

DeWayne Pope Joins RML

Red Mountain Law is excited to announce that N. DeWayne Pope and his firm DeWayne Pope, LLC have joined Red Mountain Law. DeWayne's practice focuses on employment law. Having worked with Balch & Bingham LLP's Labor & Employment Group as an employment attorney for over eleven years, DeWayne continues to focus on advising businesses and human resource professionals on employment law issues.

In addition to his law firm, DeWayne owns and operates DP Business Consulting, LLC, a separate firm, which specializes in business management and human resource consulting, including HR audits, training and procedure/policy development.

We are excited about the addition of DeWayne and his employment law/human resources expertise to Red Mountain Law. Our business clients will benefit from his years of experience.

Minority and Women Owned Business

Federal, state and local governments have created a myriad of programs for minority and women owned businesses to receive contracts as suppliers and subcontractors with the government.

IN THIS ISSUE:

DeWayne Pope Joins RML.....Page 1

Minority & Women Owned Business.....Page 1

More Tax Acts for 2006..... Page 2

Do I Need an Estate Plan? ... Page 4

Client Spotlight:
Cypress Resources.....Page 5

Subscribe to RML's Birmingham Business Law Blog at:
<http://redmountainlaw.blogspot.com>

These programs provide additional contracting opportunities for companies owned by individuals

If you fit the description, these programs can provide great business advantages. Descriptions of these programs can be found on the SBA website (<https://sba8a.symplicity.com/applicants/guide>) and locally at the Central Alabama Women's Clinic (<http://www.cawbc.org>).

If you do not fit the description, you may be trying to fit a square peg into a round hole. Rumors concerning abuse by

unscrupulous companies have abounded for years and undoubtedly some companies have abused these programs (which may ultimately ruin the program for everyone).

Several of our clients have successfully utilized these programs and we have assisted companies in helping to position them to receive the proper certification.

More Tax Acts for 2006

Confirming once again that the Internal Revenue Code (“Code” or “IRC”) is Congress’s play toy, political football, and policy tool, it has passed two major tax-related acts for 2006, the Tax Increase Prevention and Reconciliation Act of 2006 (“TIPRA”) and the Pension Protection Act of 2006. The President signed TIPRA into law on May 17, 2006—less than six months after the passage of the Gulf Opportunity Zone and Katrina Emergency Tax Relief Act of 2005, which was discussed in our last newsletter.

TIPRA began life as a bill to retroactively extend expired tax breaks and extend some tax breaks expiring in the future. After a relatively intense struggle regarding what should be included in the legislation, Congress gave us a few extended tax breaks, several new tax breaks, and many revenue raisers to pay for the tax breaks. Included among the tax breaks are individual Alternative Minimum Tax

(“AMT”) relief, extended favorable IRC section 179 expensing, and extended favorable capital gains and qualified dividend treatment. A brief summary of TIPRA’s key provisions affecting individuals and business owners follows below:

◆ **Increased AMT Exemption Amount for Individuals:** The Act delays the rollback of the AMT exemption to tax year 2000 levels and increases the AMT exemption for 2006 only. The exemptions are as follows:

- married individuals filing jointly & surviving spouses: \$62,550, less 25% of Alternative Minimum Taxable Income (“AMTI”) exceeding \$150,000. The exemption completely phases out completely when AMTI is \$400,200.

- unmarried individuals: \$42,500, less 25% of AMTI exceeding \$112,500. The exemption phases out completely when AMTI is \$282,500.

- married individuals filing separately: \$31,275, less 25% of AMTI exceeding \$75,000. The AMTI of married individuals filing separately is increased by the lesser of \$31,275 or 25% of the excess of AMTI over \$200,100.

◆ **Lower Capital Gains Rates Extended:** Under current law, non-corporate taxpayers’ adjusted net capital gain is taxed at a maximum rate of 15% until

2008. Also, to the extent it would be taxed at a 10% or 15% rate had it been ordinary income, adjusted net capital gain is currently taxed at 5%--scheduled to be 0% in 2007 and 2008. The Act extends the 0%, 5%, and 15% rates on adjusted net capital gain until tax years beginning before January 1, 2011.

◆ **Lower Rates on Qualified Dividend Income Extended:** Dividends received from U.S. corporations and qualified foreign corporations are effectively treated as adjusted net capital gain and subject to the same favorable rate structure. This treatment was set to expire in 2008. The Act extends the application of the 15% rate to qualified dividend income until tax years beginning before January 1, 2011.

◆ **Income Limitations on IRA Conversions Lifted:** Currently, a traditional IRA may only be converted to a Roth IRA if (1) the taxpayer's modified Adjusted Gross Income ("AGI") does not exceed \$100,000 and (2) the taxpayer is not a married person filing a separate return. Beginning in 2010, the Act eliminates the \$100,000 modified AGI ceiling and allows persons filing separate returns to convert their traditional IRAs.

