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Headline Summary

- Board of Equalization
- SCAQMD BACT
- Use Tax
- Waste Disposal Issue
- New Mandatory Leave Bill
- Minimum Wage Hikes
- Transgender Rules

Use Tax

While you may be unfamiliar with use tax, it has been state law since 1935. The BOE estimates that more than \$1 billion of use tax goes unpaid each year.

When sales tax does not apply, use tax may be owed on purchases made online, purchases made from an out-of-state retailer and brought into California, and on items that are purchased for and used, stored, or consumed in California.

Generally, if you buy taxable items such as electronic equipment or software for use in California from any out-of-state seller and you are not charged California tax, you are responsible to pay use tax on these purchases. To determine if you may owe use tax, review your receipts to see if you were charged tax on your online and out-of-state purchases.

WatchDog

Guarding the Business of Print

July 2017

Board of Equalization

PIC actively opposed trailer bills to the budget to strip the State Board of Equalization of its duties to hear tax appeal cases. We published editorials in a number of newspapers in the Central Valley as well as the web defending the current oversight of the Board. Nonetheless the trailer bills passed on a strict partisan vote.

This legislation establishes the Office of Tax Appeals. Within the office, the bill will establish tax appeals panels and will require each tax appeals panel to consist of 3 administrative law judges, as specified. The tax appeals panels would be required to conduct hearings, and would prohibit the board from conducting appeals hearings that are transferred to the appeals panels.

Since the appeals panel will be made up of three attorneys appointed by the Governor—not elected by popular vote—a company appealing will likely now have to be represented by counsel instead of presenting their own case.

We believe this is a huge mistake, and it is disappointing that advocates of such measures haven't recognized the importance of a democratically elected tax board as a check against bureaucratic dominance and tax auditors running amok.

We are talking with several groups exploring a referendum for the 2018 ballot to overturn this legislative action.

SCAQMD BACT

The South Coast Air Quality Management District (SCAQMD) Governing Board has directed staff to work on updating the Best Available Control Technology Guidelines (BACT). Among the technologies revised are flexographic printing and heatset lithography control devices.

BACT is required for new and relocated sources and for modifications that increase emissions. As regards printing, upon our recommendations, staff added water-based and UV/EB as ink/coating options and "achieved in practice" for heatset control devices. The rest of the listings reiterate the standards in current rules for these listings as follows:

Flexographic Printing. Inks with ≤ 1.5 lbs VOC/gal, less water and exempt compounds; or UV/EB or water-based inks/coatings ≤ 180 grams VOC/liter. Compliance with SCAQMD Rules 1130 and 1171.

Screen Printing. Compliance with Rules 1130.1 and 1171; or use of Rule 1130.1 compliant UV/EB or water-based inks/coatings.

Lithographic Heatset Printing. Add on control venting to Regenerative Thermal Oxidizer, 99% overall control and $\geq 1595^\circ\text{F}$ operating temperature. (cost-effectiveness)

Waste Disposal Issue

California companies, including printers, have heard from the South Carolina Department of Health and Environmental Control (the Department) who have been identified with the contamination of Philip Services Corporation site in that state.

Those receiving letters are considered “potentially responsible parties.” The site is a former treatment, storage, and disposal facility that operated from 1966 until 2003. Studies identified extensive areas of soil and groundwater contamination which require remedial action.

Companies that have received notice are encouraged to participate in formal negotiations with the Department through a Potentially Responsible Part Group (PRP). This PRP group has performed several functions— especially a group negotiated settlement to conduct or finance cleanup of this site.

If you have received a notice, call your local affiliate to let us know if you have been contacted as a potentially responsible party.

New Mandatory Leave Bill

SB 63 (Hannah-Beth Jackson; D-Santa Barbara) will require small companies with a minimum of 20 employees within a 75-mile radius of the worksite to allow an employee with specified tenure to take up to 12 weeks of parental leave to bond with a new child within one year of the child’s birth, adoption or foster care placement. The employer would also be required to maintain healthcare coverage during the leave period.

The 75-mile radius provision in the bill is at best a distraction to the capacity issues of small companies. Even though the company may have 20 employees within the region, it is the worksite of the employee who takes the leave that will feel the impact of the absence.

SB 63 moves now to the Assembly Judiciary Committee where its approval is likely. The full Senate already approved the measure last month on a 25-13 vote.

Minimum Wage Hikes

While the state minimum wage does not increase until January 1, 2018, a number of cities in the Los Angeles Metropolitan Area will increase their local minimum wage effective July 1, 2017.

Los Angeles-City	Employers with 26 or More Employees	Employers with 25 or Fewer Employees
	\$12.00	\$10.50
Los Angeles County (unincorporated)	\$12.00	\$10.50
Malibu	\$12.00	\$10.50
Pasadena	\$12.00	\$10.50
Santa Monica	\$12.00	\$10.50

Beginning July 1, 2017, the City of Los Angeles Paid Sick Leave ordinance goes into effect for employers with 25 or fewer employees (employers with 26 or more employees went into effect in July 2016). For more information, see <http://wagesla.lacity.org/>.

Transgender Rules

In May 2017, the California Department of Fair Employment and Housing (DFEH) approved new regulations regarding transgender identity and expression in the workplace. The regulations become effective July 1, 2017.

The new rules further expand the Fair Employment and Housing Act’s (FEHA) role in preventing discrimination in employment and housing on the basis of gender identity. In addition, the regulations describe some new policies that employers must implement, including the following:

Restroom Facilities

Employers are now required to provide equal access to facilities regardless of the sex of the employee. Employees must be permitted to use facilities that correspond to the employee’s gender identity or gender expression. Employers must use gender-neutral signage for single-occupancy facilities under their control. They cannot require any proof of sex or gender for an employee to use a particular facility.

Dress Standard

An employer cannot impose a dress standard that is inconsistent with an employee’s gender identity or expression in the absence of a business necessity.

Preferred Name and Identity

The new regulations require employers to abide by an employee’s request to be identified by a certain name or a certain gender identity. Employers can only insist on using an employee’s legal name or gender if it is otherwise required to meet a legally-mandated obligation.

Documentation

An employer cannot inquire or require documentation on sex, gender, gender identity, or gender expression as a condition of employment.

Employers should ensure their policies comply with these new regulations regarding transgender identity and expression before July 1, 2017. Employers should also review their employee handbooks to make sure any policies contained therein comply with the new regulations.

Source: Proskauer Rose LLP

