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Headline Summary

- ACA Notice Due
- Reminder: OSHA Training
- Manufacturers Tax Exemption
- Legislation

Manufacturers' Tax Exemption

The California Board of Equalization (BOE) has released its initial discussion paper on the proposed regulation for the state manufacturing sales and use tax exemption that was passed earlier this year. Under this new law, California manufacturers (NAICS Codes 3111-3399) can receive a partial sales tax exemption up to 4.19 percent on certain manufacturing and research and development equipment purchases. This partial exemption includes most major machinery and equipment, but excludes extraction, furniture or general office equipment.

To qualify, the purchase must be for use by a qualified person, the item purchased must be qualified tangible personal property and the use must be for a qualifying purpose, all of which is the subject of the proposed regulation.

WatchDog

Guarding the Business of Print

October 2013

ACA Notices Due

It's important to realize that all employers who are subject to the Fair Labor Standards Act (that's virtually everyone) should have given their employees the "New Health Insurance Marketplace Coverage Options and Your Health Coverage" notices by October 1st and to all new hires within two weeks of their employment. Although the federal government has delayed the employer mandate provision of the Patient Protection and Affordable Care Act (PPACA or "ACA"), October 1, 2013, is still the deadline for employers to provide a notice of health care coverage options to their employees.

The Department of Labor (DOL) has issued temporary guidance (which can be found here: www.dol.gov/ebsa/newsroom/tr13-02.html) on what the agency will consider as compliance with the notice requirement. Employers are not required to provide a separate notice to dependents or other individuals who are or may become eligible for coverage under the plan but who are not employees.

The DOL has created two model versions of the required notice: one for employers that do not offer a health plan and another for employers that offer a health plan for some or all employees.

Firms who purchase health insurance through Printing Industries Benefit Trust have been sent pre-filled forms for this purpose. Other firms may obtain forms at www.piasc.org and clicking on the Printing Industries Benefit Trust link in the lower right.

The notice informs the employee of the new health insurance marketplace (in California, that's Covered California), a description of services, how to contact the marketplace (also called an "exchange") and additional required information.

Reminder: OSHA Training Requirement

OSHA recently revised the Hazard Communication Standard to conform to the United Nations' Globally Harmonized System of Classification and Labeling of Chemicals.

The first requirement in implementing the revised standard is employee training (instruction) on the new label and safety data sheet (SDS) formats. The training must be completed by December 1, 2013.

You can find a step-by-step guide to this training requirement at <http://bit.ly/PIC-HCT> or a link on your association's website.

Since manufacturers and importers have until December 1, 2015, to comply, you're the hazard communication programs will go through a period where labels and SDSs under both standards will be present in the workplace. This is acceptable, and employers don't have to maintain two sets of labels and SDSs for compliance purposes.

Legislation

Below is the list of bills that PIC either opposed or supported in the first year of this two year legislative session.

AB 5 (Ammiano; D-San Francisco) Increased Exposure to Frivolous Litigation — Imposes costly and unreasonable mandates on employers that could jeopardize the health and safety of others by creating a new protected classification of employees and customers who are or are perceived to be homeless, low income, suffering from a mental disability, or physical disability, and establishing a private right of action for such individuals that includes statutory damages, punitive damages, and attorney's fees. Appropriations Committee: Held under submission, 5/24. Oppose

AB 10 (Alejo; D-Salinas) Minimum Wage Increase — Increases employers' cost of doing business by raising the minimum wage \$1.25 over the next three years and thereafter indexing the minimum wage based on inflation, which fails to take into account the current economic status of the state or other fees and costs employers are required to pay. Passed Legislature, 9/12. Governor signed into Law. Oppose

AB 59 (Bonta; D-Alameda) Split Roll Parcel Tax — Potentially increases the tax burden on businesses by permitting local agencies to assess a higher parcel tax on commercial property than residential property overturning an appellate decision that determined such taxes were unconstitutional. Missed deadline to pass from policy committee to fiscal committee in the house in which it was introduced, 5/3. Oppose

AB 188 (Ammiano; D-San Francisco) Split Roll Change of Ownership — Unfairly targets commercial property by redefining "change of ownership" so that such property is more frequently reassessed, which will ultimately lead to higher property taxes that will be passed onto tenants, consumers, and potentially employees. Assembly Revenue and Taxation, Held under submission, 5/13. Oppose

