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U.S. CHAMBER OF COMMERCE AND 21 STATES SUE DOL FOR OVERTIME RULE

On Tuesday, the U.S. Chamber of Commerce, leading more than 50 business groups, filed a lawsuit against the Department of Labor (DOL) challenging its final overtime rule. The U.S. Chamber argues that the DOL exceeded its statutory authority in issuing the regulation. Additionally, 21 states, led by Texas Attorney General Ken Paxton and Nevada Attorney General Adam Laxalt, filed a lawsuit challenging the DOL overtime rule. They argue that the overtime regulations are illegal because they are set to ratchet up the threshold for eligibility automatically every three years without valid Congressional authorization. The complaint also contends that the new rules will substantially increase labor costs for many states, local governments and private businesses, and will likely result in layoffs and job elimination.

On May 17, 2016 the DOL announced a final rule that doubles the minimum salary threshold required to qualify for the Fair Labor Standards Act's ("FLSA") "white collar exemption" to \$47,476 per year (\$913 per week). The current annual requirement is \$23,660 (\$455 per week). The new salary threshold is scheduled to go into effect on December 1, 2016. This week, Education and the Workforce Chairman Tim Walberg (R-MI) introduced legislation that would delay the final overtime rule by six months. Rep. Kurt Schrader (D-OR), along with other House democrats, recently introduced legislation that would phase in the new salary threshold over a three-year period.

PMAA is supporting all efforts to stop or at least delay the new rule.

NEW HOUSE BILL WOULD BLOCK U.S. TREASURY REGULATIONS REGARDING THE DEATH TAX

Last month, the Treasury Department announced a new regulatory proposal to minimize the number of estates that will be eligible for valuation discounts and avoidance of double taxation via the estate, gift or transfer taxes. The use of valuation discounts on family-controlled entities began in 1993 and quickly surged as a popular tool for estate planners. In valuation discounts, the amount assets are worth is reduced. For example, a company may not be particularly marketable or a stake in a company is a minority interest. That allows the assets to fall under the estate tax threshold, which is \$5.45 million for individuals and \$10.9 million for families.

The Obama administration is now pumping out rules at a swift pace prior to the end of the year. The proposed regulations are subject to a 90-day public comment period and will not go into effect until the comments are considered and then 30 days after the regulations are finalized.

This week, Rep. Warren Davidson (R-OH) introduced H.R. 6100, known as the "Protect Family Farms and Businesses Act." The PMAA supported bill would halt the death tax increase, which barring Congressional action could go into effect later this year.

PMAA is a member of the Family Business Coalition that recently sent the U.S. Treasury a letter opposing the proposed regulations. Click [here](http://familybusinesscoalition.org/wp-content/uploads/2016/09/FBC-Coalition-Letter-2704-regulations.pdf) (<http://familybusinesscoalition.org/wp-content/uploads/2016/09/FBC-Coalition-Letter-2704-regulations.pdf>) to view the letter.

URGE YOUR MEMBERS TO OPPOSE THE FINANCIAL CHOICE ACT

Repealing the Durbin amendment would be extremely harmful to retailers because it ultimately lowered debit card interchange fees which are the second highest expense to a retailer only behind labor. PMAA and the Merchants Payments Coalition (MPC) supported the Durbin amendment's passage in 2010 and will continue to fight to ensure it is not repealed.

If you have not already done so, please urge your House members to oppose the "Financial Choice Act" so that it does not make it to the House floor for a full vote. Please click [here](http://www.congressweb.com/pmaa/10/) (<http://www.congressweb.com/pmaa/10/>) to send a letter to your House member urging them to protect the Durbin amendment.

HOUSE PASSES BILL TO "STAY" REGULATIONS UNTIL JUDICIAL REVIEW IS COMPLETE

On Wednesday, the House approved (244 – 180) legislation that would delay high cost regulations until all legal challenges are first finalized. The "Require Evaluation Before Implementing Executive Wishlists Act of 2016" otherwise known as the REVIEW Act (H.R. 3438), would apply to regulations which would impose a \$1 billion cost to the economy. Instead of requiring upfront compliance costs on regulations which may be overturned, the Act would place an automatic stay on high impact regulations until the judicial review process is completed. If a judicial review isn't requested, implementation of a high-impact rule could take effect either 60 days after publication in the Federal Register, or any other period set by the authorizing statute. Roughly five regulations a year fall into the cost requirements to be covered by this legislation.

The American Action Forum, which is considered a "center-right" think tank, concludes that since January 1 of this year, the administration has picked up the pace, finalizing 60 new rules and proposing 60 more at a potential cost of \$16.5 billion

next year alone.

PMAA supports all efforts to minimize the costs of regulations on marketers. Unfortunately, the Senate is not expected to vote on the bill and President Obama has threatened a veto of the measure. Please read the article below for more information on how a Trump Presidency would handle President Obama's midnight regulations.

