Labhart Miles
consulting group, inc.

States of Affair

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Dear Monika,

Happy July! I hope you had a wonderful 4th of July weekend.

In this month's States of Affair we take a look at how the elimination of the Enterprise Zone program in California will affect businesses and what this could mean for you. Read on to learn more.

And the fight over Internet sales tax continues with politicians and retailers divided on the issue. Find out the latest.

There is more exciting news here at Labhart Miles this month. We'll tell you about my new position with the National

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Association of Women Business Owners Silicon Valley as well as welcoming a new intern into our fold. You won't want to miss it!

If you want to know more about any of the items in this month's e-newsletter or what we do at Labhart Miles, please contact us at 408.266.2259 or email us today.

All the best,
Monika Miles
Labhart Miles Consulting Group, Inc.

Hot News

California State Senate Passes Enterprise Zone Overhaul

During the last week of June, Gov. Jerry Brown's controversial plan to overhaul the state's enterprise zones was approved by both the California Senate and the Assembly, after Democrats in both houses negotiated a series of last-minute amendments to mollify resistant lawmakers. The bill to derail the well- established EZ program was bull-dozed through both chambers by the Governor's main supporters in a matter of 72 hours. Lawmakers hardly had a chance to read, let alone comprehend, the full impact of the law's passage, as it was introduced into the Senate with the ink barely dry. Since this bill was a tax increase, AB 93 passed with the needed supermajority of two-thirds in both chambers.

With the Governor's signature expected, AB 93 eliminates the $750 million a year, locally controlled enterprise zones and replaces them with a broader, statewide series of business "incentives" championed by the Governor as helping more businesses. While there was some good in the new legislation (a sales tax exemption for manufacturing and biotech companies), we remind our readers that passage of this bill was a tax increase. The state took away tax incentives overall and replaced the EZ program with a program that costs less - and thereby benefits fewer companies.

It's fair to say that since Labhart Miles has many clients that have benefited from the EZ program over the years, we obviously have a very biased opinion about the elimination of the program - quite frankly, we think it was a horrible piece of legislation overall and are very disappointed in its passage. So, because this is our newsletter, we've provided some high level facts about the new program, along with some biased commentary below!

The bill implements a sales tax exemption for manufacturers for property purchased and used in the manufacturing process, beginning in 2014. As originally drafted and passed by the Senate, this exemption was to be only a five-year benefit, but in the final Assembly negotiations, it was extended to nine years (*Commentary: Such an exemption should have been in place years ago to put California on parity with most other states that already offer an exemption for manufacturing equipment. While many companies will benefit from this exemption, this law change was not related to hiring individuals and should not have been the catalyst for repealing the EZ program*).

The bill repeals the existing EZ Hiring Credit, EZ Sales/Use Tax Credit and EZ Net Interest Deduction for Lenders as of 12/31/13. Credits generated will carry forward for ten years (rather than indefinitely) and it currently appears as though the interpretation of the new law will allow for EZ Hiring Credit benefits to continue to be calculated until the qualified employee is no longer employed or reaches the full five years. (Please stay tuned for additional information on the nuances of specifics as our affiliate groups work with the administration to define some of the still outstanding questions).

AB 93 "replaces" the EZ program with a statewide hiring credit with many limitations that will make qualification all but impossible for most employers. The new rules require all of the following:

- Companies must fall into qualified SIC codes (mostly manufacturing), and do NOT include retail and eating establishments;
- A net increase in new employees calculated by using a base;
- Qualified wages must be between $12.00 and $28.00 per hour, based on 150 and 350% of California's minimum wage; and
- Only full-time employees will be considered for the hiring credit and must qualify under one of four criteria (versus the 13 qualified criteria used now):
    - Unemployed/displaced worker;
    - A U.S. military veteran:
    - An ex-offender; or
    - Recipient of the *Earned Income Credit*.

To further add to the complexity, businesses seeking to claim these credits must request a "*tentative credit reservation*" with the Franchise Tax Board "FTB" within 30 days of the employee's date of hire, and must submit an annual "*certification of employment"* for each full-time employee to remain eligible for the credit during the 60-month credit period (*Commentary: With the many limitations and bureaucratic hurdles, we believe that very few companies will qualify for the credit. A perfect storm will need to be created for the credit to have any meaningful value to a company. We believe that the new program will not serve to increase or incentivize businesses to keep employees. It's simply a "program" so that the Governor can say that he has a hiring credit*).

