

# ExecutiveMemo

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A newsletter of the Illinois Manufacturers' Association

October 7, 2009

## BRIEFLY

### Pumpkins are big business in Illinois

The nation's number one pumpkin producing state has devoted additional acreage to the crop. According to the 2007 Census of Agriculture, Illinois now harvests 13,679 acres of pumpkins each year on 502 farms, up from 12,296 acres on 475 farms in 2002.

"More than likely, if you are carving a pumpkin this Halloween, or making grandma's famous pumpkin pie, your pumpkin came from right here in Illinois," Agriculture Director Tom Jennings said.

In addition to being the number one pumpkin producer, Illinois also is the number one pumpkin processor. Of the state's 13,679 acres of pumpkins, 9,749 of those acres are harvested for processing."

Last year, Illinois pumpkins had a "field value" of more than \$22 million dollars. Some Illinois pumpkins are sold locally, while many are sold to national retailers such as Wal-Mart.

### Pre-order 2010 IRS Tax Calendar for businesses

You can pre-order Pub 1518, 2010 IRS Tax Calendar for Small Businesses and the Self-Employed at

<http://www.irs.gov/businesses/small/article/0,,id=101169,00.html>. If you order now, the English version of the 2010 Tax Calendar will be shipped on November 1, and the Spanish version will be shipped December 1.

## IMA's Annual Luncheon & Meeting Friday, December 4, 2009 Hotel InterContinental, Chicago

Honoring "Women in Manufacturing"  
Contact Kimberly McNamara at 800-875-4462, ext. 2109, email: [kmcnamara@ima-net.org](mailto:kmcnamara@ima-net.org), for additional information.

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## White rescinds Franchise Tax hike

After hearing from the Illinois Manufacturers' Association and other leading business groups, Illinois Secretary of State Jesse White announced that he had instructed his staff to withdraw proposed rulemaking that would have increased the state's Franchise Tax by nearly \$1 billion. The proposal was published in September in the *Illinois Register*.

"We applaud Secretary White's decision," said IMA Vice President and Chief Operating Officer Mark Denzler. "Had these rules gone forward, Illinois' ability to recover from the current economic downturn would have been seriously hampered."

The proposed rule would have required Illinois-based companies to allocate the entire value of its investments in each subsidiary into Illinois for the purpose of paying the state's franchise tax, even if the subsidiary was primarily doing business

outside of Illinois. Corporations located outside of Illinois would no longer have been required to attribute any of their investments in subsidiaries in Illinois, even if it was the principle place of business.

The IMA and other business groups quickly rallied opposition and requested a meeting with the Secretary's senior staff.

"Secretary White and his staff listened closely as we explained how the proposed rule would have impacted manufacturers and working families in Illinois," said Denzler. "Based on this action, it is good to know that there are still some in state government who support our efforts to make Illinois a destination economy."

In accordance with the Illinois Administrative Procedures Act, formal notice of the withdrawal of proposed rulemaking is expected to appear in the *Illinois Register* in October.

## Midwest manufacturing output decreased in August

The Chicago Fed Midwest Manufacturing Index (CFMMI) decreased 0.3 percent in August, to a seasonally adjusted level of 80.1 (2002 = 100). Revised data show the index rose 3.1 percent in July, to 80.4. The Federal Reserve Board's industrial production index for manufacturing (IPMFG) was up 0.6 percent in August. Regional output in August declined 20.8 percent from a year earlier — lower than the 12.0 percent decrease in national output.

The decline was focused in the regional auto sector, the other three regional sectors moved higher:

- Regional auto sector production declined 4.2 percent;
- Regional machinery sector output rose 0.3 percent;
- Regional steel sector output increased 0.6 percent; and

- Regional resource sector output rose 1.3 percent.

Regional auto sector production declined by a large 4.2 percent in August after jumping up 16.4 percent in July. The nation's auto output rose 1.8 percent in August. The Midwest's automotive output was down 29.3 percent in August relative to its year-ago value, and the nation's auto output was down 14.6 percent.

The Midwest's machinery sector output rose 0.3 percent in August after decreasing 0.6 percent in July. The nation's machinery output decreased 0.7 percent in August. Regional machinery output in August was 26.2 percent below year-earlier levels, and national machinery output was down 15.0 percent.

