

November 21, 2018

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WP-11-21-18

**WPMA OFFICES CLOSED FOR THANKSGIVING**

The WPMA offices will be closed Thursday, November 22 and Friday, November 23, 2018 for the Thanksgiving holiday. We wish everyone a very happy and safe Thanksgiving.

PLEASE SUPPORT THE 2019 SCHOLARSHIP SILENT AUCTION!

In May 2019, 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 \$200 or more to the 2019 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/SA19-DonationForm111918fnl.pdf> or e-mail Kathy Michaelis at kathym@wpma.com. The value of items donated to the auction is tax-deductible.

VISA/MASTERCARD SWIPE FEE LITIGATION UPDATE

Yesterday, PMAA filed a brief in the Visa and Mastercard swipe fee litigation now pending in US District Court in New York. Joining PMAA in the brief included the National Association of Shell Marketers (NASM) and SIGMA. The purpose of the brief is to oppose any settlement of the case that shuts out branded marketers from filing claims against the \$6.24 billion settlement fund. The settlement class is comprised of all merchants that accepted Visa and Mastercard payment cards from 2004 to the present. The settlement fund is designed to compensate class members for the interchange fees they paid, which were allegedly inflated as a result of certain violations of the antitrust laws by Visa and Mastercard and their participating banks.

It appears that the major oil companies are claiming an ownership right to all the transactions they processed on behalf of their branded marketers, and an entitlement to claim against the fund for all fees paid in transactions occurring at marketer locations and the locations of their branded dealers. In short, it is the position of the majors that they paid the interchange fees on all these transactions, and that they are the exclusive parties entitled to payment from the fund. If this position were adopted by the district court, marketers would be class members in name only. They would not be entitled to file claims under the settlement agreement now awaiting preliminary approval by the court.

PMAA's brief advises the court, among other things, that marketers paid the interchange fees and that their branded suppliers simply processed the transactions. The principal point asserted in the brief is that marketers accepted the cards and paid the fees, thus entitling them to claim against the fund with respect to card transactions that occurred in the branded distributor channel of trade. The court may hold a hearing on whether to approve the settlement on a preliminary basis, taking into account all the objections filed by various class members and others. PMAA's objective is to have the court clarify the rights of marketers to file claims against the fund as part of the preliminary approval process.

COMPLIANCE BULLETIN: NEW FEDERAL RULES AND LIMITATIONS FOR DEPRECIATION AND EXPENSING

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The Internal Revenue Service (IRS) is reminding small business taxpayers that changes to the federal tax code means they can immediately expense more of the cost of certain business property. Many are now able to write off most depreciable assets in the year they are placed into service. The Tax Cuts and Jobs Act (TCJA), passed in December 2017, made tax law changes that will affect virtually every business and individual in 2018 and beyond. Among those for business owners are tax rate changes for pass-through entities, changes to the cash accounting method for some, limits on certain deductions and more.

PMAA SENDS LETTER TO CONGRESS TO OPPOSE EV TAX CREDIT EXPANSION

On Monday, PMAA joined AFPM, NACS, SIGMA, and API in a letter to Congress to oppose including an extension of the lucrative \$7,500 electric vehicle (EV) tax credit in the tax extenders package that Congress may address before the end of this year. The EV Drive Coalition, which includes General Motors, Nissan, Tesla and other automakers, is pushing Congress to extend the credit and lift the cap which phases out on a per manufacturer basis once that company has sold 200,000 EVs total for use in the United States. According to Tesla, it reached the 200,000 threshold this summer and GM is expected to meet the number by the end of the year. If the cap isn't lifted for these companies, their competitors may be able to capture additional market share while the credit won't be available for Tesla and GM customers.

The Senate GOP seems split on the issue as competing bills have been introduced. Sen. Dean Heller (R-NV) introduced legislation that would lift the 200,000 EV cap and extend the credit through 2022 while Sen. John Barrasso (R-WY), chairman of the Senate Committee on Environment and Public Works (EPW), introduced the "Fairness for Every Driver Act," which would repeal the EV tax credit. Senate democrats introduced their own bill (S. 3449), the Electric Cars Act of 2018, which would extend the electric vehicle tax credit for 10 years.

A common misconception is that EVs are environmentally cleaner than conventionally powered automobiles. However, the truth is that widespread adoption of EVs nationwide will increase air pollution compared with new high efficiency, cleaner burning internal combustion engines. EVs rely on electricity generated from coal and natural gas which are both major sources of greenhouse gas emissions. Furthermore, EVs must be transported to and from locations by different methods of transportation that produce emissions. Lastly, there are serious safety concerns surrounding the batteries that power electric vehicles. EV batteries can catch fire and produce toxic gases not normally encountered with internal combustion vehicle fires. These toxic gases require unfamiliar fire suppression methods that are not in widespread use which can present problems for first responders and create recycling issues.

