

Preface

This 2024 Supplement for LEGAL CHECKLISTS incorporates changes made by statutes, court cases, regulations, IRS rulings, and administrative guidance enacted or issued since the preparation of last year's supplement. This 2024 Supplement also adds new material to make the checklists more useful for practitioners.

Some of the highlights are:

Court Cases. The U.S. Supreme Court has held that 15 U.S.C.A. §§ 1114(1)(a) and 1125(a)(1), which prohibit trademark infringement, are not extraterritorial; they extend only to claims where the claimed infringing use in commerce is domestic. The U.S. Supreme Court has held that when a debt was obtained by one debtor's false pretenses, a false representation, or actual fraud, the share of a co-debtor cannot be discharged, even though that co-debtor was not culpable for the fraud. It has also held that 11 U.S.C.A. § 363(m) is subject to the doctrines of waiver, forfeiture, and the like because the provision is not jurisdictional and has also explained how the enablement requirement with respect to patents can be satisfied. The Second Circuit has held that a creditor's claim in bankruptcy will be considered impaired only when the plan of reorganization, not the Bankruptcy Code, alters the creditor's legal, equitable, or contractual rights. The Third Circuit has held that the Affordable Care Act's shared responsibility payment is a tax for purposes of determining priority for bankruptcy purposes. The Fourth Circuit has held that the exceptions to discharge in 11 U.S.C.A. § 523(a) apply to both individual and corporate debtors. The Eleventh Circuit has held that an adverse employment action is a prerequisite for a failure-to-accommodate claim.

IRS Guidance. The IRS has issued guidance regarding the application of the corporate alternative minimum tax (including a safe harbor method for determining applicable corporation status). The IRS has concluded that when the grantor of an irrevocable trust retains a power that causes the grantor to be the owner of the trust for income tax purposes but does not cause trust assets to be included in the grantor's gross estate, no step up in basis is available for trust assets transferred to trust beneficiaries. The IRS has revised tables used to value annuities, interests in property for life or a term of years, remainder interests, and reversionary interests and has made it easier to obtain a letter ruling regarding corporate spin-offs, split-offs, and split-ups.

NLRB Representation Case Procedures. The National Labor Relations Act has adopted a final rule governing representation case procedures. This new rule, which applies to representation petitions filed on or after December 26, 2023, substantially rescinds the Board's

2019 final rule and returns procedures to the Board's 2014 rule.

Changes in dollar amounts. Annual cost-of-living adjustments for tax provisions and changes in various fees are included in this supplement.

New sections. New sections have been added discussing reimbursement of an employee for business expenses, accountable and nonaccountable plans for reimbursing employees for their business expenses, group coverage health reimbursement arrangements (GCHRAs), individual coverage HRAs (ICHRAs), qualified small employer HRAs (QSEHRAs), and excepted benefit HRAs (EBHRAs).

Note of Caution: The checklists in this book are not a substitute for independent research and study. Given the space limitations of a quick reference, two volume set discussing 128 different subjects, it is impossible to go into detail about every topic. The gap in time between the date manuscript is written and the time it is published and read makes it impossible to keep checklists completely up-to-date.

Suggestions for making this publication more useful for readers are welcome.

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