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IRS ISSUES GUIDANCE ON CLAIM PROCESS FOR RETROACTIVE BIODIESEL BLENDER CREDIT

The IRS has issued special one-time claim procedure ([IRS Notice 2020-8](#)) for the \$1.00 per gallon biodiesel blender credit, the 50 cents per gallon alternative fuel and alternative fuel mixture credits. The credits were reinstated retroactively for calendar years 2018 and 2019 under the Taxpayer Certainty and Disaster Tax Relief Act of 2019 (the Act).

The special procedures allow for one-time credits and payments covering the entire 2018 and 2019 claim period. Congress reauthorized the retroactive biodiesel blenders credit through December 31, 2022 and alternative fuel and the alternative fuel mixture credits through December 31, 2020.

Click [here](#) to view the complete Compliance Bulletin.

DEPARTMENT OF ENERGY RULE GIVES DEFERENCE TO INDUSTRY ENERGY EFFICIENCY STANDARDS

The Department of Energy is updating and modernizing aspects of its current rulemaking method for considering new or revised energy conservation standards for consumer products and commercial appliances, including heating and cooling equipment. The final rulemaking clarifies the process DOE will follow with respect to setting new efficiency standards; makes specific rulemaking procedures binding on the DOE; and revises certain rulemaking provisions to bring consistency to existing statutory energy efficiency requirements.

The rulemaking is important to heating fuel dealers because it establishes a process where the DOE will give more deference to consumer and efficiency standards set by the American Society of Heating, Refrigerating and Air Conditioner Engineers (ASHRAE) and only propose more stringent energy standards when there is clear and convincing evidence that is technologically feasible, economically justified and will result in significant energy savings. Deference to industry standards for energy efficiency is important because in the past when DOE has exceeded ASHRAE standards, it often imposed disproportionate harm to industry segments in pursuit of inconsequential energy efficiency benefits.

UPDATE ON MAJOR RETIREMENT PLAN CHANGES

The SECURE Act, enacted into law on December 20, 2019, changed several retirement plan provisions, but will also have a significant impact on estate planning for those who have saved meaningful amounts for their retirement. Click [here](#) to read the Small Business Legislative Counsel's (SBLC) regulatory report.

FINAL JOINT EMPLOYER RULE IS RELEASED

On Sunday, the Department of Labor (DOL) announced a final rule to revise and update its regulations interpreting joint employer status under the Fair Labor Standards Act (FLSA). The final rule provides updated guidance for determining joint employer status when an employee performs work for his or her employer that simultaneously benefits another individual or entity, including guidance on factors that are not relevant when determining joint employer status. The effective date of the final rule is March 16, 2020.

As expected, DOL's rule established a "high bar" for joint-employment under the FLSA, which is supported by PMAA and is an important shift away from Obama-era policy.

The final rule:

- Specifies that when an employee performs work for the employer that simultaneously benefits another person, that person will be considered a joint employer when that person is acting directly or indirectly in the interest of the employer in relation to the employee;
- Provides a four-factor test to determine when a person is acting directly or indirectly in the interest of an employer in relation to the employee, by weighing whether the business, with regard to its franchisee or contractor, maintains the power to hire and fire; to supervise schedules and "conditions of employment;" to set pay; and to keep employment records;
- Clarifies that an employee's "economic dependence" on a potential joint employer does not determine whether it is a joint employer under the FLSA; and specifies that an employer's franchisor, brand and supply, or similar business model and certain contractual agreements or business practices do not make joint employer status under the FLSA more or less likely.

The final rule also provides several examples applying the Department's guidance for determining FLSA joint employer status in a variety of different factual situations. The rule was published yesterday in the Federal Register. Click [here](#) for

more information.

Labor groups are expected to file suits against the final joint employer rule.

FDA ISSUES ANOTHER STATEMENT ON TOBACCO 21

On Wednesday afternoon, the FDA issued another statement regarding implementation of the new tobacco 21 law. Click [here](#) to read the statement.

PMAA and other retail associations are asking FDA for further clarification to effectively make the transition to tobacco 21. In the meantime, PMAA advises that all retailers make every effort to comply immediately with the tobacco 21 law.

