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2025 - 2026 WINTER NEWSLETTER

**INTEGRITY. EXCELLENCE.
 LASTING RELATIONSHIPS.**



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ONE MILE TO GO!

The Poudre River Trail, a 45-mile hiking/biking path from Greeley to Bellvue, will reach fruition this Spring with the completion of the final mile between Timnath and Windsor. The trail’s existence is a tribute to a true collaborative effort between Weld and Larimer counties.

We are proud to recognize our own Fred Otis for his 30 years of leadership and contribution to this project, serving on Poudre River Trail Corridor, Inc., from 1995-2024.

We salute Fred and the many others who worked tirelessly to bring this Northern Colorado jewel to life for residents and visitors to be able to enjoy the river and its natural beauty in our own communities.

For the full article: bizwest.com/2026/01/25/the-poudre-river-trails-final-mile

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Providing a range of legal services throughout Northern Colorado



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Anyone considering hiring a lawyer should independently investigate the lawyer's credentials and ability, and should not rely upon advertisements or self-proclaimed expertise.

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What the “One Big Beautiful Bill” Means for Your Estate Plan



By: Anna Bennett, Esq.
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The One Big Beautiful Bill Act, often nicknamed the “OBBA,” was signed into law in July 2025 and made permanent changes to the federal estate, gift, and generation-skipping transfer (GST) tax exemptions.

Under the 2017 Tax Cuts and Jobs Act (TCJA), the federal estate and gift tax exemption was temporarily doubled and is currently set at \$13.99 million per individual in 2025. These provisions were scheduled to expire, or “sunset,” on January 1, 2026, which would have returned the exemption to the pre-TCJA threshold of \$5 million per individual (or an estimated \$7 million per individual when adjusted for inflation).

The OBBA removed the sunset provisions of the TCJA and “permanently” increased the exemption levels. Beginning January 1, 2026, the lifetime exemption levels for estate, gift, and GST taxes are \$15 million per individual and \$30 million per married couple, with annual inflation adjustments.

While the exemption increases are “permanent” in the sense that there are no longer looming sunset provisions that come with a built-in expiration date, it is important to keep in mind that federal tax laws are always subject to change based on the current political landscape and future legislative changes.

The OBBA provides an opportunity for high-net worth individuals to make thoughtful choices about long-term planning and legacy preservation. Individuals and families whose net worth is near or over the exemption level should take advantage of the clarity the OBBA provides and use this time to reevaluate existing plans to ensure tax saving benefits are maximized.

For those who may have already used their previous exemption amounts, the increased threshold provides a renewed opportunity to support loved ones and charities through strategic gifting. For others who may be nearing the threshold, utilizing estate planning vehicles such as irrevocable trusts to shelter the growth of appreciating assets can be an effective tool to minimize tax liability.

Regardless of your net worth, now is still a great time to take advantage of these historically high exemption levels by utilizing strategies to move assets outside of your taxable estate. While regular reviews of your estate plan are always encouraged, the OBBA provides a unique opportunity to review and ensure your plan is both efficient and aligned with your long-term goals.



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Common Avoidable Pitfalls for Businesses that Neglect Legal Counsel



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All startups, family businesses, and early-stage entities must maintain a competitive advantage to survive. Although that drive is necessary, it can also exacerbate legal risks. Businesses in any stage of development can avoid the missteps that could create long-term liabilities which may then erase revenue gains and turn away investors.

Following is a practical look at the most common pitfalls businesses face when they operate *without legal guidance*, and why those oversights are far more costly than the expense of ongoing legal advice.

1. Ignoring Corporate Formalities and Losing Liability Protection

Many entrepreneurs assume that forming a business, or acquiring one, automatically protects them from personal liability. However, failure to maintain distinct business assets dispute arises, a businessowner may avoidably be held personally liable if they failed to respect legal formalities.

2. Overlooking Tax Compliance & Triggering Avoidable Penalties

Fast-moving startups often take a “act now, file later” approach to taxes. However, proactive tax planning is essential for avoiding penalties, audits, and double taxation. Misclassifying workers, neglecting sales tax obligations, missing quarterly estimated payments, or simply choosing the wrong tax structure for your business can snowball into significant liabilities that can result in costly remedies.

