



WPMA OFFICES CLOSED FOR THANKSGIVING

The WPMA offices will be closed Thursday, November 24 and Friday, November 25, 2016 for the Thanksgiving holiday. We wish everyone a very happy and safe Thanksgiving.

FEDERAL JUDGE BLOCKS JOB KILLING OVERTIME FINAL RULE

Great News for Petroleum Marketers

A Texas federal judge has entered a nationwide preliminary injunction blocking the implementation of the Department of Labor's ("DOL") overtime rule that was set to go into effect on December 1. In a 20 page order, U.S. District Judge Amos Mazzant ruled that the DOL overstepped its authority by raising the salary threshold for receiving mandatory overtime from \$23,660 to \$47,476 a year, or from \$455 to \$913 a week. In substance, the court held that the Fair Labor Standards Act (FLSA) did not envision a salary test for determining whether a salaried employee performs sufficient managerial functions to warrant a "white collar" exemption from the overtime rule. The Court rejected the DOL's plea to hold off on an injunction, finding that the states and business groups that sued the DOL would suffer sufficient injury during the pendency of the case to warrant an order blocking the rule until the case is decided on the merits.

The nationwide temporary injunction means that DOL cannot enforce the new overtime rule until the case is decided on the merits or until the Fifth Circuit Court of Appeals, a relatively conservative court, overturns the injunction. The DOL has a right to appeal Judge Mazzant's order, and it is likely to do so. It is unlikely; however, that the Court of Appeals will set aside the injunction on a preliminary basis before the appeal is decided. Nor is it likely that the appeal will be decided by January 20, when the new Administration takes office.

The new Administration could withdraw the appeal when takes over in January, allowing the injunction to remain in effect and providing the new Administration or the Republican Congress with time to rescind the rule on a permanent basis.

Bottom Line: While the DOL overtime rule is now on a temporary hold, many employers have already changed the way they pay their workers to meet the new requirements of the new rule. Unless or until the injunction is lifted, these employers can revert back to complying with the existing rule.

PMAA REGULATORY ALERT: OIL SPILL LIABILITY TAX INCREASE

The federal Oil Spill Liability tax levied on refiners will increase from 8 cents per barrel of crude oil to 9 cents per barrel beginning January 1, 2017. The tax is imposed on crude oil when it is received at a United States refinery. The operator of the refinery is the only party liable for the tax. The increase was mandated by Congress in the Energy Improvement and Extension Act of 2008. The Oil Spill Liability tax was enacted under the Bush Administration in 1991 in response to the Exxon Valdez 1989 oil spill in Alaska. Proceeds from the tax are used for oil spill clean-up and compensation costs.

It is important to know that the Oil Spill Liability tax is paid only by refiners. Refiners pass the tax downstream as a cost included in the price of finished product. Some refiners break out the tax on terminal bill of lading while others do not. The tax is not refundable downstream to any party. Once the tax goes over the terminal rack it becomes a cost added to the price of fuel. It is important for downstream marketers to treat the Oil Spill Liability tax as a cost and not a "tax" to avoid confusion over whether it should be included on bids or invoices to tax exempt customers. The tax should always be folded in as a cost of the fuel and not itemized as a tax on downstream bill of lading. There is no requirement that the Oil Spill Liability Tax be itemized on a bid or invoice below the terminal rack because it is no longer a tax once it is paid by refiners.

The following chart shows the price per gallon cost increase on finished product of the current 8 cent per barrel rate (2016) and the 9 cent per barrel rate effective January 1, 2017.

