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TN TOP 5

Driving While Impaired (DWI) Myths

1. **All DWIs are treated the same.** False. Many factors determine how a DWI case is handled by the courts, including the reason your vehicle was stopped, where the offense occurred, whether you have any prior alcohol-related convictions or license revocations, the amount of alcohol in your system, the presence of children in the vehicle and who the judge is. Relying on friends, family or co-workers to tell you what will happen with your case is a mistake. The outcomes vary greatly and are too complex to predict.

2. **You have to perform roadside sobriety tests for the police.** False. You are under no obligation to perform *roadside* sobriety tests for the police, which take place prior to any arrest. However, it is unlawful after your arrest to refuse to take a blood, breath or urine test; refusing often leads to the charging of a more serious crime. You have the right to contact an attorney prior to testing and the right after testing to arrange for an independent alcohol test at your own expense.

3. **All you have to worry about is jail time.** False. The consequences of a DWI are far-reaching and numerous. Your driver's license could be revoked anywhere from 30 days to permanently and, in some cases, your vehicle may be forfeited. These consequences may be indisputable if you do not raise a challenge within the specified period of time.

4. **Hiring a lawyer is a waste of money.** False. Avoid walking out of the courtroom at the conclusion of your case wondering whether you did the right thing. The terms the court uses are unfamiliar to the average person; and the defendant's obligations to the court are strict, unforgiving and difficult to understand. We educate the client about the entire process and the client is given the knowledge and tools to limit his or her exposure to re-offending.

5. **You should wait to decide whether to hire a lawyer.** False. The clock starts ticking on your rights the moment you are arrested, and your lawyer needs to be proactive in establishing your defense and preserving favorable evidence as soon as possible. Do not make a mistake that will cost you more in the long run. Thomsen & Nybeck has handled thousands of DWI cases, so contact us as soon as possible so we can begin working on your behalf.

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Ryan Wood, associate, contributed to this article. He practices in the litigation area of the firm and focuses his practice on Criminal Law and General Civil Litigation.
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The Quarterly Newsletter of Thomsen & Nybeck, P.A.

Briefings

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Get Ready for Tax Season!

Now that the election is over, our thoughts can turn happily to taxes. Yes, it's that time of year when advanced planning for income tax filing can save you both time and money. This year with the uncertainty of the Federal "financial bailout" as well as the changes in leadership in both the executive branch and the legislative branch of government, it is especially important to review your investments and tax position to preserve income from 2008 while planning ahead for 2009.

- It is widely assumed that the capital gains taxation rate will increase in 2009 and thereafter. Check investments to see if you should capture capital gain income in 2008 at the current 15% rate as opposed to a potentially higher rate in 2009. Other sources of income may also be subject to a higher tax rate in 2009.

- The alternative minimum tax (AMT) exemptions will also be higher, rising to $69,950 for married individuals and $46,200 for single individuals.

- Tax-free direct payouts from IRAs to charity can be made for 2008 and 2009. This provision had previously expired with the 2007 returns, but the bailout package brought it back.

- Deductions for state sales tax (in lieu of a deduction for state income tax), college tuition and teacher supplies have been extended. The new standard deduction for property taxes will extend at least through 2009. After 2010, brokers will also have to report the tax basis of new securities you purchase.

Start assembling income and deduction sources to determine whether current withholding and/or estimated tax payments will be adequate for 2008. Keeping your net income fairly constant from year to year will help you stay within an optimal tax bracket.

If you would like information on tax planning or would like to receive a copy of our tax organizer booklet, contact one of our tax advisors at (952) 835-7000.

Estate Tax Repeal a Tough Sell

Ongoing worries about Medicare, Medicaid and Social Security along with the U.S. budget deficit would make a total repeal of the federal estate tax a hard sell for either party. Still, debate continues on how "estate tax" legislation will shake out given the current federal law and new President. Congress and the President can change existing law at any time, but most analysts say that the estate tax is here to stay — perhaps in a different form.

Under current federal law, estate taxes kick in at a 45 percent tax rate after the first $2 million. With a change in political leadership, it is unlikely that the estate tax rates will change. There has been discussion of freezing the unified credit at $3.5 million and adding a carry-over credit, which would permit the second spouse's estate to utilize his or her own unified credit plus any credit that went unused in the first spouse's estate. There may also be changes as to how assets will be valued for estate taxation purposes. While the unified credits on the Federal level may rise, the Minnesota estate tax unified credit is likely to remain at its present $1 million level. Appropriate planning is necessary to eliminate or minimize the Minnesota estate tax even if one has no Federal estate tax exposure.

