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Headline Summary

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Bill to Exempt Equipment Purchases

The Senate Governance and Finance Committee passed a PIC supported proposal, SB 395, that would exempt the purchase of manufacturing and research equipment from California state sales tax.

The bill's author, Senate Republican Leader Bob Dutton (R-Rancho Cucamonga), argued that California is one of three states in the nation that tax such equipment to its own detriment.

Opponents argued that the State should not be giving new tax breaks while grappling with a \$26 billion budget deficit. This passage marks the first time since the manufacturing tax credit expired in 2004 that this issue was supported by the committee on its merits.

WatchDog

Guarding the Business of Print

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Printed Sales Message

Any delivery back to a customer in California of printed sales messages and interstate (or foreign commerce) is taxable. Moreover, Regulation 1541.5(b)(2) provides that printed sales messages must be "mailed or delivered by the seller, the seller's agent or mailing house acting as agent for the purchaser, through the US Postal Service or by common carrier [italics added]."

Thus the purchaser can direct the seller (printer) to deliver the printed sales message to a mailing house for mailing and the provisions of 1541.5(b)(2) are met. Section 1541.5(c)(2) states that when a printer delivers the printed sales message to the mailing house acting as agent for the purchaser, the contract of sale should specify to whom the printed material was delivered, and the printer should obtain and retain a timely exemption certificate, taken in good faith from the purchaser.

The same holds true for interstate sales. However, since there is no exemption certification for this type of transaction, the printer should specify in some written form (e.g., quotation or purchase order), prior to delivery, to whom the printed material was delivered for shipment out of state.

For more information, call Gerry Bonetto at (323) 728-9500, Ext. 248.

Changes in Family Leave

The legislature will again consider various bills that expand family leave in California. They expand bereavement leave, paid sick leave, and the California Family Rights Act (CFRA). Although all employers are subject to the federal Family Medical Leave Act, which guarantees up to 12 weeks of job protected leave, California has its own, more expansive, version known as CFRA,

This year Assembly member Sandré Swanson (D-Oakland) has re-introduced AB 59 which would increase the circumstances under which an employer is responsible for providing protected leave pursuant to CFRA by expanding and changing the eligibility definition.

Current law defines a "child" as biological, adopted, foster, stepchild, legal ward, or a child of a person standing in "loco parentis", who is either under age 18 or an adult dependent child. AB 59 removes the age limit from this definition, increasing dramatically authorized leave for employees. In addition, the bill re-defines "parent" to include in-laws and allows employees leave to care for seriously ill grandparents, siblings, grandchildren, or domestic partners.

Green Jobs

The legislature sent legislation (SB X 1 1—D-Steinberg) to Governor Brown to provide funding for "green partnership academy" programs that include training for careers in clean technology and renewable energy. It redirects \$8 million from a California Energy Commission special fund to pay for the programs.

Proposed Online Sales Tax

State Assemblyman Charles Calderon (D-Montebello) has introduced a bill that would include the list of companies, such as Amazon.com and Overstock.com, that could be required to collect California sales tax.

The bill would expand the number of companies that must collect the state use tax, a counterpart to the sales tax that is charged at the same rate. It would require out-of-state companies to collect the tax if they have a sister company in California, even if the California site's main operation is developing products or marketing rather than sales.

The state estimates it loses about \$1.1 billion a year in revenue through uncollected sales tax from online sales. If approved and signed into law, the bill could force Amazon alone to collect an estimated \$83 million in taxes on purchases, according to an article in the *Riverside Press Enterprise*.

Supporters said the bill would level the playing field for California retailers that collect the tax. On items with identical prices, out-of-state competitors gain nearly a 10 percent price advantage because they don't collect the tax.

If passed, however, the measure could lead to a legal fight. Internet retailers argue that forcing them to collect tax when they don't have a store or other physical business in a particular state is an unconstitutional restraint on interstate trade. Critics said the 'sister company' approach has been shot down by the courts before and could cost the state more money than the bill would bring in.

Several states have passed legislation to force online sellers to collect the tax; however, large online retailers just turned around and severed relations with those states.

Former Governor Arnold Schwarzenegger vetoed a similar bill in 2009.

Injury/Illness Prevention Program

Taking risks is a part of running a business, particularly for small business owners. One of these is risking the safety and health of those who work for you.

Every California employer must implement a written Injury and Illness Prevention (IIP) Program (also known as a SB 198 program), a copy of which must be maintained at workplace.

The requirements for implementing an effective written IPP are contained in Title 8 of the California Code of Regulations, Section 3203 (T8 CCR 3203) and consist of the following eight elements:

- Responsibility
- Compliance
- Communication
- Hazard Assessment
- Accident/Exposure Investigation
- Hazard Correction
- Training and Instruction
- Recordkeeping

PIC has available a program addresses each of these elements and has been prepared for use by employers in the printing industry to meet the IPP requirements.

The program administrator will check those items and fill in the appropriate blanks for his or her establishment. Sample forms for hazard assessment and correction, accident/exposure investigation, and worker training and instruction are provided with this program.

The program must be maintained by the employer in order to be effective.

If you have any questions, please contact Gerry Bonetto at (323) 728-9500, Ext. 248.

Cal/OSHA's Noise Rule

We encounter noise almost everywhere in our environment. And if the noise is loud enough, it can cause damage to our hearing. Millions of Americans have a measurable hearing loss, generally caused by on-the-job noise. It is the employers responsibility to mitigate excessive noise in the workplace.

The regulatory requirements for hearing protection found in California Code of Regulations, Title 8, Sections 5095-5100, says that employers have two responsibilities for protecting employees from excessive noise.

First, they must provide a hearing conservation program, including training and personal protective devices for employees when noise exceeds the "action level" of 85 decibels in an eight hour weighted average.

Second, when the noise level exceeds 90 decibels in an eight hour weighted average, employers must use engineering and work practice controls to reduce noise. Examples of such controls include vibration mounts, mufflers, sound absorbing tile, and removing employees from the noisy areas.

If controls do not reduce noise levels to acceptable levels, the employer must then provide hearing protective devices and training in their proper use to affected employees. Under both conditions, training must be provided at least annually and updated when there are changes in the work process.

