WILLIAM JEFFERSON COLE

A partner remembers:

Since beginning my career with Cole, Evans & Peterson at 20 years of age, I always addressed Jeff Cole as Mr. Cole. In the beginning, "Mr. Cole" was an appropriate address in recognition of his 20-year seniority to me and as my employer. In later years, the title of "Mr. Cole" seemed to remain appropriate in an almost daily acknowledgement of my enduring respect and appreciation for him during the remainder of his life on earth. Now, after almost 44 years of my blessed association with Mr. Cole, it seems somehow appropriate for me to remember and speak of Mr. Cole as Jeff. Rather than continuing with the more formal title, I will hereafter refer to him as Jeff in honor of his transition from his earthly role as a wise fatherly mentor to his everlasting presence in our hearts and souls.

Jeff always did his best to make this world a better place for all of us.

Jeff was a man of great faith. He studied the Bible and learned the word of God from a young age. Jeff internalized the teachings of our Creator and was a wise man.

Our Creator provided Jeff with many gifts. Jeff had the unusual ability to quickly and instinctively reach a logical, efficient, and appropriate course of action for almost any situation. As quickly as his mind worked, he did not reach hasty conclusions. Rather, he continued to think deeply, learn facts, and seek counsel with others in search of a best course of action. Those who sought Jeff's counsel and followed his advice almost always seemed to enjoy good results.

Jeff was always focused on making things better. He was never one to participate in idle chatter. If a topic was worth discussion, Jeff addressed the topic with a high level of academic respect, attention, and vigor that matters of consequence deserve.

Were Jeff's words always delivered in a delicate manner? If you knew Jeff long enough and had earned his respect and if he knew you could handle it, Jeff could be painfully direct with his words. In those moments of learning opportunity, I found comfort in the Bible's teaching in Ecclesiastes 7:5 – It is better to hear the rebuke of the wise, than to hear the song of fools.

Jeff was a good listener, an excellent communicator, and a natural teacher. He was an avid reader and deep thinker. He knew a great many facts on a great number of topics. One of the many things that made Jeff so special, was his desire and ability to use and share his knowledge to help others. He appreciated the help and opportunities provided to him by others and always found time to give back more than he received. He taught Sunday school for members of his church, he chaired committees for his professional associations, taught continuing education courses for his colleagues, and shared his knowledge of farming with others in the farming community.

Jeff, we will greatly miss you and, for all you have done, we thank you.

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JULY 2024

A NEW PAYMENT OPTION

We are pleased to announce that we are now accepting payments online to better serve our clients. Our secure payment portal can be accessed by clicking the "Pay Invoice" button found at the top right of our main webpage https://www.cepcpa.com. The payment portal can also be reached by using your mobile device's camera to scan the QR code located at the bottom of our newly revamped invoices.

The payment portal allows you to pay directly from your bank account or by using a major credit card. Within the portal there is a "Quick Pay" option and an option to create an account. The benefits of creating an account are (1) your bank or credit card information will be saved and auto-filled the next time you log in and (2) you can view your electronic payment history. Each time a payment is processed, a payment confirmation will be shown on-screen and also emailed to you.

We will, of course, continue accepting payments the old-fashioned way: by paper check. If you have any questions about our online payment portal, we will be happy to assist you.

NEW FEDERAL TRADE COMMISSION RULES ON NONCOMPETE AGREEMENTS

A noncompete agreement (also called a noncompete covenant, covenant-not-to-compete or, simply, a noncompete) is a contract in which an employee agrees to not compete with the current employer for a certain period of time after the employment is terminated. For example, a company executive with important contacts that have been developed during employment might be subject to a binding agreement prohibiting that executive from working for a competitor for two years after leaving.

In the interest of worker protection, many states restrict the maximum length of such an agreement. In Louisiana, a noncompete agreement generally may not exceed two years. Some states (e.g., KA, MS, NC, and SC) have little or no statutory restrictions on noncompete agreements. Several states (e.g., CA, MN, ND, and OK) ban noncompetes entirely.