The region's steel sector output

See **OUTPUT**, page 2

## IMA'S EXECUTIVE MEMO IS UNDERWRITTEN BY:



### EXPERIENCE RESPONSIVENESS.

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increased 0.6 percent in August after rising 1.9 percent in July. The nation's steel output was up 0.3 percent in August. Regional steel output dropped 35.6 percent from its August 2008 level, and national steel output fell 24.5 percent.

The Midwest resource sector's output rose 1.3 percent in August. Two of the five subsectors of the resource sector — food and chemical production — increased from July to August, while paper, nonmetallic mineral, and wood production decreased. Compared with a year ago, regional resource output was down 6.6 percent in August, and national resource output declined 5.1 percent.

Source: Chicago Fed Midwest Manufacturing Index, William A. Strauss, Senior Economist and Economic Advisor, 312-322-8151.

## What manufacturers need to know about two recent amendments to Illinois employment laws

Illinois Governor Quinn recently signed two bills into law that expand employee rights and protections and impose additional obligations on Illinois employers. The bills amend the Illinois Human Rights Act ("IHRA") and the Illinois Victims Economic Security and Safety Act ("VESSA").

The amendments to the IHRA make "order of protection status" a protected class under the anti-discrimination laws. This amendment becomes effective January 1, 2010. The amendments to VESSA broaden coverage of the law to require employers to provide eight to twelve weeks of unpaid leave to victims of domestic or sexual violence based on the employers size. This amendment became effective August 24, 2009.

### Illinois Human Rights Act amendments

The recent amendments to the IHRA protect an employee from discrimination based on his or her "order of protection status." The IHRA defines the term "order of protection status" to mean "a person's status as being a person protected under an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986 or an order of protection issued by a court of another state." This means that employers may not make adverse employment decisions based on the fact that an employee has an order of protection. The amendment is in addition to the already existing prohibitions from discriminating against applicants and employees based on their race, color, religion, sex, national ori-

gin, ancestry, age, marital status, disability, military status, sexual orientation, or unfavorable discharge from military service.

### Illinois Victims Economic Security and Safety Act

The amendments to VESSA expand rights for victims of domestic or sexual violence. Previously, VESSA required employers with 50 or more employees to allow employees who are victims of domestic or sexual violence to take up to 12 weeks of unpaid leave to seek medical attention, psychological or other counseling, legal assistance, or relocation. The amendments expand these protections to employees who work for smaller businesses. Under the new law, employers with 15-49 employees must provide up to eight weeks of unpaid leave to such victims, while employers with 50 or more employees must still provide up to twelve weeks of unpaid leave to victims. Employers may not require that employees substitute other forms of paid or unpaid leave, such as vacation, personal leave, or FMLA, instead of using VESSA leave. Employees, however, may elect to use those other forms of paid or unpaid leave if they so choose.

In addition, VESSA requires employers to provide "reasonable accommodations" to the known limitations of employees who are victims of domestic or sexual violence. The amendments specify that a reasonable accommodation must be timely and that "any exigent circumstances or danger facing the employee or his or her family or household member shall be considered in determining whether the accommodation is reasonable." Employers have a duty to post a notice informing employees of VESSA. The amendments also add a provision that when an employer fails to post a notice, that employer may not argue that an employee failed to inform the employer in advance that he or she needed leave under the Act.

Employers should take proactive steps to ensure compliance with the IDHR and VESSA amendments. Employers must not discriminate against any employee in a protected class under the IDHR. The best way to defend against discrimination claims is to document all adverse employment actions including the reasons for the actions. Moreover, to comply with the VESSA amendments, employers must now post a notice informing employees of their VESSA rights. Co-authors Steven J. Teplinsky (Partner) and Charmaine M. Butler (Associate) are with Michael Best & Friedrich. Their emails are [sjteplinsky@michaelbest.com](mailto:sjteplinsky@michaelbest.com) and [cmbutler@michaelbest.com](mailto:cmbutler@michaelbest.com). They can be reached at 312-222-0800.

## Futures markets terminology

Sounding like Pilates exercises, the terms "Contango," "Backwardation" and "Flat" are actually financial jargon used to refer to the price of commodities in the futures markets for items such as natural gas and crude oil. Storable commodities exhibit these price conditions. Futures markets allow buyers and sellers to transact prices for future delivery of commodities.

