



Issue 4

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Dear Monika,

Happy September! I hope you had a nice Labor Day and are gearing up for the fall.

In this month's States of Affair we take a closer look at California's AB93 - the portion related to the sales tax exemption for manufacturers. Read on to learn more about the exemption that finally attempts to put California on par with other states that have had similar legislation in place for years.

Also, more states are looking into passing legislation that will include taxation of additional services. Find out the latest and

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some history.

There is lots of exciting news here at Labhart Miles this month. In addition to working on client projects, we took a little time out to take a company field trip to local technology companies and a recent outing to an Oakland A's game.

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's AB93 - Sales Tax Exemption**

As we reported in our last newsletter, AB93, enacted in July, effectively eliminates the enterprise zone program as we know it. The best thing to be said about AB93 was its enactment of the sales tax exemption for manufacturers, which finally attempts to put California on par with other states that have had similar legislation in place for years.



Under the new section 6377.1 of the Revenue and Taxation Code, qualified taxpayers engaged in manufacturing and similar physical processing activities, which include processing, refining, fabricating or recycling (but not extraction), or research and development, may purchase machinery-related equipment used to operate, control, regulate or maintain machinery, pollution control equipment and certain special purpose buildings used as an integral part of a manufacturing or production process, free from part of the state's share of the sales tax. The exemption does not apply to local sales and use taxes imposed by counties, cities and other governmental bodies or to the portion of the state rate that is dedicated to local government support.

Here are a few more key pieces of information you should know:

The section is effective for qualified property purchased or used beginning July 1, 2014 and before July 1, 2022.

- A qualified taxpayer must be a person primarily engaged in activities described in Codes 3111 to 3399, inclusive of the 2012 edition of the North American Industry Classification System relating to manufacturing or relating to research and development.
- A taxpayer, or group of commonly owned or controlled taxpayers, is limited to \$200 million of purchases of qualified tangible personal property.
- Taxpayers engaged primarily in extraction of natural resources or production of agricultural commodities at the growing state are not qualified taxpayers.
- Certain rental payments for leases of qualified machinery and equipment will also be eligible for sales tax relief.

While the exemption seems straightforward, nothing in California ever is. Portions of the exemption read very much like the former California Manufacturers' Investment Credit (MIC), which sunset in 2004. That credit, which was beneficial for California's manufacturers, also came with significant regulations and examples to help "clarify" the law as written.

Stay tuned to Labhart Miles' upcoming newsletter for clarification and compliance tips as the July 2014 commencement of this exemption approaches. If you have any questions on AB93, call us at (408) 266 - 2259.

Sales Tax to Extend to More Services?

Recently, more states are looking into passing legislation that will include taxation of additional services. According to the CA Legislative Analyst's Office (LAO), in 1980 Californians spent 53 percent of their income on goods subject to the sales tax, which included things like cars, electronics and clothing. In 2012, that figure dropped to 33 percent. The LAO says, had it remained steady, the state could now collect the same revenue with a sales tax rate of just 5.2 percent, 3.2 points lower than the average rate. This explains why increases in sales tax have been necessary at both the state and local level.



Curious why the figure dropped? Right now, most states levy sales tax on the purchase of tangible personal property and only limited services. Also, in several states, digital items are exempt from sales tax under "digital download" statutes, which effectively exempt products that used to be taxable when purchased in a different medium. For example, ten years ago you would go to Best Buy and purchase a music CD for \$13.99. Because you were buying it at the store, you would pay sales tax and the state and city received that revenue. Today, instead of going to a Best Buy to purchase a

CD of music, you can download it from iTunes, get the same level of enjoyment from it and pay that \$13.99 to Apple. However, because California has an exemption for digital downloads, you are exempt from paying that tax and the state and city receive no revenue.

Now, let's say you are in California, you still want the hard copy music CD and found a seller of CDs online who is a small distributor and doesn't have a taxable presence (nexus) in California. That seller technically doesn't have to charge you sales tax because he is not yet required to do so, meaning the state and city still don't receive revenue. (Well, they SHOULD... because you, as a good California taxpayer should have paid the complimentary use tax on your individual income tax return. But that's the topic of a different article!) As consumers enjoy more digital downloads or good purchased online from small distributors, we will see more of this type of erosion of the tax base. There are also many other examples - these are just a couple. That's why more states are looking to broaden the base.

But there is still a lot of work to be done. Lawmakers can't just apply the existing sales tax rate to more categories and watch the money come in. There are arguments on either side of this issue (and as tax practitioners, we can make them either way) and lobbyists encouraging the lawmakers to see it each way. That said, lawmakers likely also can't just stand by as their sales tax revenue base continues to erode as our economy's spending habits change. Something needs to be changed and many feel it's time to revive sales tax reform.

What are your thoughts? Labhart Miles would love to hear from you.

What's Up at Labhart Miles?

There has been a lot going on at Labhart Miles recently. In late July, we had some fun with our intern, Dorthy Williams, who was visiting from UTEP. The staff was able to take a Friday afternoon off for a Silicon Valley field trip to brag about our community at local technology companies, including Apple, Google, Yahoo and Facebook.



In early August, Labhart Miles' co-founder, Monika Miles, attended the annual Beta Alpha Psi meeting in Anaheim, CA. She represented the Accounting & Financial Women's Alliance (AFWA) as a speaker and a judge at the student events. She was also very excited to share an excerpt from her upcoming book, "*Beyond the Staff Handbook*." Stay tuned for details.

This fall, Labhart Miles will once again be supporting the American Cancer Society's "Making Strides Against Breast Cancer", which will be held October 26th in San Jose.

Monika presented at the San Jose "Kick-Off Breakfast" at the Doubletree Hotel on August 21, and shared her tips for fundraising with other team leaders. Monika has been participating in the event since 1998 and Labhart Miles has had a team in the walk since the company was founded in 2002. Check out our website soon for regular updates.

The Labhart Miles team was also able to attend an Oakland A's game in early August. Here's a picture of Monika, Eileen & Dorothy enjoying the game. Make sure to like our [Facebook](#) page to check out what other activities Labhart Miles has been up to.



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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