

INSURANCE

What You Need to Know to Protect You and Your Business

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CAVEAT

- ❖ **This presentation is a basic and general discussion of insurance and how it works.**
- ❖ **It does not purport to address all the insurance issues faced by a business.**
- ❖ **The insurance policies themselves must be read to determine how they apply in any given circumstance.**

WHAT KINDS OF INSURANCE DO I NEED?

- ❖ **Property, Crime**
- ❖ **General Liability**
- ❖ **Automobile**
- ❖ **Workers' Compensation**
- ❖ **Intellectual Property, Internet Liability**
- ❖ **Life & Health**
- ❖ **Disability**

PROPERTY INSURANCE

- ❖ Pays for loss or damage to your property
- ❖ Must be due to a covered cause of loss
- ❖ Causes of Loss forms
 - Basic Form (named perils)
 - Broad Form (more named perils)
 - Special Form (all perils unless excluded)

PROPERTY INSURANCE

Other Considerations

- ❖ Loss of Business Income/Extra Expense
- ❖ Property in Transit (U.S. and foreign)
- ❖ Computers (hardware, software, extra exp.)
- ❖ Boiler & Machinery
- ❖ Property of Others in your custody
- ❖ Property away from your premises
- ❖ Free-standing signs
- ❖ Valuation for loss (Replacement Cost best)
- ❖ Coinsurance (Agreed Value best)

CRIME

Typical Coverages

- ❖ Employee Dishonesty
(theft by employee)
- ❖ Loss Inside Premises
- ❖ Loss Outside Premises

GENERAL LIABILITY INSURANCE

Insures

- ❖ **Your defense costs**
- ❖ **Damages assessed against you**

Due to your legal liability for Injury or damage to third parties.

Arising out of your premises or operations in the U.S. or Canada.

GENERAL LIABILITY INSURANCE

Insured Perils

- ❖ Bodily injury
- ❖ Property damage
- ❖ Personal injury
- ❖ Advertising injury

GENERAL LIABILITY INSURANCE

Endorsements You May Have to Add

- ❖ Additional Insured
- ❖ Waiver of Subrogation
- ❖ Primary and Non-Contributing
- ❖ Advance Notice of Cancellation

May be requested by

- ❖ Customers
- ❖ Landlords
- ❖ City, County, State, etc.

AUTOMOBILE INSURANCE

Insures

- ❖ Your defense costs
- ❖ Damages assessed against you

Due to your legal liability for

- ❖ Injury or damage to third parties

Also insures damage to or loss of your vehicle.

AUTOMOBILE INSURANCE

Vehicles Insured

- ❖ Vehicles owned or leased by the business (liability and physical damage)
- ❖ Vehicles not owned by the business (liability only)
- ❖ Vehicles hired by the business (can include physical damage to vehicle)

WORKERS' COMPENSATION

- ❖ **Required if business has even one employee**
- ❖ **Sole proprietors are excluded, but may elect to be included for coverage**
- ❖ **Executive officers are excluded, but only if they are the sole owners of the business; may elect to be included**
- ❖ **General partners and LLC managers are excluded, but may elect coverage**

WORKERS' COMPENSATION

Employee vs. Independent Contractor

- ❖ Saying someone is an independent contractor does not make him/her one
- ❖ Does “contractor” have control over the means and methods to achieve the result?
- ❖ Creates issues of state and federal withholding taxes
- ❖ Risk of back taxes and penalties

WORKERS' COMPENSATION

Employee vs. Independent Contractor

- ❖ CA Supreme Court “ABC test”—April, 2018
- ❖ Worker is employee unless worker:
 - ❖ A. is free from hirer’s control & direction, AND
 - ❖ B. performs work outside hirer’s biz, AND
 - ❖ C. is engaged in independently established biz

WORKERS' COMPENSATION

If You Hire an Independent Contractor, Make Sure They:

- ❖ Have a business license
- ❖ Have liability and work comp insurance
- ❖ Provide you with evidence of insurance
- ❖ Notify you if their insurance is cancelled
- ❖ Include a waiver of subrogation

INTERNET LIABILITY

- ❖ **Electronic brochure**
- ❖ **Conducting business on line**
- ❖ **Theft of confidential client data, such as credit card numbers**
- ❖ **General liability policy does not apply**
 - **Claims, not bodily injury or property damage**
- ❖ **Special coverage may be available**