The Henry Hub "futures-contract" trades on the NYMEX (New York Mercantile Exchange). One contract represents an obligation to buy or sell 10,000 MMBtu's of Henry Hub Louisiana delivered natural gas for a particular month. A front-month or prompt month contract is the delivery one month into the future. This identifies what the near-term cost expectations are for the price of natural gas. There are also prompt-year calendar contract strips. The prompt-year calendar strips exhibit similar shapes, but are

See **FUTURES MARKETS**, page 3

### Webinars for manufacturers: "Topics 4 the times" from PlanteMoran — Prepare for the upswing . . .

#### IFRS: Is simpler better?

Thursday, October 22, 2009, 9:00-10:00 am CT

For more information and to register, visit <http://www.plantemoran.com/topics-4-the-times/ifrs-is-simpler-better/Pages/home.aspx>

A team of accounting experts will discuss the pros and cons of the newly introduced international accounting language (IFRS) for small- and medium-sized companies. Could it be the answer to increasing demand for little GAAP? IFRS is the financial reporting language in 100 countries.

For additional "Topics 4 the times" Webinars from PlanteMoran, visit

[http://www.plantemoran.com/topics-4-the-times/Pages/home.aspx?WT.mc\\_id=topics4thetimes](http://www.plantemoran.com/topics-4-the-times/Pages/home.aspx?WT.mc_id=topics4thetimes)

#### What's new on the tax front?

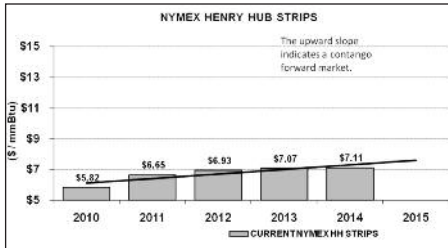
Thursday, November 17, 2009, 1:00-2:00 pm CT

For more information and to register, visit <http://www.plantemoran.com/topics-4-the-times/whats-new-on-the-tax-front/Pages/Home.aspx>

A team of experts specializing in federal, state, local, and international tax law will cover issues that will affect your business profits and your personal income. You can depend on them to take the mystery out of year-end tax planning and explain the impact of emerging legislation. They have been watching the tax code evolve and will talk about amending old strategies to reflect the changes and adopting new strategies in response to new laws.

smoother than a monthly curve as “Seasonality,” or the natural rise and fall of prices according to a certain time of year, is taken out of a strip valuation. When charting each successive month’s contract price beyond the prompt month, the prices form a forward curve. A curve can have three shapes and each shape can tell a natural gas stakeholder about the market outlook. The figure below is the average calendar strips for the NYMEX Henry Hub. This forward curve is “in Contango.”

Data Source: NYMEX – Chart created by: CNEG



The gradual upward slope of a futures curve of any non-perishable commodity is normal and is referred to as being “in Contango.” The slope contains the cost of storage, credit and other incidentals like insurance and reflects some extra costs for that future supply guarantee. Steeper Contango occurs when the future spot price is expected to be significantly higher than the present one. This indicates one of two things: either supply is temporarily exceeding demand and is expected to return to normal levels, or supply is at a comfortable level now, but is expected to fall short of demand in the future. In either case, the market for natural gas is expected to be significantly tighter in the future than it is at present.

The opposite situation, in which today’s price is higher than the future price, is called Backwardation. This occurs when present supply concerns outweigh the worries about future supply levels.

A flat curve or a curve with not much slope indicates that market participants are unconcerned or unsure about the future or believe that conditions may only slightly worsen or stay unchanged.

To learn more futures market terminology, please contact Constellation

NewEnergy Gas Business Development Manager Jeff Abeln at 312-704-8527, or via email at [jeff.abeln@constellation.com](mailto:jeff.abeln@constellation.com).

## IMA young leaders descend on Eagle Ridge

Nearly two dozen young leaders representing IMA member companies met in Galena last weekend for the IMA Young Leaders Council Second Annual Fall Conference at Eagle Ridge Resort & Spa.

Friday afternoon included a tour of the John Deere assembly plant in nearby Dubuque, Iowa. Deere & Company is one of seven IMA founding member companies. The Dubuque assembly plant produces Deere’s line of forestry equipment, construction backhoes, bulldozers and skid loaders.

