

FISHER'S LAW OFFICE, P.A.

18125 US HWY 41 N, Suite 109

Crystal Lakes Plaza

Lutz, Florida 33549 USA

Telephone: (813) 949-2749 Fax (813)464-7738

E-mail: ralphfisher@yahoo.com

www.fisherslawoffice.com



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Welcome to the NEWSLETTER of Fisher's Law Office, providing you with legal information you can use in your everyday life. If you have any questions about any of the articles in this newsletter please don't hesitate to contact us.

FLORIDA HAS NEW RULES ON SEEKING DEFICIENCY JUDGMENTS IN FORECLOSURE CASES:

In 2013 the Florida Legislature made substantial changes to Florida's foreclosure statutes. One of the changes in the law deals with "deficiency judgments". (A deficiency is the difference between the balance of the mortgage and how much a house sells for at a foreclosure sale).

As of July 2013, a bank only has one year to sue for a deficiency judgment. (See F.S. section 95.11(5)(h))



For example:

If you owe \$200,000.00 on your mortgage and your house sells for \$50,000.00; the deficiency is \$150,000.00.

Banks have started pursuing deficiency judgments against homeowners who lose their homes in foreclosure by hiring outside collection law firms to sue homeowners for the balance owed after a foreclosure.

If you are sued for a deficiency remember: the bank only has *one year* from the date of the house sale on the court house steps to seek a deficiency. (See Florida Statute Section 95.11 (5) (h))

Recommendation: If you are sued for a deficiency judgment after a foreclosure lawsuit you should seek legal counsel right away.

FLORIDA IMPOSES A SPECIAL TAX ON BUYING A HOUSE!

Although Florida does not have an income tax, it imposes special transfer tax on purchases of real estate.

For example:

If you buy a house for \$100,000.00 the tax on the transfer is 0.7% or \$700.00 which must be paid at the time the deed is recorded. (Florida Statute 201.02)

WHAT IS THE TAX ON BORROWING MONEY IN FLORIDA?

Florida also imposes a tax on borrowing money for home mortgages.

For example:

If you buy a house with a mortgage for \$100,000.00: the mortgage tax is \$350.00 or 0.35%.

So, if you buy a house and borrow the money to buy a house that costs \$100,000, the total Florida tax is a little over 1%, or \$1,050.00 for the two taxes.

WHAT OTHER TAXES CAN ACCRUE FROM BORROWING MONEY?

If you borrow money and fail to pay it back and a loan is written off, you owe U.S. federal

income tax on the forgiven or cancelled indebtedness.

Typically forgiven indebtedness results in the debtor receiving an IRS form "1099-C" which informs the debtor of the amount of income from the debt written off.

Under law you are required to pay income tax on any debts that are written off or canceled under the theory that the cancelation of the debt results in income to the debtor. (See 26 USC section 108)



WHAT ARE THE EXCEPTIONS TO PAYING TAX ON CANCELLED INDEBTEDNESS?

There are exceptions to the general rule of taxation of written off debts. One of them is that if you are "insolvent" at the time of the write off then you do not have to pay tax on the amount of the debt written off to the extent of your insolvency. (Insolvency is the difference between your assets and your liabilities.)

Moral to the story?

If you have debt that is forgiven and receive a form 1099-C you should see an accountant right away.

Practice hint: Use form 982 to claim an insolvency exemption on your taxes.

Own a small business? Get ready for an "Equal Access" Federal Lawsuit

Based on the 24 year old Americans with Disabilities Act (ADA), a new class of Plaintiff's is suing shops and restaurants of Florida for even the most minor violation of the ADA law.

In the famous case of Houston v Marod Supermarkets, 733 F3d 1323, the United States 11th Circuit Court of Appeals ruled in

2013 that any store or shop could be sued by a "tester"- a professional plaintiff- even if the plaintiff isn't a customer.

You've been warned: bring your business into compliance with the Dept of Justice's ADA guidelines or subject yourself to a lawsuit.

Case of the Month: Fisher's Law Office keeps a man's child with him in Tampa.

Our client, a loving father, received lawsuit papers in which the mother of his child wanted to *relocate* with his daughter to a far away state with a man she had recently married.

Our client and his parents were in a panic. If the relocation was allowed they were afraid they would never see the little girl again.

We looked at the situation and the relevant statute, Florida Statute section 61.13001 and realized our client could show the court the move was against his daughter's best interests.