PRESIDENT TRUMP ANNOUNCES INTENTION TO NOMINATE WHEELER FOR EPA CHIEF

Last Friday during a Medal of Freedom ceremony, President Trump said that he plans to nominate EPA Acting Administrator Andrew Wheeler as EPA Administrator. If so, Wheeler will again have to seek Senate confirmation, but his approval would certainly be granted by the Senate. In the meantime, despite speculation from some legal experts that the Federal Vacancies Reform Act of 1998 meant Wheeler would have to return to being deputy administrator while awaiting confirmation to the administrator post, EPA reported that "Mr. Wheeler can continue to serve as the Acting Administrator because (1) he currently serves as the 'first assistant' to the Administrator and (2) the first assistant position is one that itself requires appointment after Senate advice and consent."

Wheeler's confirmation will be controversial, with immediate strong opposition to Trump's announcement from environmental groups such as the Sierra Club and the League of Conservation Voters. Senate Environment and Public Works Committee democrats are also not eager to support Wheeler.

2019 RFS RVOS EXPECTED TO BE RELEASED SOON

The EPA is expected to meet its November 30 deadline by releasing its 2019 required volume obligations (RVOs) under the Renewable Fuel Standard (RFS) program. The RFS proposed rule maintained the current 15-billion-gallon ethanol mandate for 2019 and reduced the current 311-million-gallon cellulosic biofuel volumetric blending mandate to 288 million gallons for 2019. This mandate covers fuel considered the "next generation" ethanol and maintains the current 2018 biomass-based diesel volumetric blending mandate of 2.1 billion gallons for 2019. This mandate covers biodiesel most often made from soybeans, vegetable fats and animal fats.

Given that EPA is expected to miss specific requirements for biofuel blending by 20 percent or more for two years in a row, the agency can set requirements without reference to the law next year which is known as the reset provision. Under the statutory provisions governing the RFS program, EPA is required to modify, or "reset" the applicable annual volume targets specified in the statute for future years if waivers of those volumes in past years met certain specified thresholds. Those thresholds are expected to be met soon. As a result, EPA will likely propose a rulemaking that will modify the applicable volume targets for cellulosic biofuel, advanced biofuel, and total renewable fuel for the years 2020 - 2022. This may serve as an opening to reduce RVO corn ethanol requirements for future years.

PMAA is greatly concerned that higher ethanol blends may lead to a de facto E15 mandate and will continue to push for logical biofuel quotas under the RFS. Specifically, to fix the amount of ethanol in the nation's fuel system at 9.7 percent of projected gasoline demand to ensure that UST system compatibility, existing vehicle fleets, lawnmowers and other small engines are protected from higher ethanol blends.

HOUSE DEMOCRATS MEET TO DISCUSS INFRASTRUCTURE PLANS

While Democrats are set to overtake the majority in the House in January, they've already begun discussions on how to pay for an infrastructure package. On Friday, Rep. Peter DeFazio (D-OR), who is likely to become the Chairman of the House Transportation and Infrastructure Committee, held a stakeholder meeting along with Rep. Earl Blumenauer (D-OR), who currently sits on the House Ways and Means Committee and has requested that the committee establish an infrastructure funding subcommittee.

At the meeting, the lawmakers said they planned to hold hearings to garner ideas and recommendations to help solve the country's crumbling infrastructure problem. Additionally, on Friday, Rep. DeFazio spoke on C-SPAN where he advocated for an increase in the federal gas tax to pay for an infrastructure package. However, a gas tax increase is something many politicians on Capitol Hill have tried to avoid at all costs. Many are hesitant to even talk about it. The 18.4 cent-per-gallon federal gas tax has been the main source of transportation funding for decades, but it has not been increased since 1993. If the gas tax were to have been indexed to inflation since it was enacted in 1993, drivers would be paying about 30 cents per gallon on their gasoline purchases now.

Earlier this Fall, outgoing House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA), released draft legislation which calls for phasing in a 15-cent gasoline and 20-cent diesel tax increase over three years to ensure that the Highway Trust Fund (HTF) stays solvent over the next decade. After three years, the taxes would be indexed to inflation. The legislation will not be voted on this year but some of the provisions in the draft will likely serve as a placeholder for legislation next year when an infrastructure package is expected to be worked on in the House.

PLAN TO ATTEND THE 2019 WPMAEXPO



Mark your calendars for February 19-21, 2019. Make plans now to attend the 2019 WPMAEXPO. It will be held once again at the Mirage in Las Vegas, Nevada.

MARK YOUR CALENDARS FOR UPCOMING EVENTS

February 19-21, 2019 – WPMA Convention & Expo – Mirage Hotel– Las Vegas, NV

May 2-3, 2019 – Nevada (NPM&CSA) – Big Dogs – Las Vegas, NV

June 4-6, 2019 – Montana (MPMCSA) Convention – Fairmont Hot Springs Resort – Fairmont, MT

June 20, 2019 – Utah (UPMRA) Summer Golf Classic - South Mountain Golf Course, Draper, UT

June 17-20, 2019 – Washington (WOMA) Convention – Suncadia Resort, Cle Elum, WA

August 5-7, 2019 – Idaho (IPM&CSA) Convention – Sun Valley Resort, Sun Valley, ID

August 19-21, 2019 – New Mexico (NMPMA) Convention – Sandia Resort & Casino, Albuquerque, NM

September 11-13, 2019 – Utah (UPMRA) – Convention – Zermatt Resort, Midway, UT

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Petro Pete: “An optimist is a person who starts a new diet on Thanksgiving Day.”

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