

ExecutiveMemo

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A newsletter of the Illinois Manufacturers' Association

October 22, 2008

BRIEFLY

Facts about Illinois Manufacturing

In December 2007, there were 673,100 manufacturing employees in Illinois. Illinois' average annual wages in 2007 were \$45,644. However average annual wages in manufacturing in Illinois were \$52,561.

The top ten Illinois manufacturing sectors in 2004 were:

Machinery—\$10.8 billion
 Food products—\$9.1 billion
 Fabricated metals—\$9.0 billion
 Chemicals—\$8.7 billion
 Plastics & rubber—\$5.3 billion
 Motor vehicles & parts—\$3.7 billion
 Computers & electronics—\$3.4 billion
 Electrical equipment & appliances—\$3.2 billion
 Printing—\$3.2 billion
 Primary metals—\$3.1 billion.

From 2001 to 2006, Illinois manufacturing grew by 10.9 percent. In 2005, the bulk of Illinois' exports (94 percent) were manufactured goods.

2008 World Series of baseball

The Tampa Bay Rays will play the Philadelphia Phillies in the 2008 World Series beginning Wednesday, October 22, in St. Petersburg, Florida. This will be the 104th edition of major league baseball's best-of-seven championship series, marking the first World Series appearance for the American League champion Rays since entering the league in 1998. The National League champion Phillies make their sixth appearance, with their only victory coming in 1980 over the Kansas City Royals.

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Editor: Stefany Henson
 (shenson@ima-net.org).

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Emergency Economic Stabilization Act of 2008 . . .

What are the tax implications to your business?

Though originally designed with a singular focus on the stabilization of the financial markets, the Emergency Economic Stabilization Act of 2008 (the Act) broadened during the legislative process to include extensive tax, energy, and disaster relief provisions. Signed into law on October 3, 2008, the Act addresses financial market turmoil by establishing a \$700 billion federal program authorizing the Treasury to purchase or insure distressed assets from financial institutions. Financial institutions participating in the program are subject to limitations as established by the Treasury.

Representing one of the largest tax bills in recent history, the Act provides for an estimated \$150 billion in business and

individual tax incentives and approximately \$44 billion in revenue-raising offsets over the next ten years. To encourage a broad spectrum of energy conservation and production-related activities, the Act extends and establishes tax incentives for wind energy, biodiesel, and other clean energy sources, while promoting additional oil production through a refinery expensing provision. The Act also includes disaster tax relief for the Midwest and other federally-declared disaster areas.

With the bulk of the Act's provisions having immediate impact in 2008 and 2009, it is recommended that you consult with your tax advisor to assess the specific tax implications to you and your business.

See **EMERGENCY ACT**, page 2

High Court decision sets new rules for design defect cases — opens door for risk-utility test

The Illinois Supreme Court set new ground rules for the method of proof in design-defect cases, and in so ruling granted a new trial to two car companies that were hit with a \$27 million verdict to the family of a man killed in a high-speed, rear-end collision. Ruling in the case of *Mikolajczyk vs. Ford*, the high court said that the defendants were entitled to a new trial because the circuit judge in the case had refused a defendant request to have the jury instructed in using a risk-utility test.

The IMA filed an amicus brief in support of Ford Motor Company, one of two defendants in the case because of its importance of product liability reform to the manufacturing sector. At issue in the case was the relationship between the two tests that can be used by plaintiffs to prove their case in strict-liability design-defect cases: the consumer-expectations test and the risk-utility test.

The consumer-expectations test asks whether the product failed to perform as

safely as an ordinary consumer would expect when used in its intended manner. The risk-utility test asks whether the harm could have been avoided by the adoption of a reasonable alternative design and incorporates a number of factors, including the consumer's expectations.

Writing for the court in a 42-page opinion, Justice Rita B. Garman said both tests can be used by plaintiffs in strict-liability design-defect cases in order to prove a product is unreasonably dangerous. However, if the defendant presents evidence under the risk-utility test, that test is determinative because the consumer-expectations test is incorporated into it. In this case, Garman wrote, defendants Ford Motor Co. and Mazda Motor Corp. are entitled to a new trial because they presented evidence of risk-utility and requested a jury instruction on it, but were refused by Cook County Circuit Judge James P. Flannery Jr.

The IMA will continue its close watch on this case.