TRUMP WOULD END MANY OF OBAMA'S EPA REGULATIONS

Donald Trump has been a very vocal critic of the Environmental Protection Agency (EPA). He says he would eliminate the Clean Power Plan and the Waters of the United States rule, and would also scale back the latest ozone regulation. Trump believes the regulations harm U.S. businesses and getting rid of them would help kick-start the economy.

The question is: How would he go about doing it? As President, Trump would have the authority to scrap any regulations made by the EPA. However, there must first be a rulemaking involving a full notice-and-comment period which could take well over a year. His other option would be to stop the implementation and enforcement of a regulation, which would take less time.

PMAA is concerned with some EPA regulations such as the final ozone regulation put forth by the Obama administration and would like to see them changed or repealed.

HEALTHCARE BILLS UNDER TRUMP OR CLINTON

If Donald Trump wins the presidency and the Republicans retain control of the House and Senate, we can expect the attention to turn from bills, like the Small Business Healthcare Relief Act (S. 3060), and instead focus on legislation to repeal and replace the Affordable Care Act (ACA). PMAA strongly supports efforts to repeal the ACA.

If Hillary Clinton wins the presidency, there is a sense that she will be more willing to consider moderate fixes to the ACA than President Obama, who has been hesitant to support changes to his signature law.

If passed, the Small Business Healthcare Relief Act (S. 3060) would allow businesses with fewer than 50 employees to once again reimburse employees for their premiums on a pre-tax basis for individual coverage without penalty. Given the bipartisan nature of the bill, and the fact that it passed the House by a voice vote, it is possible that the Senate might also pass the bill during the lame duck period.

Another pending healthcare bill specifically targeting small businesses is the Small Business Tax Credit Accessibility Act (S. 379). This bill would expand the small employer health care insurance tax credit to allow businesses with 50 employees (up from the current 25 employees) to be eligible for credit and to extend the number of years that a business can claim the credit from two to three. The bill would also impact the method under which eligibility for the credit is phased out, eliminate the requirement that employers contribute the same percentage to each employee and get rid of the current cap on employer contributions.

S. 379 has not had any significant movement since the 2015 introduction of the bill. However, Hillary Clinton released a plan to expand the small business tax credit which includes many elements that are similar to those in the Small Business Tax Credit Accessibility Act. Accordingly, if she wins the presidency, the prospects of this bill, or another like it, getting attention will be high.

The S Corporation Modernization Act (H.R. 5754 and S.3181) would make changes to the rules governing S corporations, including - (1) allowing an electing small business trust (ESBT) with a non-resident alien beneficiary to hold shares in a S corporation, (2) allowing a shareholder ESBT to claim a deduction for charitable contributions attributable to the S corporation (3) modifying the "sting tax" on passive investment income of a S corporation, (4) allowing IRAs to hold stock in S corporations, and (5) allowing for a basis adjustment of S corporation stock upon the death of a shareholder which would be amortized over a 15 year period. In short, the bill would make positive changes to the rules governing S corporations to help attract investment and increase growth.

The bipartisan nature of the bill is a good sign, however, given that earlier versions of the bill have previously been introduced with similar support and have not gained traction, it is unclear whether there will be sufficient momentum to get the bill addressed during the lame-duck period.

2017 WPMAEXPO - LAS VEGAS, NEVADA



Mark your calendars for February 21-23, 2017. Make plans now to attend the 2017 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

December 8, 2016 – Washington (WOMA) Christmas Party – SAFECO Field – Seattle, Washington

February 21-23, 2017 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, Nevada

March 1, 2017 – Utah (UPMRA) Day on Capitol Hill – Salt Lake City, Utah

May 18-19, 2017– Nevada (NPM&CSA) Big Dogs Shootout – TBD, Nevada

June 6-8, 2017 – Montana (MPMCSA) Convention – Northern Hotel – Billings, Montana

June 19-22, 2017 – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

June 22, 2017 – Utah (UPMRA) Summer Classic PAC Golf Outing – TBD, Utah

August 2-4, 2017 – Idaho (IPM&CSA) Convention – Sun Valley Resort – Sun Valley, Idaho

August 21-23, 2017 – New Mexico (NMPMA) Convention – Sandia Resort – Albuquerque, New Mexico

September 13-15, 2017 – Utah (UPMRA) Convention – Zermatt Resort – Midway, Utah

June 18-21, 2018 – Washington (WOMA) Convention – Suncadia Resort – Cle Elum, Washington

August 8-10, 2018 – Idaho (IPM&CSA) Convention – Coeur d'Alene Resort – Coeur d'Alene, Idaho

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Petro Pete: “You’ll never be as lazy as whoever named the fireplace.”

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