◆ **Kiddie Tax Application Expanded:** A child under the age of 14 pays tax at his or her parents' highest marginal rate on the child's unearned income over \$1,700 under current law. The Act subjects a child's unearned income to the "kiddie

tax" until they reach the age of 18 for tax years beginning in 2006.

◆ **Enhanced IRC § 179 Expensing Extended:** Taxpayers, other than estates, trusts, and certain non-corporate lessors, may elect to expense items placed in service in their business that normally must be depreciated. The per item maximum is now 100,000 (adjusted for inflation to \$108,000 for 2006). The total amount of IRC § 179 property that may be expensed during 2006 is capped at 400,000 (adjusted for inflation to \$430,000). The per-item and total cap for IRC § 179 property is set to drop drastically to \$25,000 and \$200,000, respectively, in 2007. The Act extends the \$100,000 and \$400,000 caps, as adjusted for inflation, until 2009.

◆ **IRC § 179 Expensing of Canned Software Extended:** Off-the-shelf or "canned" computer software (e.g., Microsoft Word) qualified for IRC § 179 expensing until 2007. The Act extends the ability to expense canned software until tax years beginning before January 1, 2010.

The above summary simplifies some complicated provisions of the Act. Accordingly, do not act in reliance on the discussion above without first seeking further advice. In an effort to save space and not bore you too much, we will save our summary of the Pension Protection

Act of 2006, signed by the President on August 17, 2006, for our next newsletter.

Do I Need an Estate Plan?

If you agree with any of the statements below, then you need a will.

a. I want to determine who gets my money when I die.

b. I want to determine who gets my real and personal property when I die.

c. I want to determine who is appointed guardian of my children under the age of nineteen (minor children) should both my spouse and I die before those children turn nineteen.

Everyone needs an estate plan—not just the very wealthy. Your will ensures that whatever personal belongings and assets you do have will go to family or beneficiaries you designate. Without a will, the Alabama Code and courts make these decisions.

A simple will should appoint a guardian, if you have minor children, appoint an executor to administer your will when you die, and spell out specifically how you want your property distributed. For a married couple, a simple will generally leaves all of the estate to the surviving spouse and then to the children should there be no surviving spouse.

If you and your spouse die without a will and with children under the age of nineteen, a court will determine who has custody of your children. A court may not choose a guardian that is most desired by the deceased parents. Most clients do not want the courts determining who the guardian of their children will be. Through your will, you are able to choose the person or persons who are best able to care for your children.

If you have a piece of jewelry or other family heirloom that you wish to pass to one or more persons at your death, you need to have a will with a specific bequest in order to assure that the property passes in accordance with your wishes. Likewise, if you would like to make certain charitable donations at your death, you need to have a will to carry out those wishes. Surviving family members sometimes do not see the value in making such charitable contributions and may ignore a decedents' wishes not expressly provided for in a will.

A will with a testamentary trust will accomplish the same goals as the simple will, but it creates a trust upon your death. Many clients with young children or those clients who prefer their beneficiaries not receive a large sum of money at a young age, choose to add a testamentary trust to their will. Testamentary trusts are recommended in these situations because the court system is not going to turn over your estate to a minor. The court may

establish a guardianship or trust for your minor children and choose a guardian or trustee. The court will also determine when the assets will be distributed to your beneficiaries. A testamentary trust would bypasses these issues, because the terms of the trust can determine when beneficiaries are to receive principal and income, if applicable, of the bequest, and who the trustee will be.

Client Spotlight
CYPRESS RESOURCES

This newsletter’s client spotlight is Cypress Resources. Cypress Resources provides companies with seasoned professionals who complete specific projects within time defined periods. Cypress Resources specializes in accounting, finance and human resources. Because Cypress Resources utilizes seasoned professionals, tempered by a decade or two of experience, Cypress Resources helps companies move forward with effective leadership, proven insight and a practical ability to get things done on time. According to Carey Rome, founder of Cypress Resources, “Because our professionals work on a project basis, we can provide clients with greater talent for considerably less cost.”

The mission of Cypress Resources is to elevate the standard of professional resources available for small, midsized and Fortune 1000 companies located

throughout the southeast by identifying, sourcing and retaining highly skilled professionals. Additional information is available at www.cypressresources.com.

Red Mountain Law is an alliance of small law firms who work together to provide businesses and business owners a network of lawyers. Each member law firm has entered into an “of counsel” agreement with the other firms. Red Mountain firms each have a small number of lawyers and focus their practices to certain areas of the law — primarily those most needed by businesses and business owners. By working together, the attorneys of Red Mountain Law can handle a wide array of legal problems. If a member firm cannot handle your legal issue, we will assist you in engaging an attorney who can.

Member Firms:

Goodrich Law Firm, LLC

T. Michael Goodrich, II Ext. 200
Elizabeth S. Ritter Ext. 300

Cunningham Law Firm, LLC

Russell M. Cunningham, IV Ext. 100

Hahn Law Firm, LLC

Melanie P. Hahn Ext. 400

DeWayne Pope, LLC

N. DeWayne Pope Ext. 500