We hired a psychologist who met with the child and her father's family. The psychologist wrote a report to present to the judge and came to the trial to testify.

A trial took place in Tampa before a Circuit Court Judge that lasted a half day.

During the hearing it came out that the women knew very little about the new area where the child would live and had never visited her daughter's new school.

She also had an unstable lifestyle as an exotic dancer and she had moved often in the last few years creating anxiety and instability in her daughter's life.

Meanwhile the father, our client, was current on his child support, provided health insurance for the child, lived in a stable home with his parents on a farm and was positive influence in his daughter's life.

The court reviewed all of the factors contained in Florida Statute Section 61.13001 including:

- 1) the quality of the child's relationship with her parents and others and her existing home,
- 2) the age of the child,
- 3) what substitute arrangements for visitation can take place or could be constructed,
- 4) the child's preference,
- 5) whether relocation will increase the quality of life for the child,
- 6) the reasons for the relocation including employment opportunities of the relocating parent,
- 7) whether the relocation is based on good faith and
- 8) Any other factor affecting the child.



In our case a school psychologist testified that the child did not want to leave her father's family in Tampa and that the little girl enjoyed the company of her father and her father's family including her grandparents, her pet cow, and her pet dog Rocco.

Result? The court denied the relocation and our client was very happy.

WHAT IS THE OBAMACARE INDIVIDUAL MANDATE, AND HOW DOES IT AFFECT OUR CLIENTS?

Many of our clients who did not obtain health insurance as required by law on January 1, 2014 have asked us what will happen to them.

The answer is that they must start paying tax penalties on their 2014 tax return.

The penalty is 1% of income or \$95.00 whichever is greater.

In 2015 the penalty increases substantially going to 2% of all of your income or \$325.00, whichever is greater.

In 2016 things get very expensive; the penalty is 2.5% of income or a minimum of \$695.00, whichever is greater.

For an individual making \$75,000.00 per year, the 2.5% penalty is equal to \$1,875.00.

Moral: If you can afford it, you probably should try to get health insurance.

WEIRD LAWS YOU'VE NEVER HEARD OF:

There are many ways you can be charged with a crime for committing fraud in Florida. Here are some examples:

1) If you falsify your caller ID so that it gives out the wrong phone number or name you have committed a crime. Florida Statute 817.487 makes it a *felony* to enter false information into a telephone caller identification system with the intent to deceive, defraud or mislead the recipient of the telephone call.

2) It is a second degree misdemeanor to attempt to obtain services of a healthcare provider with intent to defraud; examples of such intent include giving a false name or false address.

3) It is a felony if a healthcare provider to pay a commission or to engages in any split fee arrangement in order to induce a referral of patients to a healthcare facility. (see F.S. section 817.505)

3) A person is guilty of a misdemeanor in the first degree if he places an advertisement describing property or services with intent not sell such property or services as advertised.

Education:

1977

Degree in Accounting,
University of Florida,
Gainesville, Florida.

1978

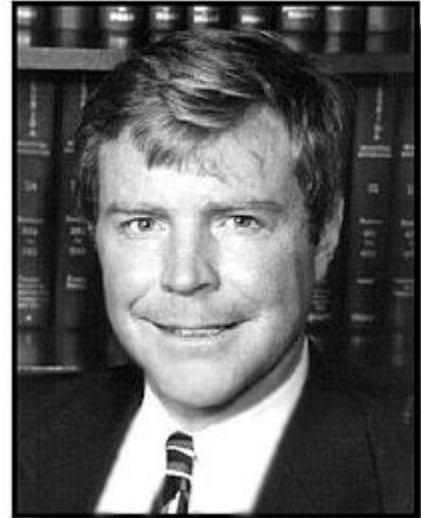
License Issued
Certified Public Accountant (currently inactive)

1983

Juris Doctorate Degree in Law,
University of Florida,
Gainesville, Florida
Attorney, State of Florida

Memberships:

- Florida Bar Association www.flabar.org
- BV rated by Martindale Hubbell
- Gaucho Association www.gauchoassn.com

**Ralph B. Fisher, Esq.****Fisher's Law Office, P.A.**

18125 U.S. Hwy 41 N., Suite 109
Crystal Lakes Plaza
Lutz, Florida 33549
Tel. (813) 949-2749
Fax (813) 464-7738