law pertains to recreational and vacation property. The law now provides for a truncated process to evict tenants of vacation or recreational property who lease that type of property during the off-season parts of the year. Effective January 1, 2007, landlords may evict such tenant from the property by presenting any law enforcement officer of New Hampshire with a written lease. This lease must be signed by the tenant and must inform the tenant that he may be removed upon expira-

tion of the lease without a judicial process. Upon presentation of the lease, the law enforcement officer shall remove the tenant.

Although this law provides for a quicker eviction process for this type of tenancy, a landlord should closely adhere to the letter of this law. First, this procedure only applies to tenancies where a tenant rents recreational or vacation property for the non-recreational or non-vacation period of the year. Furthermore, should the landlord fail to adhere to the lease requirements, or if the landlord causes the tenant to be removed by misrepresenting the nature of the tenancy, the landlord will be liable to the tenant for three months rent plus costs and attorney's fees. The Court has no discretion in awarding in such a case; the law mandates such an award.

Notwithstanding these changes to landlord tenant law, evictions remain a technical and complicated procedure. For additional information on this matter, please contact **Attorney Christopher T. Hilson**.

Changes to New Hampshire Health Insurance Coverage

Recent changes to New Hampshire Law regarding Health Insurance Coverage have benefits; but also potential implications for New Hampshire employers of which they should be aware. On July 17, 2007, Governor Lynch signed House Bill 790 into law (House Bill 790 amended and added various sections of the



RSA. For the purposes of simplicity, it will be referred to in this article as House Bill 790.), which changes the definition of "dependent" to cover a broader range of persons to include adult children who are still students and unmarried. While this is good news for people who wish to provide coverage to their children who are unable to provide health insurance for themselves, because the Internal Revenue Code (the "IRC") definition of "dependent" does not coincide with the definitions of "dependent" under House Bill

790, New Hampshire State Law can confer dependent status on individuals who are not considered dependents under the IRC.

In the event an employee's dependent meets the House Bill 790 definition of "dependent" but does not fall within the IRC definition of "dependent", an employer must consider whether and how much of an employee's health insurance premium paid on the employee's behalf needs to be included in the employee's income and upon which the employer must pay its share of employment taxes. The IRC excludes employer-paid health insurance premiums from an employee's income to the extent that the insurance covers the taxpayer, his or her spouse, and his or her dependents as defined under the IRC. If the dependents are only dependents under House Bill 790, the difference in cost is included in the employee's income. Similar issues surround the new Civil Unions Law (HB 437) and Senate Bill 197, which provides continuation of group health insurance coverage in the event of divorce or legal separation.

These new laws do not provide a mechanism for employers to determine when these issues are triggered. A proactive questionnaire to employees on an annual basis so employers may discern whether action needs to be taken and so that the incremental cost of providing such coverage is included in the wages of the



employee where necessary.

For further information, please contact, **Attorney Jessica L. Singer, Esq.**

Worker's Compensation Update

A recently enacted amendment to New Hampshire's workers' compensation statute will impact corporations and limited liability companies engaged in the construction sector operating in New Hampshire. This amendment will close the prior exclusion corporations and limited liability companies had to exempt three executive

officers or members of the LLC from the requirements of obtaining worker's compensation insurance coverage. Previously corporations and limited liability companies were able to exclude up to three executive officers or members from the compulsive requirements of the workers' compensation statute.

Under the new amendment, the exclusion will no longer apply to an individual, regardless of status or title within a corporation or limited liability company, who is actively engaged in on-site work or any construction site within the State of New Hampshire. This change will take effect on

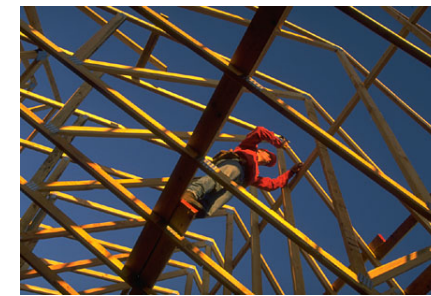


Worker's Compensation Update cont.

September 14, 2007, but only affects insurance contracts written after September 14, 2007. Sole proprietors and partnerships are not affected by this change as they did not previously have the benefit of

the exclusion. Corporations and limited liability companies should take note of this change, as it has the potential to have a serious financial impact.

For further information, please contact, **Attorney Douglas M. Mansfield, Esq.**



Recent Changes in the Law Governing Charities

In spite of its name, the federal Pension Protection Act, enacted in August 2006, included many changes in the law for charities, applicable both to organizations and to their donors. Some changes benefit charities and donors, others crack down on perceived abuses and add new



requirements to follow. I will highlight a few of the major ones here.

The carrots: As an incentive for charitable giving, tax free distributions to charities from IRA's are now permitted. There are some restrictions, but this enables many seniors to make tax fee contributions in greater amounts than they might have been able to. Charitable groups should include this information in their solicitations. Contributions of real property for conservation purposes (including conservation ease-

ments) are encouraged, although stricter appraisal rules may apply.

The sticks: Cracking down on "self-dealing" by those who run charitable organizations (trustees, officers, directors and their immediate families) and the organizations, with increased excise taxes, on recipient and potentially on the manager of the organization, individually.

- Limitations on the tax benefit for donations of tangible personal property worth more than \$5000 (other than publicly traded securities) if the property is not used for the exempt purpose of the charitable organization (for example, the donation of a painting worth more than \$5000 to a YMCA, which sells the painting within 2 years of the donation, rather than displaying it in its lobby, would not be tax deductible to the donor).
- Limitations on deductions for donations of clothing or household items: to be eligible for a deductions, items must be in good used condition or better (rules are expected from the IRS stating no used socks or underwear – possibly the first time the latter word will appear in the IRS regula-

tions!). Receipts for such donations worth \$250 or more are required from the organization, or the donor will not be able to claim the deduction. In general, donors must maintain reliable records of all donations, including money and donations of tangible personal property. The requirements for record keeping vary depending on the type of donation and the amount of value claimed.

- New requirements for appraisals for some types of property (fine art, real estate, etc.) and more regulation of the appraisers.

In summary, there are more restrictions than incentives in the new law. There are a thicket of new requirements for both charitable organizations and donors. If any of our clients would like further assistance in navigating this thicket, we would be glad to help.

For further information, please contact, **Attorney Katherine B. Miller, Esq.**

