ALERTS:

Patent Law Change

Inventors considering filing for U.S. patent protection should note that effective March 16, 2013, the United States will convert from a first-to-invent system to a first-to-file system. As the name suggests, under a "first-to-file" system, the first inventor to file a patent application with the U.S. Patent & Trademark Office (USPTO) for a particular invention will, in most cases, prevail over competitors who subsequently file a similar patent application even if they invented earlier. Further, on or after March 16, 2013, patent applications will be subject to a greater scope of prior art that can be used by the USPTO to invalidate the patent application claims. Consideration should be given to filing a patent application before the March 16, 2013 deadline, if possible; if not possible, inventors should consider filing a *provisional* patent application as early as possible. A provisional patent application can provide significant potential patent protection for an invention at a relatively modest cost by establishing an early filing date and providing up to an additional year for the inventor to complete work on the invention and file a full application.

Remedies for Companies in Financial Trouble

As part of the recent "fiscal cliff" negotiations in Washington, D.C., the American Taxpayer Relief Act of 2012 (the "2012 Act") was signed into law by President Obama on January 2, 2013. The law permanently codifies certain transfer tax provisions of the prior 2010 Tax Relief Act ("TRA 2010") that were set to expire on January 1, 2013. It also increases the maximum estate and gift tax rate to 40%, as compared to 35% in the TRA 2010, but sets the unified estate and gift tax exemption amounts at $5,000,000 (subject to inflation adjustments). The 2012 Act permanently codifies the "portability" of a deceased spouse's unused federal estate tax exemption for use by the surviving spouse introduced in the TRA 2010. The federal estate tax and gift tax exemption amounts for 2013 are set at $5,250,000. Likewise, the generation-skipping transfer (GST) tax rate is set at 40% and the GST exemption amount for 2013 is $5,250,000. Importantly, the 2012 Act does not affect Minnesota estate tax laws, which provide for an estate tax exemption amount of $1,000,000, with a top tax rate of 16%.

If you would like assistance in assuring best practices in either of these areas, please contact your attorney at Moss & Barnett.