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## California's New Enterprise Zones

**A**s we've mentioned in previous editions of *States of Affair*, California has the most advantageous enterprise zone program in the country. In the mid-1980s, the State began to establish enterprise zones across the state to assist communities with business revitalization efforts. Businesses located in enterprise zones can benefit from significant tax credits for hiring employees (**EZ Hiring Credit**) and utilizing certain equipment in a zone (**EZ Sales/Use Tax Credit**). Banks making qualified commercial loans into the zones can benefit from the **EZ Net Interest Deduction for Lenders**.

Since the fourth quarter of 2006, we have seen much activity surrounding the EZ program, including changes in locations and geographic boundaries of the zones as old zones have expired. In November 2006, California's Department of Housing and Community Development ("HCD") announced the conditional designation of 23 enterprise zones—many in communities that had previously had zones and are now re-designated—and in January 2008, HCD announced additional conditional designations for 8 more zones. Zones receiving these conditional designations are: Siskiyou County, East Los Angeles, Oakland, West Sacramento, Santa Ana, San Joaquin County, Salinas Valley, and Kings County. The San Joaquin County zone replaces and significantly expands the expiring Stockton EZ. The qualifying area now includes parts of Stockton, Tracy, and Manteca among others. Salinas Valley is an entirely new area encompassing parts of communities like Salinas, Gonzales, and Soledad.

Newly designated conditional zones must provide street/address ranges and boundaries, and must commission environmental impact reports before their designations will become official. New enterprise zones are assigned an effective start date by HCD once all requirements are met, and will then be qualified for a 15 year period.

### What Do the EZ Changes Mean to You?

**F**or those of you already taking advantage of the EZ hiring credit, it's mostly good news. The minimum wage, which is used to calculate the limitation for each employee, has increased in 2007 and 2008. On 1/1/07 the California minimum wage increased to \$7.25/hour and on 1/1/08 it increased to \$8.00/hour. This will increase the potential benefit for a full time qualified employee from \$31,000 to over \$37,000.

With the expanded footprints of the zones, more companies are expected to be in the zones. (One of our clients previously had one location in the zone and now has 5—and increased their credit accordingly!) We recommend that all companies review their facility or branch addresses to determine if they now qualify for additional benefits.

If you are not presently taking advantage of the EZ benefits, contact us for a complimentary benefit analysis. ●

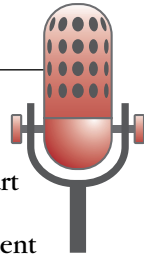
## Dear Readers,

**T**his quarter, Labhart Miles once again proudly sponsored the Pacific Coast Bankers' Bank Executive Management Conference, held March 9-12th in San Francisco.



On the back page, we've included some interesting banking industry trends provided by PCBB that should be of interest not only to our banking clients but also any consumer that uses banks (preferably community banks, of course!). We thank you for your continued support. ●

## Speaking Out



### Conferences:

#### Pacific Coast Bankers'

**Bank Conference:** Labhart Miles sponsored the 2008 PCBB Executive Management Conference in San Francisco March 9 -12, 2008. This was our fourth year as a sponsor.



Bill Labhart presents Barbara Crouse of Butte Community Bank of Chico, CA with our gift basket at the PCBB event.

#### Western Independent Bankers

**(WIB) Conference:** Look for Labhart Miles as a sponsor at the annual CFO Conference, "Cutting Costs & Risks"; June 1 - 4, Indian Wells, CA.

"**The Big Event**" – Monika Miles will be speaking at PKF North American Network's annual conference of its member CPA firms to be held July 14 - 16 in Santa Fe, NM. The topic is "The Streamlined Sales Tax - Are We Talking Simplification?"

### Winner:

In our last newsletter we asked for your feedback regarding our E-Newsletter. **Craig Cowdery** of our client **Eklin Medical Systems** was our winner of a Harry & David's gift basket. Thanks for your feedback, Craig!

### New Team Member:

Labhart Miles welcomes the newest member of our team – **Cassandra McClintock**. Cassie joins us on a part-time basis as she continues her studies in accounting at San Jose State University. ●

## Multi-State Tax News

### Federal House Members Introduce Business Activities Tax Nexus Legislation

In a bi-partisan effort, House Democrats and Republicans recently introduced legislation that would set a national nexus standard, defining how states can tax business activities. H.R. 5267, the "Business Activity Tax Simplification Act of 2008," introduced by Representatives Rick Boucher (D-VA) and Bob Goodlatte (R-VA) is similar to legislation previously introduced.

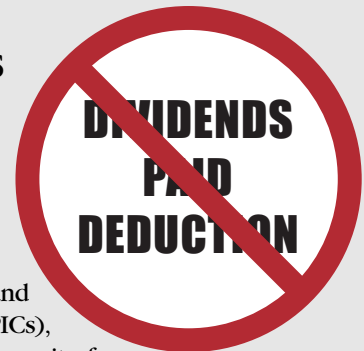
Currently, no national standard exists, and some states have unfairly imposed taxes on businesses with no physical presence in a state. The Boucher-Goodlatte bill would expand the federal prohibition against state taxation of interstate commerce to include out-of-state transactions involving all forms of property, including intangible personal property and also services, which are currently not uniformly covered by nexus laws. The legislation would prohibit state taxation of goods unless the entity has a physical presence in the taxing state for 15 or more days per year. Transit time spent in a state would not count towards physical presence. ●

### Massachusetts – Dividends Paid Deduction Denied

In a state tax planning technique designed to reduce Massachusetts tax liability, the state has challenged and thus far, won, its case against two real estate investment trusts (REITs) and two passive investment companies (PICs), the subsidiaries of Fleet Funding Inc., a unit of Bank of America. Promoted by large accounting firms, these types of transactions are being challenged by several states as distorting a company's true net income. The planning technique reduced the bank's MA corporation excise tax on interest earned from real estate loans by transferring the loans to REITs and receiving the income from the loans mostly tax free in the form of dividends from the PICs.