GAO TO INVESTIGATE TRUMP ADMINISTRATION'S USE OF BIOFUEL WAIVERS

This week, the Government Accountability Office (GAO) announced that it will soon begin an investigation of the Trump Administration's granting of small refinery exemptions (SREs) to the RFS. The investigation comes in response to a letter from several midwestern lawmakers that called for the agency to investigate the EPA's approval of SREs in 2018.

In part, the letter states, "Between 2013 and 2015, the EPA granted no more than 8 waivers for any given year. The current Administration retroactively approved 19 waivers for 2016, then proceeded to grant 35 waivers in 2017, and now 31 waivers for 2018—exempting a total of nearly 4 billion gallons of fuel from the RFS. The number of waivers approved has grown exponentially with major corporations like ExxonMobil and Chevron among those that received these economic hardship exemptions. This raises real questions about the review process and what other factors that the EPA is considering in approving the waivers."

In December, the EPA issued its annual renewable fuel blending volume obligations (RVOs) for 2020 as required under the RFS program. The rule stated that the EPA will not recapture and reassign actual renewable blending volumes lost to SREs in any given year. Instead, the EPA will project an estimated displaced volume based on the Department of Energy's (DOE) SRE recommendations averaged over the previous three years. However, renewable fuel producers opposed the EPA formula because they believe it will result in far fewer recaptured gallons than actually displaced by SREs.

In comments to the EPA, PMAA said that it has no position on SREs, however, PMAA opposes any reallocation of displaced gasoline volumes lost to SREs if it would result in a total corn ethanol RVO greater than 9.7 percent of projected customer demand as determined by the Energy Information Administration (EIA). PMAA believes reallocating displaced ethanol volumes would likely create undue speculation and disruption to retail motor fuels markets.

PREGNANT WORKERS FAIRNESS ACT PASSES COMMITTEE

On Tuesday, the Committee on Education and Labor passed (29-17) approved "The Pregnant Workers Fairness Act" (*H.R. 2694*). The legislation guarantees pregnant workers' right to reasonable accommodations; extra bathroom breaks, relief from heavy lifting, and other minor job modifications that ensure they can continue working without jeopardizing their health or the health of their pregnancy.

The bill is being led by three Democrats; House Judiciary Committee Chairman Jerry Nadler (NY-10), Civil Rights and Human Services Subcommittee Chair Suzanne Bonamici (OR-01), and Rep. Lucy McBath (GA-06) – and two Republicans, Rep. Jamie Herrera Beutler (WA-03) and Rep. John Katko (NY-24). The Chamber of Commerce also supports the legislation.

In 2015, the Supreme Court's landmark decision in *Young v. UPS* allowed pregnant workers to bring reasonable accommodation discrimination claims under the Pregnancy Discrimination Act (PDA). But the *Young* decision set a high standard for proving discrimination. The Pregnant Workers Fairness Act would require that businesses that employ more than 15 people provide "reasonable accommodation" to pregnant workers, allowing them to continue working throughout pregnancy and after childbirth. It forbids retaliation against pregnant workers for requesting such accommodation and would bar employers from denying workers opportunities based on pregnancy, childbirth or related medical conditions (postpartum depression).

HOUSE SUBCOMMITTEE HOLDS HEARING ON CANNABIS

On Wednesday, the House Energy and Commerce Committee Subcommittee on Health held a hearing titled "Cannabis Policies for the New Decade." The purpose of the hearing was to examine federal policies on marijuana and discuss six bills involving laws on marijuana.

The six bills propose various policy changes from rescheduling or de-scheduling marijuana, to providing a safe harbor for patients and veterans who use medical marijuana and streamlining cannabis research processes. Policies on cannabidiol, commonly known as "CBD," were also discussed.

In his testimony, Matthew Strait (Senior Policy Advisor, Drug Enforcement Administration) discussed his agency's involvement in the research of marijuana. He said the DEA has already drafted legislation to expand the number of licenses granted to grow research-grade marijuana. He also said his agency "shares the view that medical decisions should be based on science and adherence to the established drug approval process which ensures that only safe and effective drugs are approved to be available in the United States."

Dr. Douglas Throckmorton (Deputy Director, Center for Drug Evaluation and Research, Food and Drug Administration) focused on questions surrounding CBD products that have become popular across the country. He said the "FDA is considering questions not only about the intrinsic safety of CBD, but also about potentially unsafe manufacturing processes for products containing CBD. He added that the agency "is considering the possibility of new legal pathways for CBD products, we know that it is important to maintain adequate incentives for drug research and development."