The Federal Trade Commission (FTC) has recently concluded that "noncompete [agreements] keep wages low, suppress new ideas, and rob the American economy of dynamism. . . . The FTC's final rule to ban noncompetes will ensure Americans have the freedom to pursue a new job, start a new

(*Continued on reverse*)

business, or bring a new idea to market." The FTC published its "final rule" banning most noncompetes on May 7, 2024, which, unless prevented by the Courts, will become effective nationwide 120 days later on September 4, 2024.

Under the FTC's new rule, existing noncompetes for most workers will no longer be enforceable. However, existing noncompetes for current and former senior executives (those earning more than $151,164 annually and who are in a policy-making position) can remain in force, but employers are banned from entering into or attempting to enforce any new noncompetes, even for senior executives. Also, noncompetes are allowed if entered into in connection with a sale of a business.

Employers will be required to provide notice to current and former workers, other than senior executives, who are bound by an existing noncompete that the agreement will no longer be enforced. Note that this new rule will apply only to for-profit businesses. The FTC has no authority over not-for-profit organizations and, therefore, they are not subject to these new rules.

Opponents of these new rules argue that noncompetes serve the valid purposes of (1) protecting sensitive and proprietary business information, (2) increasing employee retention, and (3) maintaining a business's competitive advantage.

Currently, two lawsuits have been filed against the FTC to block this new rule, and we understand from news sources that more lawsuits are likely to be filed. At this time, it appears that the best thing to do is nothing. As September 4 gets closer, we will furnish an update on this matter.

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Tax & Business Alert

JULY 2024

INDEPENDENT CONTRACTORS: HANDLE WITH CARE

Many businesses use independent contractors to help keep their costs down and provide flexibility for short-term needs. If you're among those businesses, be careful that these workers are properly classified for federal tax purposes. If the IRS reclassifies them as employees, it can be an expensive mistake.

The question of whether a worker is an independent contractor or an employee for federal income and employment tax purposes is a complex one. If a worker is an employee, your company must withhold federal income and payroll taxes, pay the employer's share of Social Security and Medicare taxes on the wages, and pay federal unemployment tax. A business may also provide the worker with fringe benefits if it makes them available to other employees. In addition, there may be state tax obligations.

On the other hand, if a worker is an independent contractor, these obligations don't apply. In that case, the business simply sends the contractor a Form 1099-NEC for the year showing the amount paid (if it's $600 or more).

KEY FACTORS

Who's an "employee?" Unfortunately, there's no one definition of the term. The IRS and courts have generally ruled that one of the key factors that determines the difference between an employee and a contractor is the right to control and direct the person in the jobs they're performing, even if that control isn't exercised. The issue of control is evaluated by asking several questions, including:

- Who sets the worker's schedule?
- Are the worker's activities subject to supervision?
- Is the work technical in nature?
- Is the worker free to work for others?

Another important factor is whether the worker has the opportunity for profit or loss based on his or her managerial skills. That is, can the worker apply independent judgment and business acumen to affect the success or failure of the work being performed? If there's a lack of such opportunity, that's one indication of employee status.

Some employers that have misclassified workers as independent contractors may get some relief from employment tax liabilities under Section 530. This protection generally applies only if an employer meets certain requirements. For example, the employer must file all federal returns consistent with its treatment of a worker as a contractor and it must treat all similarly situated workers as contractors. Note: Section 530 doesn't apply to certain types of workers.

BE WARY BEFORE ASKING THE IRS

You can ask the IRS (on Form SS-8) to rule on whether a worker is an independent contractor or

employee. However, you should also be aware that the IRS has a history of classifying workers as employees rather than independent contractors. So, before you file Form SS-8, contact us for a consultation. Filing this form may alert the IRS that your business has worker classification issues — and it may unintentionally trigger an employment tax audit. It may be better to properly set up a relationship with workers to treat them as independent contractors so that your business complies with the tax rules.

