



Member Associations of

PRINTING INDUSTRIES OF CALIFORNIA

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### Headline Summary

- San Fernando-Tax Increase
- New OSHA Training Requirement
- Patent Trolls
- Harassment Definition Modified
- Font Licensing
- Unemployment Insurance
- Sales Tax: Slow Growth

## San Fernando Tax Increase

Local voters in the City of San Fernando approved a new district tax of 0.50 percent.

Beginning October 1, 2013, the combined sales and use tax rate for the city (located in Los Angeles County) will be 9.5 percent.

The Board of Equalization (BOE) website also includes a link to a free sales and use tax rate locator ([www.geotax.com](http://www.geotax.com)) that allows you to determine a tax rate for any address in the state.

BOE, however, does not maintain the website and is not responsible for the content or accuracy of the information shown on that site.

# WatchDog

Guarding the Business of Print

September 2013

## New 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 revision also applies to states with their own OSHA-run programs, such as California.

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 [bit.ly/PIC-HCT](http://bit.ly/PIC-HCT) or a link on your association's website.

Since manufacturers and importers have until December 1, 2015, to comply, your 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.

## Patent Trolls

We have previously called attention to the growing number of claims by different organizations that printers have violated patents that they own. They request the printer either buy a license to use the technology or face suit.

In the most far reaching case, Baker Donelson law firm has filed suit against more than 30 printers on behalf of CTP Innovations for patent infringement. At the beginning of August, Printing Industries of America (PIA) filed ex parte petitions with the US Patent and Technology Office (USPTO) to invalidate the two patents (#6738155) and (#6611349) on behalf of these companies.

As a result of filing the petitions, Baker Donelson has asked some of the printers if they would consent to a stay in the litigation until the Patent Trial and Appeal Board decides on the merits of the patents. PIA hadn't expected this reaction, but is happy with the request.

PIA expects the USPTO will grant reviews of some or all of the independent patent claims on both patents. PIA has solid prior art and the petitions argue the invalidity of every patent claim. The reviews would then be initiated within 3-6 months, depending upon whether CTP responds to the petitions right away or takes its full three months to respond.

One possible outcome of the reviews is for CTP to file motions to amend the claims that it can see are likely to be declared invalid. In that scenario CTP would try to place limitations on the claims to separate them from the prior art. As the petitioner, we would have the ability to comment on those motions. Even if the adjusted claims were accepted by USPTO, they would presumably be substantially weakened, making infringement less likely.

## Harassment Definition Modified

This week Governor Edmund Brown signed SB 292 (D-Corbett, San Leandro) into law. The bill amends the definition of harassment to state that sexually harassing conduct does not need to be motivated by sexual desire.

In some harassment situations, for example, the perpetrator acts out of hostility toward the individual because of the individual's gender or sexual orientation, not out of sexual desire. In some cases, courts ruled that abusive comments or hostile conduct directed specifically at someone because of his or her gender can amount to unlawful sexual harassment regardless of whether the treatment was motivated by any sexual desire.

The signing of SB 292 into law highlights the need for employers to provide anti-harassment prevention training to managers and staff.

California employers with 50 or more employees must provide sexual harassment prevention training to all supervisors in California, and 2013 is a mandatory sexual harassment prevention training year for most employers.

Moreover, all employers should take all complaints of offensive behavior seriously.

### Font Licensing

A member contacted us regarding a font company demanding a much larger licensing fee because its fonts are being used on the printer's e-commerce site. At the time the printer set up the site years ago the font license it obtained didn't specifically prohibit this use.

The current license does, however, and the font company says a more expensive license is now required. We're curious how widespread it is for font companies to aggressively differentiate their licenses for print and e-commerce.

### Font Licensing (cont.)

If your company has had any experience or issue with font licenses, please contact Gerry Bonetto at (323) 728-9500, Ext. 248 or [gerry@piasc.org](mailto:gerry@piasc.org).

### Unemployment Insurance

California is currently \$10 billion in debt to the federal Unemployment Insurance (UI) Fund. As a result, employers have been paying back that debt through higher and higher federal unemployment taxes. This tax will continue to increase by \$21 per year per employee until the debt is paid off in 2018 (projected).

However, once the debt is paid, the system will continue to have a structural insolvency problem. It is unlikely that the current tax structure will generate enough revenue to pay for benefits, which will put the state back in debt with the next recession. Therefore, systemic structural changes will be necessary to ensure the future solvency and integrity of the fund.

The Brown Administration has signaled its desire to retire this debt as quickly as possible and has had discussions with representatives of the business and labor communities, including CMTA, in the hope of developing a consensus proposal for legislative approval before the end of session in five weeks.

The business coalition supports a comprehensive solution going forward that includes minimizing the amount of the UI tax increase on employers, paying off the debt and aligning the state's UI policies with other states in a manner that is equitable and improves the system. Any solution must address the primary benefit cost drivers through significant reforms and improve system integrity, including fraud and overpayments.

As this policy discussion develops, we will continue to keep you posted.

### Sales Tax: Slow Growth

The State Legislature continues to debate whether to impose a sales tax on services purchased in California. The sales and use tax is the state's second largest revenue source and a major funding source for local governments. For years, discussions have taken place on a tax on services, often in the name of stabilizing the cyclical fluctuations in our tax revenue.

The Legislative Analyst's Office (LAO) just released a report entitled, *Why Have Sales Taxes Grown Slower than the Economy?* which examines the rationale behind the increased spending on nontaxable goods and services rather than on taxable goods.

The report, however, finds that spending on services has grown since the 1980s at the same time spending on taxable goods has declined. The LAO largely attributes this shift to the significant price increase for services as compared to goods, leading consumers to spend an increasing share of their income on services compared with the lesser increase in the price of taxable goods.

The report concludes: "Absent further increases in the sales tax rate or expansion of its base, sales tax revenue for the state and local governments are likely to grow slower than the economy for at least the near future." It will be interesting to see if the Legislature uses the report to expand the sales and use tax base. To review the report in its entirety, please see <http://lao.ca.gov/reports/2013/tax/Sales-tax/Sales-tax-080513.pdf>.