

Legal Risk	Federal Laws
<p>1. Employees charging discrimination, harassment and unfair treatment. Lawsuits and legal claims being filed by employees are on the rise, according to the Equal Employment Opportunity Commission (EEOC). Employees and job applicants are protected from unfair treatment or harassment based on race, color, religion, sex, pregnancy, national origin, age (40 or older), disability or genetic information. It is also illegal to retaliate against an employee because he or she complained about unfair treatment or assisted with an investigation or lawsuit.</p> <p>Employees away on military duty and those returning from military duty have re-employment rights and protection from discrimination.</p> <p>Covered employees must be given leave for their own illnesses, to care for ill family members, for pregnancy, maternity, or for certain duties as military family members.</p>	<ul style="list-style-type: none">• Age Discrimination in Employment Act;• Title VII of the Civil Rights Act;• Americans with Disabilities Act;• Pregnancy Discrimination Act;• Genetic Information Nondiscrimination Act;• Equal Pay Act;• Uniformed Services Employment and Reemployment Rights Act; and• Family and Medical Leave Act.
<p>2. Employees charging wage and hour violations. Employers must pay minimum hourly wages and overtime pay to non-exempt employees (those not exempt from these protections). Proper meal and rest periods must be provided. Another trap involves treating some workers as independent contractors when, in fact, they are employees entitled to minimum wage and overtime pay.</p>	<ul style="list-style-type: none">• Fair Labor Standards Act; and• State and local laws.
<p>3. Compliance with regulatory laws. There is an increased focus on laws and regulations in certain industries. Failure to comply can lead to expensive penalties and damage to a company’s reputation.</p> <p>In all industries, employers are responsible for providing “safe and healthful working conditions” for employees. Various industries have many requirements. For example, in construction, there are regulations involving scaffolding, noise exposure, hazardous materials, ventilation, eye protection and more.</p>	<ul style="list-style-type: none">• Occupational Safety and Health Act;• Dodd-Frank Act; and• Sarbanes-Oxley Act.
<p>4. Contracts. We all know a well-drafted contract provides protection for the parties signing it. Contracts determine rights and obligations. And yet, many businesses enter into transactions with poorly written contracts or contracts with “boilerplate” provisions that are not favorable to them. In some cases, business owners and managers make deals with no contracts at all. When disputes occur, they’re forced to rely on memory and find that verbal contracts are difficult to prove in court.</p> <p>Those signing contracts sometimes overlook important provisions, including clauses that lay out the “choice of law” and “venue.” These clauses determine what law applies and the location where disputes related to the contract will be resolved. You don’t want the inconvenience and expense of being pulled into court across the country. The Internet has changed the way we do business and you may sign contracts online. These days, determining jurisdiction can be complicated when there are multiple locations involved in one contract.</p> <p>It’s also important to review contracts after laws and regulations change to ensure they are still strong.</p> <p><i>Bottom line:</i> Make sure you “get it in writing” by signing carefully drafted contracts with customers, vendors, employees and others.</p>	<ul style="list-style-type: none">• Uniform Commercial Code; and• Electronic Signature in Global and National Commerce Act (E-SIGN).
<p>5. Taxes. The federal tax code is complex and constantly changing. Businesses naturally want to keep their tax bills low by taking advantage of every tax break available to them. But if they go too far, they may face a costly IRS or state tax agency audit. An improper deduction can result in back taxes, interest and penalties.</p> <p>Another dangerous trap involves the payroll tax withheld from employees’ pay. Sometimes, businesses facing tough times borrow from withheld income taxes, Social Security and Medicare contributions. Or they fail to deposit withheld amounts and employer matching amounts on time.</p> <p>The government wants its money by strict deadlines. Penalties accrue quickly if your business misses deadlines. These penalties can be levied personally against all responsible <i>individuals</i> in a business. The corporate veil is no shield in these situations.</p> <p>If you receive an IRS notice, contact your tax advisor immediately.</p>	<ul style="list-style-type: none">• Internal Revenue Code; and• State and local tax laws.
<p>6. Employee Benefits. Sponsors of retirement plans must stay in compliance with a variety of fiduciary, disclosure and reporting requirements, and they must update their plans when new laws pass. The IRS does have programs to allow sponsors to correct plan errors. In the worst case scenario, if a sponsor does not make corrections, a plan can lose its tax favored status resulting in significant taxes, interest and penalties.</p> <p><i>Another benefit requirement:</i> Workers and their families who lose health benefits are given the right to choose to continue health benefits provided by their group health plan for limited periods of time under certain circumstances.</p> <p>These are only a few of the rules associated with employee benefits. Your attorney, tax advisor, and employee benefits professional can help ensure you stay in compliance with all applicable laws.</p>	<ul style="list-style-type: none">• Internal Revenue Code; and• Employee Retirement Income Security Act;• Consolidated Omnibus Budget Reconciliation Act; and• Health Insurance Portability and Accountability Act.
<p>7. Customer disputes. Business owners have to be prepared to deal with a variety of disputes from disgruntled customers. They may claim they are the victims of faulty products, false advertising fraud, or breaches of contract. They may sustain injuries on your property and claim your business was negligent.</p> <p>The best strategy is generally to try and solve customer disputes as soon as possible — before they become a legal headache.</p>	<ul style="list-style-type: none">• Federal Trade Commission Act;• Consumer Product Safety Act; and• Uniform Commercial Code.
<p>8. Taking out loans. Operating a business generally involves getting financing. Some businesses borrow more than they can pay back or find themselves in financial trouble because they signed personal guarantees. In the worst case scenarios, they may even have to file for bankruptcy.</p> <p>When borrowing, make sure you understand repayment options, tax implications, promissory note terms, personal liability, issues with shareholder loans, collateral, and interest rates.</p>	<ul style="list-style-type: none">• Truth in Lending Act; and• U.S. Bankruptcy Code.