Finally, AB 93 creates a "slush fund" - currently a $30 million set-aside for negotiated incentives for which companies will compete if they expand business within the state. Company applications will be evaluated by a 5 member board established by the Governor. This fund is expected to grow to $200 million in future years. (*Commentary:One of the Governor's big objections to the EZ program was that it had some perceived abuses. He has now replaced it with a slush fund that will be overseen by only 5 individuals in a plan that is very short on details. If this is not a program that is rife for potential abuses, we're not sure what is. The projected cost of the EZ program, which benefited thousands of companies in every industry across the state, was estimated at $750 Million annually. With this legislation, the Governor has diverted a third of that amount into a very limited program, with limited oversight, potentially benefitting very few companies. Thank you, Sacramento*)!

Please stay tuned to this newsletter for continued updates on how the new programs may affect you and how we can assist in making the transition. We thank all of our clients and friends that reached out to legislators in the final hours of negotiations on AB 93 and made their voices heard. Unfortunately, there weren't quite enough of us to convince the political machine in Sacramento to stop and reconsider this bill. But we applaud everyone's efforts!

Internet Sales Tax Bill Stalls in Congress

The drive to collect Internet sales taxes has stalled in Washington DC. The Marketplace Fairness Act, which passed the Senate in May with bipartisan support, would require online merchants to collect sales tax from customers if their remote sales into a given state exceed $1 million. Supporters say the bill would level the playing field for traditional retailers, whose products appear more expensive. It would also help fill the coffers of state governments that are strapped for cash.

But opponents say it would also put many small online retailers out of business because they cannot keep up with the compliance costs of collecting sales taxes from nearly 10,000 different jurisdictions. House Speaker John Boehner (R-OH) has indicated that he would oppose the Internet sales tax, specifically citing the regulatory burden it would impose.

Now it's in the House, where the Judiciary Committee Chairman, Bob Goodlatte (R-VA), is taking a decidedly slower pace despite the vocal support. Goodlatte has said he is not opposed to the idea of an online sales tax but wants to see changes to the Senate version. According to POLITICO, he is expected to outline principles for a competing bill after the August recess. Govtrack.us gives the bill just 14% chance of being enacted.

Big money is on the line as states miss out on more than $23 billion annually by not collecting online sales tax. However, the National Governors Association says states think they can corral the $23 billion in Internet sales taxes and many states aren't waiting for Congress to act. On July 1st some states imposed a sales tax on online transactions by slapping levies on items like telephone ringtones, digital audio book downloads and music. Minnesota is leading the way by imposing taxes on digital audio works like songs, books, speeches and other sound recordings. Meanwhile, Iowa is doing something similar, imposing its 6% sales tax on transactions across the Internet into the state.

The Department of Commerce predicts that by 2023 nearly all shopping will take place online.

We remind our readers that now is a good time to evaluate your overall state tax positioning, nexus, taxability of products, etc. While we can't predict whether the House will approve this legislation (or similar legislation), we urge companies to get ahead of it and determine what their potential exposure (and remedies) might be prior to the final passage of any federal legislation. Please contact us for an analysis of your situation. We are also available to give presentations to CPA firms and companies wanting more information about the Marketplace Fairness Act, multi-state tax issues in general, and how these things affect their businesses. Contact Monika Miles at monika@labhartmiles.com.

What's Up at Labhart Miles?

There are a lot of exciting things happening at Labhart Miles. I'd like to share with everyone that I am joining the board of the National Association of Women Business Owners - Silicon Valley chapter as the Director of Public Policy and I will also be joining the Accounting & Financial Women's Alliance (formerly ASWA) Silicon Valley board as the Scholarship Director.

Labhart Miles would also like to welcome our new intern Dorothy Williams who started with us on July 1. She moved out to San Jose for 7 weeks to complete her internship with us and has recently graduated with her accounting degree from my alma mater, the University of Texas, El Paso. We are excited to have her on the team!

Lastly, congratulations to our associate, Eileen Perry, who has graduated from Chabot College. We are happy to share in her accomplishments!

About Labhart Miles

Labhart Miles Consulting Group is a professional services firm specializing in multi-state tax solutions. We address state and local tax issues for our clients, including general state tax consulting, nexus reviews, credits and incentives maximization, income tax and sales/use tax planning, and other special projects. We also specialize in California Enterprise Zone projects, including the EZ Hiring and Sales/Use Tax Credits, and the EZ Net Interest Deduction for Lenders. For more information visit, www.LabhartMiles.com.

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