The theme of the conference, “Adding Value in an Economic Downturn,” focused on what can be done to bring added value and help companies emerge from the downturn stronger. Experts from Plante & Moran led those discussions. One popular portion of the presentation offered “30 Ideas in 30 Minutes,” suggestions that can bring instant results to almost any company.

IMA Board of Directors Chairman Ron Bullock gave the keynote address. He covered a wide array of challenges facing manufacturers today and some examples of how companies are responding. Mr. Bullock was available for nearly the entire weekend and many attendees appreciated his time at the conference.

Other presentations included “The State of Manufacturing,” a review of the annual RSM McGladrey/IMA survey of manufacturing. The presentation gave an in-depth perspective to attendees on trends in the industry. Mark Denzler, IMA’s COO and Vice President for Government Affairs and Membership, gave a legislative and political update on issues in Springfield and Washington.

The YLC Steering Committee is considering adding additional events during the year. For information on joining the IMA Young Leaders Council or sponsoring their functions, contact the IMA’s Jim Nelson at 800-875-462, ext. 3023, email [jnelson@ima-net.org](mailto:jnelson@ima-net.org).

## DATES OF NOTE

More information/events may be found at <http://www.ima-net.org/calendar.cfm> and <http://www.ima-net.org/MIT/open.cfm>  
Email: [jstanley@ima-net.org](mailto:jstanley@ima-net.org)

October 16, 2009

**IMA-MIT Event: Time Management Personal Effectiveness — DePaul University O’Hare Campus, 3166 S. River Rd, Des Plaines**

Identify the essential personal effectiveness skills needed in today’s fast paced environment, and focus on applying these key skills utilizing the process you choose: paper-based, e-tools or both. This powerful combination of skills and tools will help you succeed.

**October 21, 2009: Top 10 Ways Manufacturers Can Avoid Liability for Employment Claims Northern Illinois University–Naperville campus 1120 E. Diehl Rd., Naperville, 9:00 am–Noon**

Avoiding liability for employment claims is even more critical for manufacturers in this challenging economy. This interactive workshop led by Daniel Kaufman, Michael Best & Friedrich LLP, will begin with an overview of the top ten ways to avoid such liability. The best practices discussed in this interactive format will highlight the practical steps manufacturers can take to reduce and manage the risk of employment liability. Cost: \$125 IMA members; each additional attendee \$100; \$150 Non-members. For more information, contact: Kimberly McNamara, 800-482-0462, Ext. 2109, email: [kmcnamara@ima-net.org](mailto:kmcnamara@ima-net.org).

**November 5, 2009: Illinois Sales & Use Tax Northern Illinois University–Naperville campus 1120 E. Diehl Rd., Naperville, 8:30 am–12:30 pm**

The Manufacturers Purchase Credit, Graphic Arts Machinery & Equipment exemption, and Investment Tax Credit will be available through 2014. Join your peers and find out more about Illinois taxes specific to manufacturing. Joe Bigane, Wolf & Co. will once again lead an informative and up-to-date discussion. Cost: \$125 IMA members; each additional attendee \$100; \$150 Non-members. For more information, contact: Kimberly McNamara, 800-482-0462, Ext. 2109, email: [kmcnamara@ima-net.org](mailto:kmcnamara@ima-net.org).

November 6, 2009

**IMA’s Small Manufacturers Council, Oak Brook**

The Small Manufacturers Council provides a forum for key representatives of small manufacturers to meet and discuss industry trends from a governmental standpoint as well as innovations that can effect day to day efforts. Join us for informative meetings that provide substantive information you need in today’s competitive manufacturing environment. You’ll be glad you did. For more information, contact: Kimberly McNamara, 800-482-0462, Ext. 2109, email: [kmcnamara@ima-net.org](mailto:kmcnamara@ima-net.org).

November 10, 2009

**IMA-MIT Event: Sales Skills for Non Sales Professionals — DePaul University O’Hare Campus, 3166 S. River Rd., Des Plaines**

This one-day workshop has been specifically designed to help non-sales personnel realize, and take advantage of, sales opportunities as they occur. Determine when it is appropriate to “sell” and how to avoid being perceived as “pushy.”

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