

# SOUTH DAKOTA LEGAL NOTES

## SWIER LAW FIRM, PROF. LLC

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### Inside this Issue:

#### Page 1

*Fiscal Cliff Ahead? —  
What it May Mean*

*Three Important Steps  
in Selling Your Farm  
Land*

#### Page 2

*Four Things Every  
Business Owner Should  
Think About*

#### Page 3

*Kid's Corner: Fall Fun*

#### Page 4

*Community Calendar*

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### FISCAL CLIFF AHEAD? — WHAT IT MAY MEAN

Many of you have recently asked our office about the “fiscal cliff” that has been in the news the last few months. Without congressional action, up to \$600 billion of expiring tax cuts, new taxes, and automatic spending cuts are set to take effect at the end of 2012 or beginning of 2013. If they hit

all at once, it has been estimated that the impact could amount to the equivalent of falling off a “fiscal cliff.” What will likely happen? Probably one of four scenarios: (1) Washington pushes the issues off until 2013 (2) some modest compromise is reached (3) no compromise is reached and the economy indeed

goes “over the cliff” (4) a “grand bargain” is reached on tax, spending, and fiscal issues for the foreseeable future. However, under any of these scenarios, it is clear that the actions taken by our elected officials in Washington will have an impact on your pocketbook!



### THREE IMPORTANT STEPS IN SELLING YOUR FARM LAND

The booming agricultural market of the past few years has made selling your farm land much more lucrative than it used to be. There are several options available to property owners including selling the land directly, putting it up for auction, or putting it up for bid. Regardless of the method of selling, there are three important steps that will maximize profits from any parcel of land.

#### 1. Clean up the property.

Often, the main diffi-

culty in selling property is that potential buyers do not like to consider property that they will have to put a lot of work into. All property needs to have “eye appeal.” Cleaning up the property should also help the buyer on the appraisal. Simply put, if the property is unkempt and cluttered with junk, the perceived value of the property decreases.

#### 2. Pick a reputable attorney to help determine pricing.

Pricing is a key factor to getting property sold. A reputable attorney

who has the experience, resources, and familiarity with the price of farm land in your area is invaluable to attract the best potential buyers.

#### 3. Develop a Marketing Plan

To earn top dollar for a property, it is important to work with your attorney to develop a marketing plan. The listing or sale should be advertised in major trade papers and on the Internet. The recommended advertising area will depend on the size and price of the farm land.

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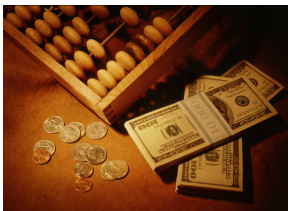
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## FOUR THINGS EVERY BUSINESS OWNER SHOULD THINK ABOUT

Many businesses start out as sole proprietorships or partnerships because they are the simplest to form. That may have been fine when your business first opened its doors, but it pays to check and see if your current legal structure is still a good fit for your business – especially when it comes to tax breaks and personal liability – or whether it’s time to step up to a corporation or limited liability company (LLC).

### 1. Have your personal assets grown since you started your business?

If you now have a significant amount of personal assets, you may want to consider converting your business’s legal structure to an LLC or corporation. Without the limited liability protection offered by these business forms, your personal assets will be at risk if your business can’t pay off its debts or satisfy court judgments entered against it.



### 2. Are you thinking about selling stock to investors or issuing employee stock options?

If you’re thinking about raising investment capital by selling stock – or issuing

stock options to attract and retain good employees – you would have to first convert your business to a corporation. While it’s true that LLCs can raise capital by selling membership interests, the process of doing this is more cumbersome than issuing stock, particularly if you expect to have multiple investors or want to raise money from the public.

Another benefit of issuing stock is the ability to make gifts of stock to family members as part of an estate plan. You can easily make gifts of corporate shares without giving up management control and, if you do it correctly, you can avoid paying a gift tax.

### 3. Has your business started to turn a good profit?

If your business is now

*“[I]t pays to check and see if your current legal structure is still a good fit for your business[.]”*

bringing in some money, you could potentially save income tax dollars by converting your business to a corporation and keeping some of your profits in the corporation each year. The profits left behind would be taxed to the corporation at corporate income tax rates, which are lower than many business owners’ individual income tax rates.

### 4. Do you want to start providing fringe benefits to yourself or your employees?

Another tax benefit of corporations is that they can deduct the full cost of fringe benefits (like health insurance



and reimbursement of medical expenses) that are provided to employees (including owner-employees), and the employees and owner-employees don’t have to pay any tax on the value of these benefits. Other types of business entities can also deduct the cost of many fringe benefits as a business expense, but the owner-employees who receive these benefits will ordinarily be taxed on their value.



## Kid's Corner: Fall Fun

By: Sarah, Will, and Kate Swier

School has been very busy this year. Kate is in pre-school and has learned some of the alphabet already. Will is in kindergarten and has learned about letters. I am in second grade and have learned how to tell time.

In September, Avon had homecoming. We had dress up days and one day I wore a garbage sack dress with zebra duct tape on it! Kate and Will dressed

up for the days too. The theme was Olympics. Kate, Will, and I all walked in the parade. I was dressed as a gymnast. We even made a float for the law firm. We made a giant torch that was stuffed with napkins. The day of the parade, it was windy and the torch blew over before it

went down Main Street. But we still got first place for the business floats!



We also have gone to a lot of Pirate football and volleyball games. We have fun watching the Pirates play.

In October, we picked pumpkins that my Grandpa John grew. My cousins were there. I learned how to cut the pumpkins off the vine. We found a rubber salamander at Grandma and Grandpa's



house before we picked pumpkins and we named him "Salamander." We also painted and carved the pumpkins.

Aunt Brooke and Uncle Chris got a new puppy

named Bentley. He likes to nip at people. But we are helping to train him! I even get to take him on walks. Soon I will be able to puppy sit Bentley if Brooke and Chris are gone!

For Halloween, Kate was a witch and Will was Woody from Toy Story. I dressed up as a red fairy. Bentley (the dog) dressed up as a sock monkey. We went trick-or-treating all over Avon.



We have had a busy and fun start to the school year.



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## Community Events

### November 11

Veteran's Day



### November 12

2:30 p.m.

Veteran's Day  
Program

Avon High School

### November 20, 2012

Community  
Thanksgiving Service

### November 22, 2012

Happy Thanksgiving!

### November 29, 2012

8:30 a.m. to 2:30 p.m.  
Community Blood  
Drive

### December 6, 2012

Elementary Operetta

10:00 a.m.

Matinee with Senior  
Citizens Lunch

Following

7:00 p.m.

Evening Performance

### December 14, 2012

7:00 p.m.

7-12 Winter Concert

### December 25, 2012

Merry Christmas!