Workers who want an official determination of their status can also file Form SS-8. Dissatisfied independent contractors may do so because they feel entitled to employee benefits and want to eliminate their self-employment tax liabilities. If a worker files Form SS-8, the IRS will notify the business with a letter that identifies the worker and includes a blank Form SS-8. The business will be asked to complete and return the form to the IRS, which will render a classification decision.

NEED MORE HELP?

This article lists the basic rules. If you have questions, contact us to assist you in ensuring that your workers are properly classified. ■

6 STRATEGIES FOR IMPROVING COLLECTIONS

Businesses that operate in the retail or restaurant spheres have it relatively easy when it comes to collections. They generally take payments right at a point-of-sale terminal and customers go on their merry way. Of course, these enterprises face many other challenges

For other types of companies, it's not so easy. Collections can be particularly challenging for business-to-business operations, which often find themselves in complex relationships with key customers. In these businesses, it's not as simple as "pay up or hit the road."

If your company is dealing with slow-paying customers, which isn't uncommon in today's inflationary environment where everyone is trying to preserve cash flow, it helps to review the basics. Here are six tried-and-true strategies for increasing your chances of getting paid:

1. Request payment up front. For new customers or those with a documented history of collection issues, consider asking for a deposit on each order. This would generally be a small but noticeable percentage of the contract or order price. You could also explore the concept of asking for a service retainer fee, similar to how law firms typically operate.

2. Charge fees. Most customers are likely familiar with the concept of late-payment fees from dealing with their credit card companies. Consider implementing fees or finance charges on past due accounts. Place extremely delinquent accounts on credit hold or adjust their payment terms to cash on delivery.

3. Reward timely payments. An effective collection strategy isn't only about "penalizing" slow-paying customers. It's also about incentivizing those who pay on time or who represent a potentially lucrative long-term relationship. Crunch the numbers to determine the feasibility of giving discounts to customers with strong payment histories or to those who have improved the timeliness of payments over a given period.

4. Communicate proactively. Set up regular e-mail reminders and place live phone calls to customers who haven't settled their accounts. If the employees who work directly with the delinquent customers can't resolve payment issues, elevate the matter to a manager or even to you, the business owner. If necessary, consider executing a promissory note to prevent the customer from disputing the charges in the future.

5. Get external help. If, after repeated tries, your collection efforts appear unsuccessful, it might be time to get outside help. This typically means engaging either an attorney who specializes in debt collection or a collections agency. View this as a last resort, however, because third-party fees may consume much of the collected amount and you're unlikely to continue doing business with the customer.

6. Claim a tax break. One last important point about collections: If an outstanding debt is uncollectible, you may be able to write it off on your tax return. Be sure to document each customer's promises to pay, details of your collection efforts and why you believe the debt is worthless.

We're here to answer questions about tax deductions and other collection activity. We can also help in improving your overall accounts receivable processes. ■

RENTING TO FAMILY MEMBERS

As rents continue to rise in many areas, you may decide to help your financially challenged family members by renting your property to them at a discount. But these arrangements can be fraught with tax perils.

A misstep can lead to the loss of significant tax deductions. Here's a look at the tax treatment that applies when you rent to unrelated parties and how the rules change when you rent to relatives.

BUSINESS VS. PERSONAL

If you use real estate strictly for business purposes — that is, as a rental property, you must report the income and can deduct mortgage interest, property taxes, utilities, depreciation, maintenance and other expenses. If your expenses exceed your rental income, you can claim a loss (subject to limitations).

If you use property as a personal residence and rent it out for fewer than 15 days per year, you don't need to report the rental income but you can't deduct related expenses. If you itemize, you can still claim personal deductions — to the extent allowable — for mortgage interest and property taxes.

