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New Homestead Law in Massachusetts

By John Moorman, Esq.

A new homestead law in Massachusetts becomes effective on March 16, 2011.



John Moorman

A homestead provides a safety net to homeowners when they are sued or file for bankruptcy protection by shielding a certain amount of equity in their homes, making their homes un-touchable for creditors. However, many people have never heard of the homestead law and are not aware of the protections it affords them.

One of the purposes of the new law is to provide protection so they do not lose their homes, or at least protect the first \$125,000 in equity in their homes.

The most significant part of the law is an automatic homestead exemption of \$125,000 for every homeowner in the Commonwealth. While the current regular homestead exemption is \$500,000, which is one of the largest in the country, it still requires the filing of a declaration of homestead at the Registry of Deeds. Under the

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Employment Retaliation Claims Surging

The case can be made that discriminating against an individual in the workplace because of the person's gender, race, religion, and similar characteristics is something of a behavioral aberration that is not a part of human nature—or at least most people would like to think that is the case. But what about the scenario in which a manager takes it out on an employee who has sued or threatened to sue the employer (and maybe the manager, too) for some type of discrimination? Such retaliation may not spring from the most noble of instincts, but it is rooted in common human emotions.

Psychological theorizing aside, the fact is that

retaliation claims brought against employers have become the single largest type of claim filed with the federal Equal Employment Opportunity Commission.

Whether grounded in a statute or court-made law, practically any recognized form of employment discrimination is accompanied by a prohibition against any form of retaliation against the person who has complained of the discrimination. Until recently, the claim for a prohibited form of discrimination typically was the main act, with a retaliation claim sometimes thrown in for good measure, and maybe even as an after-

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New Federal Tax Law Enacted

On December 17, 2010, the president signed into law an \$858 billion federal tax package. The main elements of the legislation are a two-year extension of the reductions of income, capital gains, and dividend taxes enacted during the Bush Administration and a one-year extension on unemployment insurance benefits that had ended as of December 1. Although many parts of the package are of relatively short duration, below are some highlights of the new tax law:

Your Paycheck

Beginning in January 2011, a 2% drop in an employee's share of the Social Security portion of the FICA tax, from 6.2% to 4.2%, will increase take-home pay for most workers. For example, this means an additional \$1,600 in 2011 for someone making \$80,000 a year.

There will be a two-year extension of the 2001 and 2003 income tax cuts from the Bush era. This means that, at least through 2012, the tax rates will remain at the current levels, based on income: 10%, 15%, 25%, 28%, 33%, and 35%.

The extension of certain tax benefits also means that for those making less than \$90,000 a year (\$180,000 for married couples), there will continue to be a \$2,500 tax credit to help pay for college tuition. This American Opportunity Tax Credit had been scheduled to expire at the end of 2010. The Child Tax Credit, which had been set at \$500, has been hiked to \$1,000.

The new law also lifts the exemption levels for the alternative minimum tax (AMT), sparing millions of middle-income taxpayers from being subjected to the AMT.

Your Investments

Without action by Congress, 2011 tax rates on the profits of assets sold after more than a year would have increased to 20% and dividends would have reverted to being taxed at ordinary income rates. Instead, rates on long-term capital gains and for dividends on certain stocks held longer than 60 days will stay at 15% through 2012. Maintaining the status quo also means that taxpayers in the two lowest income tax brackets will continue to have a 0% capital gains rate.

Your Estate

In 2009, there was a maximum estate tax rate of 45% and a \$3.5 million exemption. The estate tax temporarily disappeared in 2010. Under the new law, for 2011 and 2012 the maximum rate will be 35%, with a \$5 million personal exemption. Any unused exemption may be passed to a surviving spouse, so that a married couple can exempt up to \$10 million. In keeping with the short-lived nature of many parts of the new law, without further legislation there will be a 55% estate tax rate in 2013 and an exemption of just \$1 million per person.

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Retaliation Claims Surging

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thought. However, retaliation claims increasingly are taking center stage.

Recent U.S. Supreme Court cases have stimulated the filing of more such claims. In 2009, the Court broadly construed the anti-retaliation provision in Title VII of the Civil Rights Act of 1964 as protecting workers who answer questions as part of an internal investigation by the employer, even though the statute uses an arguably narrower term in prohibiting retaliation for "opposing" unlawful employer practices. According to the Court, the verb "oppose" extends beyond active, consistent behavior. For example, it would be "opposition" if an employee took a stand against an employer's discriminatory practices not by instigating an action, but by standing pat and refusing to follow a supervisor's order to fire a subordinate worker for discriminatory reasons.

A prudent employer should take some basic measures to reduce the chances of liability for retaliation. Adopt a written anti-retaliation policy. Train managers in how to respond to complaints of discrimination. Document all investigations of employee complaints clearly and thoroughly. Finally, keep complaints of prohibited discrimination confidential, not as fair game for water-cooler conversations—a supervisor who does not even know about a complaint of discrimination cannot take action in retaliation for that complaint.