

Financial, Legal & Tax Advisory

Published by The Center for Financial, Legal & Tax Planning, Inc.



Roman A. Basi, President of The Center, is an Attorney, CPA, Real Estate Broker, and Title Insurance Agent. Roman speaks and advises The Center's clientele on such matters as Business Law, Succession, Estate & Tax Planning, and Real Estate.



Dr. Bart A. Basi, Senior Advisor of the Center for Financial, Legal & Tax Planning, Inc., is an expert on closely-held companies, an attorney, and CPA. He is a member of the American Bar Association's Tax Committees on Closely-Held Businesses and Business Planning.

Noncompete Agreements: No Longer Enforceable

On April 23, 2024, the Federal Trade Commission (FTC) issued a final rule. This rule promoted competition by banning noncompetes nationwide to protect the fundamental freedom of workers to change jobs, foster new business formation, and increase innovation. The FTC estimates that business formation will increase by 2.7% per year. This ruling is also expected to increase wages for workers and lower healthcare costs over the next decade. Along with this, the FTC believes innovation will be increased, leading to an estimated average increase of 17,000 to 29,000 more patents each year. What exactly are noncompete agreements?

A noncompete agreement is a clause in a contract specifying that an employee must not enter competition with another employer after the employment period is over. These agreements can also prohibit the employee from revealing proprietary information or secrets to any other parties during or after their employment. Most of these contracts specify a certain length of time when the employee is barred from working for a competitor or becoming a competitor after they end their employment. Those required to sign these agreements may include employees, consultants, and contractors. Some components you may see in a noncompete agreement are:

- Duration
- Geography
- Scope
- Competitors
- Damages

Many businesses use noncompete agreements to protect their intellectual property, proprietary information, trade secrets, and/or the production of their goods and services to maintain a competitive advantage. For example, an ex-employee, who is not under contract with a noncompete, could legally use the information they obtained at one company to help a new employer gain an advantage. That same employee may even start their own business using the information acquired from their employment.

Some of the most common industries that use noncompete agreements are:

- Media
- Financial Services
- Corporate Management
- Manufacturing
- Information Technology

Under FTC's new rule, existing noncompetes for the vast majority of workers will no longer be enforceable after the rule's effective date, September 4, 2024. Employers will be required to provide notice to workers, other than Senior Executives who are bound by an existing noncompete, that they will not be enforcing the agreements against them. Existing noncompetes with Senior Executives, who represent less than 0.75% of the workforce, can remain in force under the FTC's final rule.

Employers are banned from entering or attempting to enforce any new noncompetes, even if they involve senior executives. Who qualifies as a Senior Executive? Anyone who earns more than \$151,164 per year and is in a "policy-making decision" is classified as a Senior Executive. There are a few exceptions to the new ruling outside of Senior Executives. The noncompete ban does not apply to nonprofit organizations and industries not covered by the Federal Trade Commission Act, such as banks, savings-and-loan institutions, federal credit unions, common transportation carriers, air carriers, and any individual or business subject to the Packers and Stockyard Act.

Along with this, the rule does not apply to noncompetes that are part of a corporate acquisition or sale of business interests. The final rule defines such transactions as "a bona fide sale of a business entity, of the person's ownership interest in a business entity, or of all substantially all of a business entity's operating assets." At The Center for Financial, Legal & Tax Planning, Inc., (The Center) our M&A team is equipped with attorneys and CPAs who are knowledgeable within the world of non-competes and corporate agreements. If you have any questions regarding the new non-compete ruling, please feel free to reach out at our website, www.taxplanning.com, or by phone at (618) 997-3436.

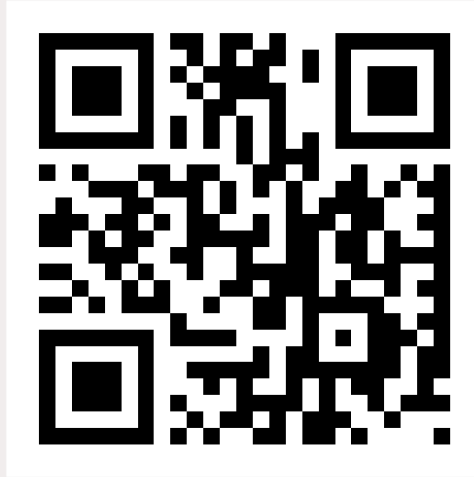
Basi, Basi & Associates at The Center for Financial, Legal, & Tax Planning, Inc.

Mergers & Acquisitions | Retirement and Estate Planning | Business Valuation | Tax Aspects of Business Decision
Accounting Service | Business Succession Planning | Strategic Planning and Negotiation for Buying or Selling a Business
4501 W DeYoung St., Suite 200 | Marion, IL 62959 Phone: (618) 997-3436 | Fax: (618) 997-8370 | www.taxplanning.com

**BASI, BASI & ASSOCIATES AT THE CENTER FOR
FINANCIAL, LEGAL & TAX PLANNING, INC**

TO VIEW OUR WEBSITE

SCAN ME!



INFO@TAXPLANNING.COM



CHECK OUR WEBSITE ONLINE, OPEN YOUR
PHONE CAMERA AND SCAN THIS QR CODE



4501 W DEYOUNG ST.,
SUITE 200 | MARION, IL
62959



618-997-3436



WWW.TAXPLANNING.COM



WWW.FACEBOOK.COM/TAXPLANNINGATTHECENTER



WWW.LINKEDIN.COM/COMPANY/BASIBASIASSOCIATES/



TWITTER.COM/_TAXPLANNING



WWW.INSTAGRAM.COM/BASIBASIANDASSOCIATES/
