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How To Reduce the Risks of U.S. Litigation
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Foreign companies that do business in the United States face the same litigation risks that domestic companies do, so they need that same guidance in minimizing those risks. This article by Steven C. Bennett discusses unique risks in U.S. litigation (jury trial, discovery, class actions, punitive damages, contingency fees, the absence of a “loser pays” rule, federalism, and extra-territorial application of U.S. law); planning to avoid litigation risk (corporate counseling, setting up U.S. operations, setting up a separate entity instead of a “branch office,” observing corporate formalities, giving careful attention to business location, having American employees, agents, and consultants, and having the proper insurance in place); preparation for dispute resolution (using standard contract terms, emphasizing the importance of website terms, employing precise and clear provisions for choice of law, choice of forum, and jury trial waiver, specifying which ADR mechanisms will be used, and stating liability limitations); what to do when a dispute arises (correct responses to claims letters, effectuating legal holds, reviewing applicable privilege laws, responding to service of process); and litigation options (parallel proceedings, when to opt for a default judgment, raising jurisdictional and other challenges, raising counterclaims, and responding to discovery).

Preventing and Remedyng Deposition Perjury
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The Continued Viability of Using Bypass Trusts
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As part of the America Taxpayer Relief Act of 2012, Congress created portability of the estate tax exemption between spouses with the intention of simplifying the estate planning process for married couples by eliminating the need for a bypass trust. There are many reasons, however, both tax and non-tax, to continue to use a bypass trust in a married couple's estate plan, as well as certain disadvantages. This article by Doron Tisser and Brian H. Standing discusses what a bypass trust is and how it is used, the meaning of “portability,” and the reasons for using or not using a bypass trust now that portability can be elected.

The Yin and Yang of Beer Distribution Law and Franchising
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Beer distribution laws differ from traditional franchise laws that govern restaurant, retail and service businesses in many ways, but they do share some commonalities. This article by Barry Kurtz and Bryan H. Clements discusses the “three-tier” distribution system, the difference between “licensing” and “control” states, and the “relationship” laws that mirror franchise protections.

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The Practical Tax Lawyer

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Tax Court Decisions: Briefing, Opinion, and Decision, Rule 155, and Supplemental Proceedings
Gerald A. Kafka, Mary A. McNulty, and Peter Reilly

This outline by Gerald A. Kafka, Mary A. McNulty, and Peter Reilly addresses the requirements for briefs, when they should be filed, the correct format, the appropriate argumentative style, and the elements of persuasion; the requirements for opinions, the content of opinions, and oral/bench opinions; the procedures for the filing of post-trial motions and what kinds of motions are permissible; claims for litigation and administrative costs under Code section 7430 (other than section 7430(F)(2); the entering of the Tax Court’s decision and the entry of the amount of deficiency in the decision; rules governing the procedures and time limits for appeals; and supplemental proceedings and special jurisdiction.

Tax Exempt Organizations and Political Activity
John Pomeranz and Rosemary E. Fei

501(c)(3) organizations are strictly prohibited from engaging in electoral political activity, i.e., activity for or against a candidate for elected public office. The prohibition is absolute. A single violation, no matter how small or inadvertent, can potentially cause the organization to lose its 501(c)(3) exempt status. This outline by John Pomeranz and Rosemary E. Fei discusses the reach of the prohibition on political activity, 501(c)(4)s and other non-501(c)(3)s and political activity, and political action committees.

IRS Audits of Eligible and Ineligible 457 Plans
Michael Laing

Section 457 plans continue to grow in popularity—thus making the possibility of audit more likely. In this outline, Michael Laing discusses common defects in section 457 plans (including untimely election to defer, employer contributions in excess of section 457 maximum deferral limitations, unforeseeable emergency distributions, ineligible plan sponsors, and so on); correction procedures (such as correction of excess deferrals, submissions outside EPCRS, and Notice 2008-113); and intermediate sanction audits.

Pre/Post-Appeals: Alternative Dispute Resolution
Pamela F. Olsen, Gerald A. Kafka, Sheldon M. Kay, and Ted B. Meyer

The IRS has created many techniques to accelerate the resolution of tax issues. By stressing taxpayer education and pre-filing agreements, delegating authority to officials who are lower in the chain of command, and adopting programs to allow dispute resolution at earlier points in the tax controversy process, the IRS presents taxpayers with numerous procedures designed for resolving tax issues efficiently and effectively. This outline by Pamela F. Olsen, Gerald A. Kafka, Sheldon M. Kay, and Ted B. Meyer discusses pre-filing agreements, industry issue resolution, accelerated issue resolution, early referral to appeals, fast track settlement, post-appeals mediation, and post-appeals arbitration.

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*Gail G. Goodman served as Action Editor for this article
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What Are We Doing to the Children? An Essay on Juvenile (In)Justice ........................................ 3
by Michael E. Tigar, Esq.
Each year, the United States prosecutes 200,000 children as adults. As of 2007, there were 2,327 young people serving life sentences without the possibility of parole for crimes committed when they were less than eighteen years of age. The rate of juvenile incarceration has increased by 43% in the last 25 years. The U.S. is alone among world nations in this approach. Tigar, one of America’s top trial lawyers, addresses application of the U.N. Convention on the Rights of the Child and argues for a presumption in favor of treating children as children.

Changing Views of a Stereotype: An Introduction to the Cuban Legal System .................................. 25
by Pianpian Wang, LL.M.
On March 19, National Coalition of Concerned Legal Professionals hosted Yamila González Ferrer, Secretary of the National Union of Cuban Jurists, in a presentation entitled “An Introduction to the Cuban Legal System” at Berkeley College in New York City. At a time when there is growing interest in easing travel bans to Cuba and in lifting the U.S.’s 55-year-old blockade, which severely impacts the well-being of the Cuban population, practicing litigators, professors, volunteers and lay people gathered for a glimpse into the Cuban legal system and got answers to their questions. Pianpian Wang, an attorney in China, who recently received her LL.M. at Pace University School of Law, attended the event and recounts her reflections on the presentation.

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by Stephen R. LaCheen, Esq.
A young lawyer is introduced to the reality of the criminal justice system, the meaning of the right to due process in real life, and that principles are not as clear-cut as they seemed in law school.

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On April 30 NCCLP held its sixth annual Evening of Appreciation at Scholastic Inc.’s rooftop terrace overlooking the Manhattan skyline. At the event, we paid tribute to our members, volunteers and all who have helped advance our fight throughout the year for meaningful access to legal recourse.

Cover Illustration: Verdict’s cover illustration was produced by Matthew Snow. Mr. Snow studied at the Chicago Art Institute for three years and then went to Washington University in St. Louis, where he earned a degree in art history. In 1976, he studied in Paris with Elaine de Kooning and Leland Bell; he later studied in Madrid at the Prado. Mr. Snow’s work has been shown in group and solo shows in Manhattan, Provincetown, Boston and Maryland.