AB 227 (Gatto; D-Los Angeles) Stops Drive-by Lawsuits — Protects small businesses from drive-by lawsuits by providing a 14-day right to cure for allegations of a failure to post a Proposition 65 warning related to chemicals produced during the cooking process, alcohol, second-hand smoke, and car exhaust. Passed Legislature, 9/11. Governor signed into law. Support

AB 521 (Stone; D-Scotts Valley) Unworkable Recycling Program. Establishes an unworkable "producer responsibility"-style recycling program for the 10 most common types of marine litter, forcing product manufacturers to meet aggressive recycling rates and dates, which will not actually impact litter rates. Assembly Appropriation Committee, Suspense, 5/24: Held under submission. Oppose

AB 769 (Skinner; D-Berkeley) Creates Inequity in the Tax Structure — Harms struggling businesses and start-ups by repealing the Net Operating Loss (NOL) carry back deduction. In Assembly Revenue and Taxation. Hearing canceled at request of author, 5/13. Oppose

AB 907 (Conway; R-Tulare) Flexible Workweek Schedules — Allows an employee to voluntarily request a flexible work schedule, with an opportunity to work 4/10-hour workdays without the employer incurring overtime. Failed Deadline to be heard in house of origin, 5/10. Support

AB 1138 (Chau; D-Alhambra) Massive Exposure to Civil Penalties and Liability — Inappropriately increases civil cases and civil penalties on employers by permitting civil action against those employers who fail to conspicuously post a list of every employee covered under an employer's workers' compensation insurance policy and to retain this list for five years. Missed deadline to pass from policy committee to fiscal committee in the house in which it was introduced, 5/10. Oppose

AB 1164 (Lowenthal; D-Long Beach) Unproven Wage Liens — Creates a dangerous and unfair precedent in the wage and hour arena by allowing employees to file liens on an employer's real or personal property, or property where work was performed, based upon alleged yet unproven wage claims. Failed fiscal deadline. Held on the Assembly Appropriations Suspense File, 05/24. Oppose

SB 34 (R. Calderon; D-Montebello) Creates Regulatory Certainty. Advances the state's environmental policies and promotes job creation by reducing the regulatory burdens for the permitting process of carbon capturing and storage projects. In Senate Appropriations: Held under submission, 5/23. Support

SB 626 (Beall; D-San Jose) Workers' Compensation Cost Increase — Reverses the employer cost-saving provisions in last year's workers' compensation reform package. It will result in employers paying nearly \$1 billion in benefit increases to injured workers without an expectation that the increases will be fully offset by system savings. In Senate Labor and Industrial Relations. Hearing canceled at the request of author, 4/24. Oppose

SB 691 (Hancock; D-Berkeley) Increases Pollution Penalties — Greatly increases existing strict-liability penalties for nuisance-based, stationary source air-quality violations, and expands applicability of those penalties to a wide range of businesses previously not subject to the penalties without adequately defining what types and levels of pollution would trigger those penalties. Passed Senate; Ordered to Assembly inactive file, 9/12. Oppose

SB 713 (Correa; D-Santa Ana) Reliance on State Agencies' Written Advice. Protects employers from inappropriate litigation by affirming they can rely upon the state government to provide them with information regarding how to comply with the law. Senate Judiciary. Hearing canceled at the request of author, 5/7. Support

SB 747 (DeSaulnier; D-Concord) Unnecessary New Regulatory Scheme — Establishes a new program that requires the Department of Public Health to regulate manufacturers of consumer products that the department determines contribute to a significant public health epidemic, (i.e., obesity, diabetes, cancer, heart disease) and allows the department to restrict or prohibit the sale of such products. Committee on Health. Hearing postponed by Committee, 4/25. Oppose

SB 761 (DeSaulnier; D-Concord) Paid Family Leave Protection — An employee of an employer with fewer than 50 employees would be able to request six weeks of leave, regardless of whether the employee worked one day, one week or one year for the employer. If the employer denies the employee such leave because the employee does not qualify for any leave mandated by law, such as California Family Rights Act, and within a short time of the leave being denied, the employee suffers an adverse employment action. Then the employee could file a lawsuit against the employer claiming discrimination or retaliation. This threat of potential litigation, with an employee-only right to attorney fees, transforms PFL into an additional protected leave, which will burden employers of all sizes. Missed deadline to pass from policy committee to fiscal committee in the house in which it was introduced, 5/3. Oppose

