

A Funny Thing Happened at Work

The Coke is on You

In his latest installment, Mike Crawford, CPA, describes how a town meeting got out of hand...

One May, while serving a small town as their annual budget consultant, I attended a budget workshop meeting with the town board and related staff to discuss the upcoming fiscal year budget. Sitting among the board members was a female employee serving as the town clerk.

To appreciate this story, you must know some background information regarding this town clerk. A few months prior to this meeting, three of the then five town board members voted to fire the clerk due to allegations of poor job performance. However, the board was split on this decision because the other two voting members were close personal friends of the clerk and voted to retain her. In April, the citizens had elected a new town board member, replacing one of the three members who voted to fire the clerk with a clerk supporter. Soon, a majority of the board gave the clerk her job back – with back pay.

Now back to the May budget meeting. My father, working part-time for our firm at this time, also attended the meeting (his first municipal government meeting). He and I were sitting at a table in the middle of a u-shaped seating structure to discuss the budget with the board. The newly re-hired town clerk and her three supporters were seated to our left, while the two remaining non-supporting board members were seated to our right.

The time came to discuss the town clerk's portion of the budget. As I began to address the budget requests of the town clerk's department, one of the two non-supporting board members began to argue with the three supporting members about re-hiring the clerk and his continued concerns over her job performance. The argument continued to heat up, resulting in a demand to fire the clerk

again. At this time, the town clerk stood up and shouted, "You S.O.B., I've had enough of your comments. You have been on my case ever since you have been on this board and I'm not going to take it any more."

She was so angry that she began looking around for something to throw at the board member. She angrily grabbed a can of Coca-Cola and attempted to empty the can's contents onto the board member. In what looked like a priest blessing a congregation with holy water, she was slinging her Coke can back and forth, trying to hit the man with the drink. Her only problem was he was too far away. Instead, the majority of the liquid landed all over my father and me and our nicely pressed suits. Finally, when she realized she hadn't hit the board member with the Coke; she threw the empty can over our wet heads, barely missing the ducking board member.

At that point, the board member asked the local chief of police, also in attendance, to restrain the clerk and bring him a complaint form. The chief took the clerk outside the building and brought the board member a form. Needless to say, the budget meeting was postponed. My father then turned to me and asked, "Are all town board meetings this lively?" The board member ultimately sued the clerk for damages sustained in the incident. What damages you may ask? We were sent a copy of the lawsuit notice and were listed as potential witnesses. The notice, in its description, stated the board member had sued the clerk for "wetting on his person." I laughed so hard my side began to hurt.

Then I thought to myself, we were the ones who got wet. We should have sued.

(See FUNNY on page 26)

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(FUNNY from page 11)

The judge, while slapping the plaintiff's hands for bringing such a case to court, ordered the clerk to pay the board member for his cleaning expenses. As a final note, at the reconvened budget workshop a week later, I brought an umbrella and proceeded to open it when the town clerk's budget was being addressed. €

(MEMBERS from page 12)

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(CPE from page 14)

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(TAX from page 19)

identical five-year holding periods for both asset categories. There is a question as to whether real or personal property, held for more than three but less than five years, could be transferred into an entity that is not a disregarded entity for federal tax purposes, and then sold. The holding period of the entity interest for federal tax purposes would "tack" and would include the holding period of the transferred property. Since Oklahoma tax law generally follows federal tax rules, it may be possible to convert five-year property into three-year property by moving it into an entity that is not a disregarded entity for federal tax purposes and then by selling the entity.

The capital gain benefit for the sale of an ownership interest in an Oklahoma

entity is restricted to entities whose primary headquarters have been located in Oklahoma. Does limiting the benefit to sales of Oklahoma companies discriminate against out-of-state companies so as to violate the Commerce Clause of the U.S. Constitution? Decisions of the U.S. Supreme Court in *South Central Bell Telephone Co. v. Alabama*, 119 S. Ct. 1180 (1999) and *Fulton Corp. v. Faulkner*, 116 S. Ct. 848 (1996) lend support to an argument that the sale of an out-of-state company should be subject to the same tax as the sale of an in-state company.

In *Fulton*, North Carolina levied an intangible property tax on the value of corporate stock held by its residents, who calculated the tax by taking a taxable percentage deduction equal to the fraction of the issuing corporation's income subject to tax in North Carolina. In a unanimous opinion, the North Carolina tax was held to violate the Commerce Clause. The Oklahoma attorney general will have a difficult time trying to distinguish Oklahoma's scheme from the invalid North Carolina scheme.

Of course, it takes years and years for these things to work their way through the court system. Challenges are expensive for the taxpayer, and success is not assured. Another possibility (reportedly remote) is that Oklahoma voters will reject the tax changes in November. €

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