If you rent out your personal residence for 15 or more days per year, it's treated as a mixed-use property. You must report the rental income and allocate your expenses between the property's personal and business uses. You can claim the personal use portion as itemized deductions. The business use portion of these and other expenses are deductible as rental expenses, but they can't create a loss. Disallowed deductions may be carried forward to future years.

FAMILY MATTERS

Renting property to family members means you risk losing the ability to deduct rental expenses. That's because use by family members is considered personal use, even if your relative pays rent, unless *both* of these requirements are met. The family member:

1. Uses the property as a principal residence, and

2. Pays fair market rent (not discounted).

If these requirements aren't met, then you must report the rental income (if you rented the property for 15 days or more per year). But related expenses won't be deductible.

To avoid losing valuable tax benefits, set the rent at or above fair market value and document fair market rent with comparable local rental rates. If you give family members financial gifts to help with the rent, the IRS will likely view this as discounted rent.

KNOW WHAT YOU'RE GETTING INTO

Helping family members with housing expenses is a good thing — but be aware of the tax consequences of renting to relatives. Your tax advisor can be a valuable resource as you make these decisions ■

TAX CALENDAR

July 10
Employees must report June tip income of $20 or more to employers (Form 4070).

July 31
Employers must report income tax withholding and FICA taxes for second-quarter 2024 (Form 941) and pay any tax due.

- Employers must file a 2024 calendar-year retirement plan report (Form 5500 or Form 5500-EZ) or request an extension.
- Employers must file Form 941 for the second quarter (August 10 if all taxes are deposited in full and on time). Also, employers must deposit FUTA taxes owed through June if the liability is more than $500.

August 12
Employees must report July tip income of $20 or more to employers (Form 4070).

August 15
If the monthly deposit rule applies, employers must deposit the tax for payments in July for Social Security, Medicare, withheld income tax and nonpayroll withholding.

September 10
Employees must report August tip income of $20 or more to employers (Form 4070).

September 16
Third-quarter 2024 estimated tax payments are due for individuals, calendar-year corporations, estates and trusts.

September 30
Calendar-year trusts and estates on extension must file their 2023 Form 1041.

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HSAs CAN BE POWERFUL RETIREMENT SAVING TOOLS

Health Savings Accounts (HSAs) are designed as tax-advantaged savings vehicles for funding uninsured health care expenses. But for those in relatively good health, they also may serve as attractive retirement savings vehicles.

Using an HSA, an eligible individual can cut his or her federal income tax bill. HSAs are available to people covered by high-deductible health plans. (In 2024, a high-deductible plan is defined as one with a deductible of at least $1,600 or more for individual coverage or $3,200 or more for family coverage.) Contributions are tax-deductible and withdrawals used to pay for qualified unreimbursed medical expenses are tax-free. You can make tax-deductible contributions to an HSA and take tax-free withdrawals to pay for uninsured medical expenses.

This year, you can contribute up to $4,150 to an HSA — $8,300 if you have family coverage — plus an additional $1,000 if you'll be 55 or older by the end of the year. If you're fortunate enough not to need all the funds in the account for medical expenses, they'll continue to grow on a tax-deferred basis, providing a valuable supplement to your other retirement accounts in several ways. For instance, you can use HSA funds to pay the premiums for a long-term care policy if you have one.

If you retire (or lose your job) before you qualify for Medicare, you may need to bridge the gap until you reach Medicare eligibility at age 65. During that time, there is an exception that allows HSA funds to be used for private health insurance premiums in addition to the expenses that are generally allowed, such as deductibles and your share of other costs. Once Medicare kicks in, your HSA can be used to pay Medicare premiums. In general, once you reach age 65, you can use your HSA funds to pay for anything. However, if your purchases are not qualified medical expenses, those amounts will be subject to state and federal taxes.

Contact our office with questions about adding an HSA to your plans for retirement. ■

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