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Business Organizations with Tax Planning, Pub. #00165, updated four times per year—The 2018 releases featured updates to many of the Employment Discrimination, Mergers & Acquisitions, Corporation, Bankruptcy and Antitrust chapters including:

Chapter 103F, “The Equal Pay Act of 1963,” now contains a detailed discussion of *Rizo v. Yovino*, 2018 U.S. App. LEXIS 8882 (9th Cir. April 9, 2018) (*en banc*), which clarified the question of whether an employer could consider prior salary, either alone or in combination with other factors, when setting its employees’ salaries.

Revised Chapter 211, “Defamation & Disparagement in Business,” features new subsections on the meaning of defamation, the distinction between fact and opinion, and liability for defamatory statements posted on the internet. The chapter revision in 2018 also expands the discussions of the elements of defamation, the “false light” theory, business disparagement, the meaning of “malice” in the defamation context, truth as a defense to a defamation claim and conditional privileges.

In **Mergers and Acquisitions** revised Chapter 166A on “Tender Offers” expands the coverage of what constitutes a “group” under Section 13(d) of the Securities Exchange Act of 1934, Delaware’s Unocal test when a board adopts defensive tactics, shareholder rights plans or “poison pills,” and directors’ Revlon duties when the sale of a corporation is inevitable. The updated chapter also incorporates recent case law on target company communications with shareholders, private remedies under the Williams Act and beneficial ownership of shares.

Revised Chapter 170 on “Negotiation and Payment” in **Mergers and Acquisitions** discusses the binding effect of a letter of intent and the theories that explain the motivation for parties’ reliance on earnouts in merger agreements.

Additional updates impacting 11 chapters in the final release of 2018 (Release 191) address bankruptcy and antitrust matters.

Revised Chapter 63 features recent case law developments and law review articles involving the fundamental act of incorporation, the status and powers of *de facto* corporations, *de facto* corporate status when a corporation’s charter is suspended, colorable compliance with statutory incorporation requirements, application of the doctrine of corporation by estoppel, the effect of state corporation statutes on the common-law doctrines governing defective incorporation and shareholders’ personal liability if no corporation is found to exist. The chapter revision also incorporates the amendments to state statutes pertaining to corporate existence and liability for pre-incorporation transactions that have been enacted since the last revision (Statutory Appendix).

Chapter 157, which deals with chapters 7, 11 and 13 liquidation, reorganization and individual debt adjustments, was substantially revised to keep practitioners up to date with fast-moving bankruptcy law, following the comprehensive update to Chapter 156 on general bankruptcy law last year.

Added in Appendix 157A is a priority claim checklist, giving practitioners an oversight into what claims will be paid first in a bankruptcy case. Then Appendix 157B has the new national chapter 13 plan. And, there is a completely new section at the end of Chapter 157, § 157.04, which discusses chapter 12 for family farmers and family fishermen.

This release also includes some smaller additions to the Antitrust chapters (Chapters 105, 105A, 105B, 106 and 107), to keep you abreast of critical developments in that arena due to Supreme Court cases in the last year.

Finally, the last release of 2018 hints of Supreme Court antitrust activity to come in 2019 with the case of *Pepper v. Apple Inc.* (*In re Apple® iPhone®s Antitrust Litig.*), 846 F.3d 313, 323-24 (9th Cir. 2017), *cert. granted*, 2018 U.S. LEXIS 3800 (June 18, 2018) in §§ 106.03[4] and 107.02, where the issue will be who is buying from whom when Apple phones are used by consumers to purchase apps, and perhaps even whether the Supreme Court’s requirement that antitrust plaintiffs be direct and not indirect purchasers in *Illinois Brick v. Illinois*, 431 U.S. 720, 97 S. Ct. 2061, 52 L. Ed.2d 707 (1977), will be reconsidered.

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