In its appeal, Fleet maintained that it intended to use the strategy to not only reduce its state tax liability, but also as a vehicle to raise capital. The Massachusetts Appellate Tax Board dismissed this purpose because the REITs were established without a federally mandated exchange provision which require banks seeking to raise capital by selling preferred stock in a REIT to include an exchange feature in the stock. Additionally, Fleet offered no proof of a business purpose for establishing the PICs.

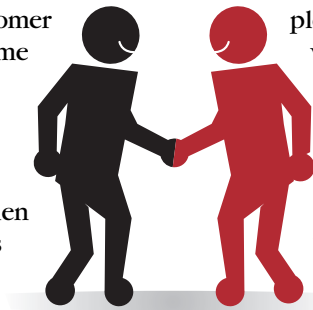
*Fleet Funding Inc. v. Commissioner of Revenue, Massachusetts Appellate Tax Board, No. C271862-63, February 21, 2008.* ●



# Helping Clients Help Clients

**C**an you add value to your business by providing “added value” to your customers? Of course. Providing your customers with information, tools or assistance outside the scope of your usual product or service offerings, but which are important to your client, speaks volumes about your level of customer care. That value may come from internal expertise, a partner, or vendor.

At Labhart Miles, we sincerely appreciate when our clients and partners help us and other clients and partners. The relationships and loyalty that evolve from those efforts create a business bond for the long-term. That is why we are eager to provide insights, referrals and assistance



wherever we can, thereby assisting our clients in helping to serve their clients better.

John Murphy, Partner at Mohler, Nixon & Williams CPAs in Campbell, California said, “With our diverse

customer base and the complexity of some of their wide ranging business and taxation issues, calling on Labhart Miles for specialty services in the state tax arena can optimize our clients’ favorable results. This makes it a win, win, win, for all involved—particularly our client.”

Tamara Gurney, CEO of Mission Valley Bank in Sun Valley, California, commented “When Bill & Monika took our loan officers through the specifics of enterprise

zones, it resulted in a deeper and more valuable understanding of the level of assistance our people could provide to any of our customers located in and expanding their businesses in enterprise zones.”

In order to assist our clients and partners in adding value to *their* customers, we are taking steps to provide easier access to information about our services, including brochures, live presentations, and other “innovations”. Please look for the launch of an informational web video regarding enterprise zones to appear on our website this summer. Call us or email [info@labhartmiles.com](mailto:info@labhartmiles.com) for more information. ●

Special thanks to George “Buddy” Saupe of IMSA for contributing to this article, and his help in our partnering efforts.

## California Corner

### Taxpayer Tripped-up by Literal Reading of the Statute

In a decision which carries no precedence, the SBE held that the FTB’s disallowance of an EZ Sales/Use Tax Credit against the corporate franchise tax was correct. The FTB contended that although the statute did not specifically limit the term “qualified property”

to capitalized property, the terms “placed in service” and “basis” indicated that qualifying property must be capitalized. The taxpayer’s contention that the Legislature’s failure to place similar limitations in other credit statutes but not this one, indicated that no such limitation applied. Letter Decision, Appeal of Taiheyo Cemet USA Inc., No.332855, CA SBE, Feb. 4, 2008 ●

### Chu/Yee Slated to Head California State Board of Equalization (SBE)

The CA SBE unanimously voted to name Dr. Judy Chu as Chair of the SBE and Selected Betty Yee as Vice Chair. As Chair, Chu will also serve as a voting member of the Franchise Tax Board. ●

## Labhart Miles

*and its principals*

*continue our memberships with the California Association of Enterprise Zones, National Association of Women Business Owners, American Society of Women Accountants, California Economic Opportunity Network, and the Western Independent Bankers (WIB), among others.*



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## State Tax Solutions



### Labhart Miles Consulting Group:

- *Member of the California Association of Enterprise Zones (CAEZ)*
- *Sponsors of the Pacific Coast Bankers' Bank Executive Management Conference*
- *Editors of the Journal of Multistate Taxation and Incentives*
- *A wealth of experience in Big 4, Industry, and State Government*
- [labhartmiles.com](http://labhartmiles.com)

## Insight

### Bank Trends

- The **"mobile wallet"** has arrived (in Asia, anyway). 46% of bank customers in Asia say they use their mobile phones at least once per month to pay for services.
- The housing crunch affects the entire economy. There is increased **"negative equity"**—greater than 10% of homeowners owe more on their mortgage than the underlying value of their homes. Since 1/3 of all homeowners own their homes free and clear, the percentage is actually much larger. This number is expected to double by the first quarter of 2009.
- **"Remote Data Capture"** is hot. Bank customers have a machine onsite at their offices to capture deposits, reducing trips to the bank.
- **Online business bill paying** is increasing - expect that 43% of business customers will switch from checks to electronic bill paying by 2010.
- And good news for customers - competition for your business is fierce, and banks are focused more than ever on **customer service**.

Thank you to Steve Brown and his team at Pacific Coast Bankers' Bank for this information!

## States of Affair

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