3. Relying on Informal or Poorly Drafted Contracts

Well-intentioned, but vague, contracts are one of the most common and damaging mistakes made in business. The issue is relying on templates, handshake agreements, or borrowed language that fails to reflect the actual business relationship. As a result, a contract may be touting unenforceable terms, unclear intellectual property (IP) rights, unlawful non-competes, or clauses that fail to adequately allocate risk. If a dispute were to arise, the contract that one thought would protect the business could instead become a liability.

4. Underestimating Compliance Regulations

Misclassifying employees as independent contractors or assuming flexible arrangements without expectation of scrutiny is another expensive mistake. This underestimation can create tax liabilities, wage claims, and statutory penalties, especially under Colorado’s rapidly changing employment framework which can also expose business owners and employers to personal liability.

5. Failing to Protect IP at the Outset

Startups sometimes overlook assignment agreements, trademark filings, trade secret protections, or licensing terms. When IP ownership is unclear, particularly with contractors or early investors, the company’s most valuable assets can become contested. This is a common point of concern for investor due diligence and can be a frequent source of founder disputes.

In summary, most of these pitfalls are avoidable with a focused legal review undertaken well before the problems materialize. The expense of early planning is minimal compared to a possible loss stemming from foundational mistakes. Whether you are launching a new venture, acquiring a business, or evaluating your risks as a stakeholder, securing legal guidance can assist you in avoiding the missteps that can slow down, or sink, an otherwise promising business. An experienced business attorney can review your entity structure, contracts, and compliance risks to ensure your due diligence matches your ambition.





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The attorneys at O&B are recognized leaders in real estate law and business law. We advocate for individuals, businesses, and families in the Northern Colorado region.

Our clients are landowners, business owners, business professionals, businesses of all sizes, and individual families in need of guidance or representation in court proceedings involving commercial real estate.

For more information about our lawyers or practice areas, please visit our website at www.nocoattorneys.com

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Corporations May Be Subject to Uncapped Noneconomic Damages



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The Colorado Court of Appeals in *Ross v. Public Service* articulated a significant expansion of liability for corporations in wrongful-death cases. The plaintiffs (the heirs of Carol Ross) sued the utility company Xcel Energy after a drilling incident ruptured a natural-gas pipeline, resulting in an explosion that killed Ms. Ross and destroyed her home.

At trial, the jury awarded \$15 million in noneconomic damages. The district court applied the statutory wrongful-death cap of roughly \$436,070 (for that period) because it concluded the so-called “felonious killing exception” did not apply to corporations. On appeal, the Court of Appeals held: (1) that the “felonious killing exception” to the noneconomic-damages cap does apply to corporations, not just individuals; and (2) that the trial court improperly applied the damages cap by first allocating fault to Xcel Energy before applying the cap.

This decision carries significant implications for Colorado businesses. Companies previously may have assumed that liability under the felonious killing exception was limited to individuals. With this expansion, corporations face potential uncapped

noneconomic damages in wrongful-death cases when the facts support a felonious killing. This raises risk profiles for companies, particularly in industries with high-hazard operations (utilities, pipelines, construction, etc.).

Further, plaintiffs in wrongful-death suits will be more inclined to attempt to invoke the felonious killing exception when a corporation is involved. The decision provides additional leverage in settlement discussions and may change how corporate defendants approach risk management and litigation strategies. The uncertainty of what constitutes corporate “felonious killing” will spawn further litigation and fact-intensive inquiry.

With the noneconomic cap revision, corporations will need to review their insurance coverages to assure adequacy in mitigating risks presented by this liability expansion. Corporate boards and risk officers will need to reassess operational safety protocols, drilling/excavation oversight, pipeline monitoring, and compliance to avoid triggering liability exposure. Federal and state regulators may also increase the degree of oversight and management over those industries that they regulate.

Now, more than ever, is the time for companies to review operational safety protocols with risk managers and update existing regulatory compliance programs. Contracts should be reviewed with the company’s general counsel or legal representatives to ensure protection, should a subcontractor or vendor cause a death. Companies should speak with their insurance brokers to reevaluate limits, exclusions, and excess coverages that may be required to ensure their liability under this cap expansion is addressed.



Sunday, March 8, 2026
Set clocks ahead 1 hour at
2 a.m.