	2016 \$0.008	2017 \$0.009
Clear Gasoline and Diesel	\$0.0019000	0.0021375
10% Ethanol Blends	\$0.0017100	0.0019238
7.7% Ethanol Blends	\$0.0017500	0.0019688
5.7% Ethanol Blends	\$0.0017900	0.0020138
75% Ethanol Blends	\$0.0004800	0.00054
80% Ethanol Blends	\$0.0003800	0.0004275
85% Ethanol Blends	\$0.0002900	0.0003263
2% Biodiesel Blends	\$0.0018600	0.0020925
5% Biodiesel Blends	\$0.0018100	0.0020363
10% Biodiesel Blends	\$0.0017100	0.0019238
15% Biodiesel Blends	\$0.0016200	0.0018225
20% Biodiesel	\$0.0015200	0.00171

PMAA SENDS LETTER TO VISA REQUESTING INFORMATION REGARDING EMV

Last week, PMAA, along with seven other associations, sent a [letter](#) to Visa calling on them to stop using EMV technology to direct debit card transactions to its own processing network, which the Federal Reserve says violates merchants' legal right to choose who will process transactions.

When the industry began to implement the new EMV readers last year, they found that in many cases debit card users are steered to a screen asking them to choose between "Visa Debit" and "U.S. Debit." A customer that chooses Visa debit will be routed over Visa's more expensive, less secure signature network. If that customer instead chooses U.S. debit, the transaction is routed through the retailer's preferred choice among about a dozen competitive debit networks that are typically less expensive, but more secure because they allow the use of a Personal Identification Number, or PIN.

The Federal Reserve recently ruled that these screens are in violation of the debit reform law that states that retailers must be afforded the choice between at least two unaffiliated networks on debit transactions, not customers. Moreover, the prompt asking consumers to choose credit or debit on a debit transaction, was also found to be in violation of the law.

Yesterday, Visa responded in a [letter](#) which is still under review.

TRUMP AND CONGRESS LOOKING TO MOVE QUICKLY ON TAX REFORM

A top priority for President-Elect Trump and for the 2017 Republican-controlled Senate and House is comprehensive tax reform.

In June, House Republicans issued a 35 page Tax Reform Blueprint outlining a plan for tax reform and Donald Trump issued a similar proposal which he includes among his 100-day action plan.

Under the House proposal federal estate and gift taxes would be repealed, although Trump's plan would impose capital gains taxes on assets held at death and valued at over \$10 million. A recently proposed regulation issued under Internal Revenue Code Section 2704 would minimize the number of estates that will be eligible for valuation discounts and avoidance of double taxation via the estate, gift or transfer taxes. PMAA has been working with coalitions to fight this valuation discount regulation. Fortunately, experts think that the 2704 proposed regulations will be withdrawn.

The tax rate for all businesses would drop from 35 percent to 15 percent, and the corporate alternative minimum tax (AMT) would be eliminated. The Tax Blueprint diverges from the Trump plan with respect to active business income from sole proprietorships and pass-through entities, capping it at 25 percent (although compensatory income would be taxed at up to the 33 percent rate). S corporations would be taxed at a flat 20 percent rate.

The blueprint also indicates it preserves the last-in-first-out (LIFO) method of accounting while Trump has been silent on LIFO.

Given the strong support for tax reform among congressional Republicans, we expect 2017 to bring significant changes to the tax code and PMAA will continue to weigh in on provisions that are particularly important to petroleum marketers such as the estate tax and LIFO.

CONGRESS PREPARES FOR 2017

In addition to retaining Paul Ryan (R-WI) as Speaker of the House for the 115th Congress, House Republicans also retained Majority Leader Kevin McCarthy (R-CA); Majority Whip Steve Scalise (R-LA); and Republican Conference Chair Cathy McMorris Rodgers (R-WA). Senate Republicans re-elected Mitch McConnell (R-KY) as Majority Leader and John Cornyn (R-TX) as Majority Whip.

House Democrats are giving themselves until November 30 to assess why they failed to win more seats and moderate Rep. Tim Ryan (D-OH) is challenging Nancy Pelosi's (D-CA) Minority Leader position. Senate Democrats elected Chuck Schumer (D-NY) to replace Harry Reid (D-NV) as Minority Leader, and Dick Durbin (D-IL) as Minority Whip.

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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 4-5, 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: “Don’t forget to set your scale back 10 lbs. this week.”

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