If you want to know where your assets would stack up under current law, fill out the Estate Tax Exposure Meter at http://www.smartmoney.com/personal-finance/taxes/will-you-owe-estate-taxes-9554/ or contact one of our estate planning attorneys.

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Gordon Johnson and Ivory Ruud contributed to the articles on this page. Gordon practices in the areas of Taxation, Estates, Wills, Trusts and Corporate/Partnership Law. Ivory practices in the areas of Estate Planning, Real Estate Law, Business Law and Taxation. Contact Gordon at gjohnson@tn-law.com and Ivory at iruud@tn-law.com or (952) 835-7000.

Don't Let the Bank Expose You to Unreasonable Risk

How to Purchase a Bank-Owned Foreclosure Property

In today's economic environment, the housing market is far more stagnant than it was a year or more ago. There is a large amount of inventory and minimal demand. Many buyers are looking for a deal and believe they are finding them in foreclosed homes.

Keep in mind that price is only one consideration in a real estate purchase transaction. There are many other important issues that get negotiated in every deal that are easy to overlook while focusing on price and a closing date. Having unreasonable terms pertaining to delivery of clear title, possession date, as-is provisions and unreasonable restrictions on financing and inspection contingencies can cause enough concern to make a purchase at any price unattractive.

Some banks have had to take on the role of sellers for their foreclosed properties, which is not an appealing position for them. They are not in the business of being property managers and they want homes off the books quickly, with minimal risk. Minimal risk to the bank means some of them are asserting themselves as if they are in the position of complete control in the negotiation process.

Be cautious when purchasing a bank-owned home. Consult an attorney knowledgeable about such transactions to level the playing field. Your attorney can advise you of the pitfalls, review or draft the contract and assist with negotiations.

Inherent in every real estate transaction is the fact that sellers want to minimize their risk and buyers want to get the best value. Tension can grow with bank-owned properties, particularly when some banks tell buyers that the terms of the sale require the buyer to accept an "as-is" sale with no disclosures. In some instances there may be additional restrictions relating to delivery of title or other terms to which a typical buyer, who fully understood the terms of sale, would never agree.

The bank (as seller) is trying to eliminate issues that are perceived risks, and will attempt to shift various risks to the buyer. Buyers should understand that they have some control and leverage. After all, if you refuse to purchase on the bank's terms, the bank has to find another buyer and start all over.

Knowing your rights, your options and how to look for and negotiate fair terms with the bank and help you keep more money — all while managing your own risk on an important investment.

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Brad Boyd, shareholder, contributed to the content of this article. He practices in the areas of Real Estate, Real Estate Brokerage and Business Law.
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"Large enough to be effective.
Small enough to care."

NEWS & NOTES

There's always a lot going on with our attorneys at Thomsen & Nybeck. Here's what they've been up to lately.

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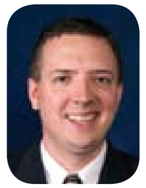
5 

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Brad Boyd (1) was promoted to shareholder as of November 1, 2008. Brad practices in the area of Real Estate, Real Estate Brokerage and Business Law. However, he recently expanded his practice to include alternative energy and wind energy. To support that new area he launched the websites WindEnergyCommunity.org and SustainableThinking.org.

Dennis Patrick (2) was honored by William Mitchell College of Law for serving as an adjunct professor at the school for 15 years.

Gretchen Schellhas (3) authored the article "Preparing for Foreclosure," which was published in the Fall 2008 issue of the CIC Midwest Newsletter, a publication of a trade group focused on common interest ownership communities.

Matt Drewes (4) obtained summary judgment for a townhouse association in a case involving a homeowner's claims of selective enforcement and violation of state and federal laws relating to reasonable modifications. In addition to denying the homeowner's claims, the summary judgment order specifically authorized the association's enforcement activities and reinforced its governing documents.

Ryan Wood (5) and **Chris Renz (6)** revised respective chapters each had previously authored for the most recent version of the Minnesota DWI Deskbook. The finished product will be available through Minnesota CLE.

Natalie Walz (7) finished the Twin Cities Marathon with a time of 3:55.55.

ATTORNEYS

This newsletter is presented to you by the attorneys of Thomsen & Nybeck, P.A.

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Brad J. Boyd
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PRACTICE AREAS

Thomsen & Nybeck has in-depth experience and knowledge in the following practice areas. Call us at (952) 835-7000 to discuss your concerns or to determine if you have a case.

Business Law
Construction Defect Litigation
Corporations & Partnerships
Criminal Law
Employment Law
Estates, Wills and Trusts
Family Law
Financing
Litigation
Personal Injury
Real Estate
Taxation
Townhome & Condominium Law