Highlights from the Act

Business Incentives

- Extends research credit for 2008 and 2009, while both increasing the alternative simplified credit to 14 percent and repealing the alternative incremental research credit for 2009
- Extends new markets tax credit through 2009
- Extends 15-year, straight-line cost recovery for qualified leasehold and restaurant improvements through 2009, with qualified retail property and new restaurants newly eligible in 2009
- Extends through 2009 the provision limiting the basis adjustment to stock of an S Corporation making charitable property contributions
- Extends enhanced charitable deductions for certain business contributions of food to charitable organizations and books and computer equipment to qualifying schools
- Suspends limitations on charitable contributions of food made before Jan. 1, 2009 by farmers or ranchers
- Extends the exclusion under Subpart F for active financing income through 2009
- Extends look-through treatment of payments between related CFCs under foreign personal holding company rules

Energy

- Extends IRC §45 production credit through 2009 for wind and refined coal and through 2010 for other sources
- Extends IRC §48 energy credit for solar energy, fuel cell, and microturbine property through 2016
- Reinstates IRC §25C credit for purchases of residential energy property placed in service in 2009

- Modifies and extends through 2016 the IRC §25D residential energy-efficient property credit for solar, small wind, and geothermal investments
- Extends IRC §179D deduction for energy-efficient commercial buildings through 2013
- Expands nontaxable transportation fringe benefit rules to include a \$20 per month bicycle commuter reimbursement, beginning in 2009

Disaster Relief

- Extends net operating loss carryback period to five years for losses attributable to expenditures on new investment, damage repairs, casualty losses, and employee moving expenses or temporary housing in Midwestern disaster areas
- Increases bonus depreciation by up to 50 percent of the cost of real and personal property investments made in Midwestern disaster areas
- Allows expensing of 50 percent of general demolition and clean-up costs incurred in Midwestern disaster areas that would otherwise be capitalizable
- Increases IRC §179 expensing from \$250,000 to \$350,000 for qualifying expenditures made in the Midwestern disaster areas through 2011

Source: RSM McGladrey

Chicago ranks number eight in Global Cities Index

A newly released study from *Foreign Policy* magazine finds that Chicago ranks eighth among the cities of the world when it comes to being a "Global Community." The study, The 2008 Global Cities Index, was conducted by *Foreign Policy*, A.T. Kearney and the Chicago Council on Global Affairs and measured globalization

around the world, focusing on the 60 cities that shape the lives of people most.

Chicago along with Hong Kong and Singapore were cited as Regional Gateways because of their efficient economic powerhouses with favorable incentives for businesses and easy access to the natural resources of their region. These cities were noted for attracting smart, well-trained people from around the world and were also found to be most apt to reinvent themselves when necessary.

Among the 60 major world cities, Chicago ranked 12th in business activity, third in human capital, 24th in information exchange, 20th in cultural experiences and 20th in political engagement. It also ranked second as the best city to get a degree, 20th as the best city to get some culture, and 20th as the best city in which to be a diplomat.

Chicago was behind only New York and Los Angeles in the U.S., while beating out Washington and San Francisco in the top 20 ranked cities.

The Global Cities Index ranks cities' metro areas according to 24 metrics across five dimensions. The first is business activity: including the value of its capital markets, the number of Fortune Global 500 firms headquartered there, and the volume of the goods that pass through the city. The second dimension measures human capital, or how well the city acts as a magnet for diverse groups of people and talent. This includes the size of a city's immigrant population, the number of international schools, and the percentage of residents with university degrees. The third dimension is information exchange — how well news and information is dispersed about and to the rest of the world. The number of international news bureaus, the amount of international news in the leading local papers, and the number of broadband subscribers round out that dimension.

The final two areas of analysis are unusual for most rankings of globalized cities or states. The fourth is cultural experience, or the level of diverse attractions for international residents and travelers. That includes everything from how many major sporting events a city hosts to the number of performing arts venues it boasts. The final dimension — political engagement — measures the degree to which a city influences global policymaking and dialogue.

To read the complete study, visit www.foreignpolicy.com/story/cms.php?story_id=4509.

On the Web . . . Energy Load Response Webinars from Constellation NewEnergy

See how Constellation's NewResponseSM Program can help your organization achieve economic, environmental and social goals. Featured speaker Kevin Bellamy, Vice President of Technical Sales for Constellation Energy, will help you understand the fundamentals of Load Response and how your business can earn economic incentives by reducing your electricity load (i.e., curtailment) at times when the electric grid is under stress. Learn first hand how other manufacturers are successfully implementing their Load Response programs. Learn the fundamentals of Load Response. How does Load Response work? Who can enroll? What are my curtailment options? How do I get paid? Dates and times are:

WEBINAR 1

Tuesday, October 28, 2008–8:00am CST

WEBINAR 2

Wednesday, November 5, 2008–1:00pm CST

Register now at:

<http://constellationenergy.webex.com/mw03051/mywebex/default.do?siteurl=constellationenergy&md=0.1400441876650147&cid=>

Space is limited so register today to reserve your complimentary spot!

Con-Con threatens Illinois' stability

A message from IMA President & CEO Gregory W. Baise

In November, voters will be asked whether Illinois should hold a Constitutional Convention. While news headlines continue to report the ineptitude of our governor and the antics of his administration, is that enough to toss aside a document that has served every citizen of Illinois for nearly 40 years?

Yes, there has been too much political infighting, inaction and buffoonery in Springfield during the last six years. However, when we examine the cause, it's the politicians who are dysfunctional, not the Constitution. Holding a Con-Con will encourage more political mischief and endanger the rights of Illinois' citizens.

