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**SMC Government Relations Committee
Tax Working Group Conference Call**
Brief notes embedded in blue
Wednesday, January 31, 2018
2:00 - 3:00 PM

I. Welcome and Introductions - Eileen Anderson, Director, Government Relations Attending: *Don Johnston, Joe Weinkle, Vic Conrad, John Nikoloff, Eileen Anderson*

ANDERSON: *The goal of today's meeting is to accomplish the following:*

- Define legislative issues to recommend to the full Government Committee's February meeting.*
- Determine actions SMC can take to directly help members.*

II. What May be Part of the Governor's Upcoming Budget - John Nikoloff, Partner, ERG Partners

- Governor Wolf will give his budget address on February 6th. He is expected to present a budget with no broad-based taxes - with the exception of a severance tax for natural gas. Wolf has separately requested L&I to expand overtime pay to employees at salary levels starting with \$31,720 in 2020 (370,000 additional workers) and increasing to \$47,892 in 2022 (460,000 additional workers) which will begin bringing in additional revenues in 2020-21.*
- Budget Secretary Randy Albright has already said the Commonwealth is in the "best fiscal position it has been in since the Great Recession." He said last year's \$31.99 billion General Fund budget eliminated a \$1.5 billion deficit and he projected the state would end 2017-2018 with a \$47 million surplus. The state's Independent Fiscal Office announced in their forecast that revenues appear to be on track for generating nearly \$35 billion during the current fiscal year.*
- Secretary Albright's budget briefing focused on the continuing themes of "Schools that Teach, Jobs that Pay, and Government that Works." Albright discussed an \$840 million increase in education funding, a decline in the unemployment rate, and state efforts to combat heroin and heroin abuse, additional services for child care and those with intellectual disabilities, and the expansion of Medicaid. Albright said they will propose a balanced budget without the need for additional revenue "beyond the severance tax."*
- Regarding the severance tax, in December the House Finance Committee voted HB 1401 out of committee. It would tack a 3.2% tax on natural gas above the current impact fee. Governor Wolf and many legislators, especially those in southeast PA have called for a vote on the bill, but more than 300 amendments have been drafted. After several days of debating some of those amendments, the House adjourned, fully understanding that the severance tax issue will resurface in 2018.*

III. Brief Update - Tax Cut & Jobs Act- Pass-Through Overview - Don Johnston, Partner, Tax Services, Grossman, Yanak & Ford, LLP

- The impact on pass-throughs can be complex but when viewed from 30,000 feet there are a few simple rules that clarify the law. If you are married and filing jointly and your income is less than \$315,000 then a deduction of 20% can generally be taken from your taxable income. This is huge accomplishment for the treatment of pass-through income. Once \$315,000 is exceeded it begins to get more complex and there are more tests to pass to determine if a deduction is allowed. Most small manufacturers, because they have large capital expenses and payroll, will pass the 50% wage test. If 20% of taxable income is less than 50% of the company's payroll, the individual owner (not the pass-through entity) will be eligible to take a 20% from their taxable*

income. There are many complex rules associated with the tax deduction but this new provision should be very beneficial to most small business owners.

IV. Impact of the new Tax Cut & Jobs Act on PA Taxes

- **PADOR Corporation Tax Bulletin 2017-2, Disallowance and Recovery of 100% Depreciation**
 - **JOHNSTON:** *The new federal law allows corporations and other businesses to use 100% bonus depreciation, meaning that qualified business property can be expensed immediately rather than depreciated. However, a recent bulletin issued by the PA Department of Revenue (PADOR) will not allow corporations to take a deduction on their qualified property expensed under the new federal law until that property is disposed of or sold. It is hard to believe that PA would not allow businesses to take any depreciation.*
 - **ANDERSON:** *House Bill 2017 will resolve that issue and allow corporations to depreciate property.*
 - **STATUS: HB 2017- SUPPORT**

V. Present & Previous Initiatives - PADOR

- **New 1099 - MISC PA Withholding Tax Requirements for Nonresident, Nonemployee Compensation**
 - **ANDERSON:** *This requires that a PA based company who uses out-of-state consultants, for example, must collect withholding tax on the non-resident nonemployee(s) payment for services once the payment exceeds an aggregate amount of \$5000.*
 - **JOHNSTON:** *PA employers collect withholding tax from their PA employees income and Pennsylvania based independent contractors pay tax on their Pennsylvania earned income so it is reasonable to expect that a non-resident employee or consultant be required to pay PA income tax on their Pennsylvania earned income. The group agreed with Johnston*
- **New Schedule C initiative**
 - *Anderson briefly described the new PADOR initiative which closely examines Schedule C expenses for sole proprietors and others. They require many, many documents to comply with the desk review. The group acknowledged the issue but requested no action.*
- **Previous Issues with the PA Department of Revenue (PADOR)**
 - **ANDERSON:** *SMC has worked to simplify the appeals process for several years. It is cumbersome, expensive and time consuming and often the amount in question is several hundred dollars. In the 2018 Fiscal Code, the only language that remained of proposed changes with PADOR was the decrease in the number of days to respond from 90 to 60 days.*
 - **JOHNSTON:** *Some, but not all of the issues have been addressed. Problems still exist with the audits and notices; SMC should continue to monitor and engage with the PADOR. The group agreed.*

VI. PA Tax Legislation - Other

- **Small Business Tax Fairness legislation - Aligns small business PA these taxes with federal tax law and state tax provisions for large businesses in PA.**
 - Like-Kind Exchanges (HB 331 & SB 201)
 - Small Business Equipment Deductions (HB 333 & SB 203)
 - Small Business Net Operating Loss Carry Forward (NOL's) (HB 332 & SB 202)
 - **ANDERSON.** *We can support this legislation in spirit and passively. There has been little action on this package since its introduction in 2017.*
 - **STATUS: Small Business Tax Package - SUPPORT**

VI. ACTION - 2018 Agenda Development

Items have been successfully identified to forward to the Government Committee

VII. Determine actions SMC can take to directly help members.

- ***GROUP:** Agreed that efforts should be made to clearly explain the parts of the new tax law that have the most impact on small businesses and manufacturers. The channels to distribute the information will vary.*
 - *Anderson will take the request to the SMC Team Meeting for further discussion.*

Upcoming Meetings & Events

SMC Government Committee meeting - Date & Time TBD Mid-February

Putting the SMC agenda in Action - Harrisburg Grassroots Lobbying Trip, April 30, 2018, 7:00 AM - 10:00 PM. Seeking travelers and sponsors.