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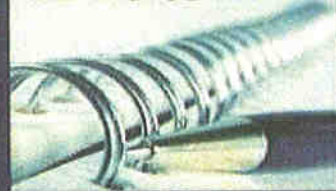
UPDATE

Non-Profit Law Update

By: *Michael Mattioni, Esquire and Anna Haslinsky*

In 2013, Philadelphia passed an ordinance that greatly impacted the requirements, and potential revenues, of tax-exempt entities. As a result of the Property Tax Amendment, which amended Philadelphia Code Section 2-305(2)(l)(.3), an entity that enjoys exemptions from real estate tax had an affirmative duty to file a sworn statement annually with the Office of Property Assessment to maintain this status. Importantly, tax-exempt entities were required to file this statement for

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each exempt property by March 31 annually in order to remain tax exempt for the next tax year.

The ordinance required a tax-exempt property owner to submit, in addition to the sworn statement, documentation certifying "[i]ts continued status as a purely public charity," the use of all exempted property and how those uses further the purposes which allow the entity to qualify for tax-exempt status, and the portion of the exempt property used for these purposes. The form sent by the Office of Property Assessment ("OPA") required, in addition to the statement, copies of: (1) articles of incorporation; (2) IRS letter of determination for 501(C)(3) recognition; (3) charter and by-laws, including amendments; (4) most recent income and Expense Statement; (5) current Statement of Assets and Liabilities; (6) most recently filed IRS form 990; (7) statement of all fund raising activities conducted by the organization; (8) lease or leases entered into by the owner for space at the property; and (9) recorded deeds for the property.

Originally, City Council unanimously passed the bill. At the hearing, the Director of Policy, Planning, and Outreach for the Department of Revenue, testified that this amendment was drafted to accompany the Business Income and Receipt Tax ("BIRT") Amendment passed that same day. The amendments are intended to capture tax revenue from non-profit entities that are generating commercial revenue not directly

Our Attorneys: Presentations,

Seminars and Honors



On April 8, 2015, George R. Zacharkow, Shareholder, was a panelist and presenter at the Pennsylvania Bar Institute's inaugural program: **How to Avoid Problems with Commercial Shipping Documents**. His paper was titled *Transportation Modes and Shipping Issues*. He provided information regarding air, water, and surface transportation, and the issues currently confronting shippers and carriers. Mr. Zacharkow has been practicing Admiralty and Maritime Law for over 30 years and represents global clients.

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related to the entity's purpose and to set standards for how the Chief Assessment Officer should determine that an entity qualifies for tax-exempt status.

However, tax-exempt entities testified in opposition that these amendments place a heavy burden on them. The Philadelphia Association of Community Development Corporations ("PACDC") testified that, despite the "reasonable goal" of the Property Tax Amendment, it is already very costly for tax-exempt entities to complete the initial application for tax-exempt status. With these additional requirements, it will be difficult to complete the re-certification process each year, especially for entities that own multiple properties or have limited resources.

The outcry over the onerous requirements led to the OPA rescinding the requirement of filing annual reports to retain tax exempt status. The OPA web site contains a statement, "As a result of a recent change in legislation, non-profit organizations that enjoy tax exempt status are **no longer** required to re-certify on an annual basis." (Emphasis in original.) It remains to be seen whether additional requirements will be implemented in the future.

This article provides an overview of the recent actions regarding tax-exempt entities conducting business in Philadelphia. Every situation is different. Anyone with questions regarding this issue should contact an attorney, accountant or



Jennifer Popelack, Esquire, was recently named Senior Associate at the Mattioni law firm. Mrs. Popelack practices in the areas of estate planning and estate administration.

In addition, Mrs. Popelack handles commercial litigation and related business matters, including such diverse matters as shareholder disputes, foreclosure and creditors' rights for banks and lenders. She also works with other attorneys in the Firm to counsel clients regarding business law issues to reduce liability and exposure for these clients.

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other appropriate professional.

Michael Mattioni, Esquire is president of the law firm Mattioni, Ltd., where he practices in the tax, business, real estate development, land use and zoning areas of the firm.

Anna M. Haslinsky is a law clerk with Mattioni, Ltd., who has just completed her J.D. at Villanova University Law School.



Recent Changes to Pennsylvania's Power of Attorney Law

By: Jennifer Popelack, Esquire

On July 3, 2014, Governor Corbett signed into law Act 95 of 2014, which changes the statute governing Powers of Attorney. Some of the changes came into effect on January 1, 2015, while others became immediately effective immediately upon the Act's signing. This article highlights a few of the changes.

Form of the Power of Attorney

Starting January 1, 2015, any POA executed must be signed in the presence of a notary and

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two witnesses. In addition, significant language changes have been enacted for the Notice required to be signed by the Principal and Acknowledgment required to be signed by the Agent. The Notice ensures that the Principal understands the significance of the authority they are giving to the Agent, while the Acknowledgment ensures that the Agent understands their duties and responsibilities.

Changes Affecting Third Parties

There are a number of significant changes to the POA law that affect the rights and duties of third parties who are presented with a POA. These changes went into effect upon the signing of Act 95 and apply to all POAs, whether executed before or after the new Act.

The new law protects from liability third parties who in good faith accept a POA without actual knowledge that it is void, invalid or terminated. A third party who is presented with a POA must, within 7 business days, either accept the POA or request the following: (1) an agent's certification or affidavit concerning factual matters concerning the principal, agent or power; (2) an English translation of a POA in a foreign language; or (3) an opinion of counsel as to whether the agent is acting within the scope of his authority. After receipt, the third-party is then required to accept the POA within 5 business days unless the information provided gives a substantial basis for making a further request.



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A third party may reject a POA, without liability, if: (1) the POA has not been properly executed; (2) a request for a certification, affidavit, translation or opinion of counsel is refused; (3) it is believed, in good faith, that the POA is not valid or the agent does not have the authority to perform the act requested; or (4) the party is aware that a report to a local protective agency has been made alleging abuse, neglect, or exploitation by the agent.

A third party who refuses to accept a POA, in violation of the requirements for timely acceptance or rejection, is subject to liability for pecuniary harm to the economic interests of the principal caused by the refusal.

This article provides general information regarding the recent changes to the Pennsylvania power of attorney law and does not cover every change that has been made. Anyone with specific questions should seek advice from an appropriate professional.

Mrs. Popelack is a senior associate at the law firm Mattioni, Ltd., where she concentrates her practice in Business Litigation and Estate Planning and Administration.

