



Member Associations of

PRINTING INDUSTRIES OF CALIFORNIA

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Headline Summary

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State Tax Audit Help

In recent years, the state of California has aggressively pursued income from sales and use tax audits and enforcement programs.

The state's audit program has become more openly focused on raising money by catching companies misapplying industry specific regulations. Thus, a deeper knowledge of the subject has become increasingly important.

If you looking for an answer to a specific question or an expert in a sales tax audit defense, that's where we come in. Our goal is always to answer your questions or work with you in a Board of Equalization audit. We're just a telephone call or email away. Take advantage of this member service. Call or email Gerry Bonetto at (323) 728-9500 or gerry@piasc.org.

WatchDog

Guarding the Business of Print

July 2013

Court Scraps NLRB Poster

The 4th Circuit Court of Appeals struck down the NLRB's regulation that required nearly all employers (including printers) to post a notice informing employees of their union organizing rights.

In May the DC Circuit Court also struck down the NLRB rule, but the 4th Circuit went further in its opinion, saying that the NLRB's authority for requiring posters is limited to unfair labor practice notices and notices of elections. "Because the Board is nowhere charged with informing employees of their rights under the [National Labor Relations Act], we find no indication in the plain language of the Act that Congress intended to grant the Board the authority to promulgate such a requirement." While Congress gave specific authority to agencies such as the EEOC and OSHA to require posters, the NLRB does not have such authority.

The poster required private-sector employers to put up a NLRB-created workplace poster entitled, "Employee Rights under the National Labor Relations Act." The poster informs employees of their rights to organize a union, bargain collectively through representatives chosen by the employees, and make efforts to improve the terms and conditions of their employment.

The rule, according to the federal court, treats the failure to post the NLRA notice "as evidence of anti-union animus in cases involving, for example, unlawfully motivated firings or refusals to hire — in other words, because it treats such a failure as evidence of an unfair labor practice."

The posting requirement was initially scheduled for implementation in November of 2011. That deadline was first delayed until April 30, 2012, and then put on hold indefinitely pending the outcome of legal challenges.

AMA Action

Last month, the American Medical Association formally recognized obesity as a disease. According to AMA President Ardis Dee Hoven, the policy "issues a call for a paradigm shift in the way the medical community tackles this complicated issue so that we can reduce the number of Americans suffering from the effects of heart disease, diabetes, disability and other potentially life-changing health conditions."

An estimate from the nonprofit RTI International says that about 42 percent of Americans will be obese by 2030 if obesity trends continue.

Dr. Lou Aronne, an obesity expert, told CBS News that the AMA's move will "have a tremendous impact on legislation in Washington [and] with insurance companies," as insurance policies now "generally exclude obesity treatment." While Medicare removed language saying obesity is not a disease from its coverage manual in 2004, Medicare Part D does not currently pay for weight loss drugs.

Patent Troll Update

Over the past month, printing companies have been receiving letters from three different law firms claiming the recipient, through the standard use of equipment in our industry, allegedly infringe patents their clients hold.

One law firm has been contacting printing companies, on the East Coast and Texas, for infringing on patents pertaining to plating technologies, such as generating a plate ready file from PDF, and then providing the plate-ready file to a networked printer. So far, over 30 actual lawsuits have been filed against printers. **Settlement is \$75,000.**

Another law firm has sent printers in Southern California a five-page letter threatening the filing of a lawsuit. The patents cover the use of scanning equipment that connects to a company computer network and sends scanned images directly to email on an internal network or an FTP/SFTP site. **Settlement is \$1,000 per employee.**

A third law firm has filed a lawsuit against a national printer for patent infringement, including inventory management and preflighting services. **No settlement amount is proposed.**

PIASC engaged legal counsel to respond to the local letters, while Printing Industries of America is working to address this issue overall, which includes researching the alleged patents, retaining a patent attorney for advice, and initiating legislative action.

In the interim, President Obama has called for legislation to help deal with the issue, and Federal Trade Commission (FTC) Chairwoman Edith Ramirez announced plans to investigate so-called "patent assertion entities," who accumulate patents to extract license fees from other companies. The FTC plans to look into potential antitrust activity and watch out for those that target businesses using false claims.

If you have received a letter charging patent infringement, please contact Gerry Bonetto at 323-728-9500, Ext. 248 (email: gerry@piasc.org).

Plans for Tax Reform

United States Senate Finance Committee Chairman Max Baucus (MT) and Ranking Member Orrin Hatch (UT) announced their new plan to implement comprehensive tax reform. Their plan is to begin with a blank slate, meaning that all special tax provisions, popular and unpopular, are on the chopping block.

Senators have until July 26th to submit detailed proposals on both corporate and individual provisions that they feel should remain in the reformed tax code. Ultimately, the committee leadership plans to operate from an assumption that all special provisions are out unless there is clear evidence that they: (1) help grow the economy, (2) make the tax code fairer, or (3) effectively promote other important policy objectives.

Parcel Tax Decision

The California State Supreme Court has denied the review of an appeal relating to a parcel tax lawsuit filed in Alameda County. Brought forth after Alameda County voters passed Measure H, the lawsuit claims provisions unfairly levy different tax rates on residential and commercial properties. Specifically, Measure H levies a flat \$120 annual tax on residential and commercial properties less than 2,000 square feet; while taxing larger commercial property owners 15 cents per square foot up to \$9,500 annually. Since its passage in 2008, funds generated by the tax have been directed to the Alameda Unified School District.

Following a lower appeals court decision ruling the rate structure illegal, supporters of Measure H requested the state's high court review the case. However, the high court denied its review.

The case may have statewide effects, since the passage of local parcel taxes is currently a hot statewide issue, with several other counties already having passed similar initiatives.

California's Gas Tax History

The average tax on a gallon of gas is 49 cents nationwide. California leads the way at 71.9 cents a gallon, followed by New York at 68.9 cents.

1923: State lawmakers institute first gas excise tax of 2 cents a gallon.

1927: Tax rises 1 cent a gallon to pay for new road construction.

1932: A 1-cent federal gas tax is created.

1947: State raises tax to 4.5 cents a gallon.

1971: State applies sales tax to fuel purchases.

1983: Lawmakers boost excise tax to 9 cents a gallon; federal gas tax also raised from 4 cents to 9 cents.

1990: Federal gas tax rises to 14.1 cents.

1990-94: Proposition 111 hikes excise tax to 14 cents a gallon, with automatic penny increases each year through 1994, to a total of 18 cents a gallon.

1993: Federal gas tax rises to 18.4 cents.

2002: Sales tax moves out of general fund into transportation.

2010: Sales tax on gasoline reduced, and excise tax set at 36 cents a gallon.

2013: Increase of 3.5 cents a gallon on July 1, making total tax of 71.9 cents a gallon—39.5 cents state, 18.4 cents federal and 14 cents in sales tax.

Source: California Chamber of Commerce