Dr. Nora Volkow (Director, National Institute on Drug Abuse, National Institutes of Health) told the committee about the adverse health effects of marijuana according to research done over the years. She said, "Cannabis can interfere with the proper development and regulation of brain circuitry" in fetuses and that "THC exposure during adolescence increases subsequent sensitivity to the rewarding effects of other drugs."

The common opinion of the three witnesses was that they all believe more federally funded research on marijuana is needed. However, marijuana research bills are not likely to move anytime soon, even with some bipartisan support for increased research. Senate Majority Leader Mitch McConnell (R-KY) has said that he will not bring marijuana legislation to the floor this year.

PLEASE SUPPORT THE 2020 SCHOLARSHIP SILENT AUCTION!

In May 2020, the WPMA Scholarship Foundation will award \$32,000 in scholarships to graduating high school seniors. The Foundation receives a large portion of its working capital through income from the annual Scholarship Silent Auction held at the WPMAEXPO in February. Please support the Scholarship Foundation by donating an item with a value of \$100 or more to the 2020 Scholarship Silent Auction.

Past Silent Auction donations have included tickets to sporting events, vacation packages, decorator items, electronics, sports equipment, logo clothing, jewelry, tools, and accessories. If you would like to donate an item, please fill out the Silent Auction Donation Form available under the WPMAEXPO Sponsorship or Scholarship tabs on the WPMA website <https://www.wpma.com/pdf/scholarship/SA19Generic-DonationFrm0701w.pdf> or e-mail Kathy Michaelis at kathym@wpma.com. The value of items donated to the auction is tax-deductible.

SCHOLARSHIP DEADLINE IS APPROACHING!

The time is fast approaching when the WPMA scholarship recipients for 2020 will be selected. **MARCH 1, 2020 is the cut-off date** for applications to be postmarked and mailed to the WPMA office. Usually, there are less than 20 applicants for each WPMA state scholarship and the associate member scholarship, which makes the chances of receiving a scholarship very good. Applicants must be graduating high school seniors, and the son or daughter of a full-time employee of a WPMA member or associate member company.

NEW THIS YEAR! High School seniors who are currently working part-time for a WPMA member company, and have been employed for at least 90 days, may also apply for the scholarship.

Applicant qualification information and the scholarship applications are available to download at <https://www.wpma.com/pdf/scholarship/Scholarship-Application-eform18-19.pdf>. Scholarship applications are also available from the WPMA office by e-mailing kathym@wpma.com and requesting an application.

The WPMA scholarships pay \$500 per semester for up to eight semesters, for a maximum award of \$4,000. **Employers, please remind your employees to request or download an application right away, and give their students a chance for some extra financial help in college!**

PLAN TO ATTEND THE 2020 WPMAEXPO



Mark your calendars for February 18-20, 2020. Make plans now to attend the 2020 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

THANK YOU *WPMA* EXPO 2020 TOP SPONSORS

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MARK YOUR CALENDARS FOR UPCOMING EVENTS

February 18-20, 2020 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

April 21, 2020 – IPM&CSA PAC Golf Tournament – Ridgecrest GC – Nampa, ID

April 21-23, 2020 - Federated Insurance Risk Management Academy

May 7-8, 2020 – Nevada NPM&CSA – Big Dogs - Las Vegas, NV

June 2-3, 2020 – Montana MPMCSA – Convention – Fairmont Hot Springs Resort – Fairmont, MT

June 22-25, 2020 – Washington (WOMA) – Convention – Suncadia Resort – Cle Elum, Washington

August 5-7, 2020 – Idaho (IPM&CSA) Convention – Coeur d' Alene Resort – Coeur d' Alene, Idaho

August 17-19, 2020 – New Mexico (NMPMA) Convention – Sandia Resort & Casino – Albuquerque, NM

September 9-10, 2020 – Utah (UPMRA) – Convention – Park City Marriott – Park City, Utah

September 15-17, 2020 - Federated Insurance Risk Management Academy

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Petro Pete: *“People often say that motivation doesn’t last. Well, neither does bathing. That’s why we recommend it daily.”*

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