INTELLECTUAL PROPERTY

- ❖ Copyright, patents, trademark, trade dress, title, slogan, etc.
- ❖ Claims for infringement on the above
- ❖ General Liability policy insures copyright, title or slogan, but only in course of advertising your products, goods or services
- ❖ Special coverage may be available

MANAGEMENT LIABILITY

- ❖ **Directors and Officers Liability**
- ❖ **Employment Practices Liability**
- ❖ **Fiduciary Liability**
- ❖ **Professional Liability**

BUSINESS CONTRACTS

Most Typical

- ❖ Leases
- ❖ Subcontractor agreements

Two Related Sections

- ❖ Indemnification
- ❖ Insurance

BUSINESS CONTRACTS

Typical Insurance Requirements

- ❖ General Liability, Auto and Work Comp
- ❖ Include other party as Additional Insured
- ❖ Provide other party with 30 days' notice of cancellation or material change
- ❖ Waive subrogation against other party
- ❖ Primary and Non-Contributing

Make sure your insurance can comply

RISK MANAGEMENT

- ❖ **Importance of Loss Control and Safety**
- ❖ **Impact on Employees**
- ❖ **Impact on Insurance Rates**

AFFORDABLE CARE ACT

Insurance Reform, not Health Care Reform

- ❖ No pre-existing conditions exclusions
- ❖ No lifetime annual benefit limits
- ❖ Prohibits cancellation (except for fraud)
- ❖ Cover preventive services; no co-pays/ded.
- ❖ Insure childless, single children to age 26

AFFORDABLE CARE ACT

Who is Required to Buy Health Insurance?

- ❖ Employers with >50 FTE, but only for F/T
- ❖ Virtually all individuals (until 1-1-2019)
- ❖ No mandate for employers with <50 FTE
- ❖ Penalties apply for failure to purchase

AFFORDABLE CARE ACT

Where Can Coverage be Purchased?

- ❖ Private marketplace
- ❖ Your Employer, who must pay 50% or more
- ❖ Medicare
- ❖ State Exchange—www.Coveredca.com
- ❖ Individuals
- ❖ Employers with up to 100 employees

AFFORDABLE CARE ACT

The “Metal” Plans

All plans must meet government standards

- ❖ Bronze—avg. split 60/40 carrier/insured
- ❖ Silver—avg. split 70/30 carrier/insured
- ❖ Gold—avg. split 80/20 carrier/insured
- ❖ Platinum—avg. split 90/10 carrier/insured

AFFORDABLE CARE ACT

What Does Coverage Cost?

- ❖ Depends on Age, Zip Code, Income, Plan
- ❖ No gender premium discrimination
- ❖ Recalculated each year based on criteria
- ❖ Discounts for lower income people
- ❖ Up to 4 X Federal Poverty Level
- ❖ Tax credit for small biz-thru exchange only
- ❖ Up to 25 FTE & up to \$50,000 avg. payroll

AFFORDABLE CARE ACT

Why Buy Insurance for Your Employees?

- ❖ Obtain and retain better employees
- ❖ Compete with similar businesses
- ❖ Potential tax credit
- ❖ More tax efficient than employee buying own insurance
 - ❖ Employer gets tax deduction
 - ❖ Employee share paid with after-tax dollars

LIFE INSURANCE

- ❖ **Purchase based on need**
- ❖ **Term for pure death protection**
 - **No investment component**
 - **Premiums increase with age**
- ❖ **Consider to fund Buy/Sell agreements**
- ❖ **Group health comes with small life insurance component**

DISABILITY INSURANCE

- ❖ **Six times more likely to become disabled than to die during work years**
- ❖ **State Disability Insurance (SDI) mandated for employees**
- ❖ **Employers may offer plan that starts where SDI leaves off**
- ❖ **Individuals may purchase personal coverage**

HEALTH SAVINGS ACCOUNTS

- ❖ **Similar to IRA**
- ❖ **Pre-tax contributions for qualified medical expenses pre- and post-retirement**
- ❖ **Requires HSA-compatible health insurance plan (high deductible)**
- ❖ **Details at:**
 - www.treas.gov/offices/public-affairs/hsa
 - www.ehealthinsurance.com

HEALTH SAVINGS ACCOUNTS

- ❖ **Maximum yearly contribution \$3,450 for individual; \$6,900 family (+\$1,000 catch-up if over 55)**
- ❖ **Unused funds rolled over to next year**
- ❖ **No tax on withdrawal if used for qualified medical expenses**
- ❖ **Requires HSA administrator (usually your bank)**

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