In June, the IMA Board of Directors voted to recommend opposing a Con-Con. The estimated cost of \$80 million is an unwise use of already scarce tax dollars . . . dollars that could be spent on education, job creation, infrastructure, or established state programs that are starving for adequate funding. However, the cost alone is not reason enough to oppose a Con-Con.

An even better reason is that the current Illinois Constitution, enacted in 1970, has been hailed as a progressive, citizen-friendly document and remains viable today. Our Constitution provides for:

- limiting income taxation;
- prohibiting employment and housing discrimination;
- safeguarding against hate crimes;
- prohibiting sex and disability discrimination; and
- guaranteeing religious freedom, freedom of assembly and due process of law.

Losing or weakening any of these provisions would have a detrimental effect on our quality of life.

As the framers intended, our Constitution has provided a strong, stable platform which continues to assure citizen rights are protected. This has been proven time and time again.

Supporters of a Con-Con claim it's the only way to enact provisions like "recall" and citizen ballot initiatives, increasingly popular measures to be sure. Look closely at states that have enacted those measures however, and you'll see the turmoil that results. Modern communications allow impulsive ideas to alter the course of public opinion, virtually overnight.

Whether it's putting a tax cut proposal on the ballot or recalling an unpopular public official, sober deliberation is required rather than impulsive decisions based on the latest public opinion polls.

Another danger lurking behind the rhetoric is the single-issue factions who are waiting for a Con-Con to advance their particular cause. Why engage in debates which only separate us? We need to work together and focus our efforts on making Illinois a prosperous and abundant state for all citizens.

We are joined in our opposition to holding a Con-Con by an unlikely collection of organizations which includes business associations, labor unions, school officials and the League of Women Voters. We have all come to the conclusion that as repugnant as the current state government situation is, rewriting our Constitution will do nothing to change the status quo at the Capitol, and may be jumping out of the frying pan and into the fire.

Things need to change in Springfield. Replacing elected officials who aren't doing their job is the first step. As citizens, we have an obligation to thoroughly examine the role our elected officials have played in Springfield's discontent. We need to determine whether our representative, or senator, or governor has

See **Con-Con**, page 4

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>

November 4, 2008

IMA EVENT: Annual Sales Tax Seminar
NIU - Naperville Campus, 1120 E. Diehl Rd, Naperville — 8:30 a.m. - 12:30 p.m.

The IMA and Wolf & Company partner again to present the most recent information on sales and use tax specific to manufacturing. This half-day seminar will cover the Illinois tax structure, how manufacturers are impacted by the sales and use taxes and recent tax law changes. Issues relating to sales taxes in other states will also be addressed. If you are an accountant, accounts payable professional, controller, CFO, or tax manager this seminar is for you. Cost: \$125 IMA members, \$100 each additional attendee — \$200 Non-member. Contact: Kimberly McNamara, 630-368-5300, Ext. 2109, Email: kmcnamara@ima-net.org. To register, visit www.ima-net.org/tax_seminar.cfm.

November 7, 2008

IMA-MIT Event: Effective Presentation Skills
DePaul University's O'Hare Campus, 3166 River Road, Des Plaines

Learn to create and articulate a clear and concise message, respond to questions effectively. Let us provide you with the skills and tools needed to deliver a winning presentation. Due to video taping each participant, registration is limited to twelve — so register early to ensure availability.

November 13, 2008

IMA EVENT: Privacy Law Primer
NIU-Naperville Campus, 1120 E. Diehl Rd, Naperville, 8:00-11:00 a.m.

According to the 2008 Information Security Breaches Survey, 96 percent of large businesses had a data security breach in the last year. The experts from CyberSecurity Specialists at Chubb Insurance and the Vedder Price data privacy attorneys will update you on how to navigate a data security breach. Cost: \$85 IMA member; \$100 Non-member. To register, visit: https://www.ima-net.org/plp_seminar.cfm.

November 19, 2008

IMA-MIT Event: Developing and Maintaining a Respectful and Harassment-Free Workplace
DePaul University's O'Hare Campus, 3166 River Road, Des Plaines

In this day of spiraling lawsuits, it is essential to be continually on top of what constitutes harassment in order to maintain a safe workplace for all employees. This half-day, interactive workshop will help managers, supervisors and employees analyze the components of a respectful workplace, and learn to create and maintain a harassment-free environment.

Benchmark with IMA publications . . .

IMA's 2008-2009 Annual Benefits Report and 2008-2009 Annual Compensation Report

Compiled by the Illinois Manufacturers' Association with assistance from RSM McGladrey, these Reports contain valuable compensation and benefits data specifically relevant to Illinois manufacturers.

This is what you need to plan for the future.

ORDER YOURS TODAY AT www.ima-net.org/ben_report_order.cfm

Questions? Call Janie Stanley at 800-875-4462, ext. 3020,
email: jstanley@ima-net.org.

truly represented our best interests. We can no longer say that “my representative is a good guy, so the problem has to be your representative.”

Thomas Jefferson, in 1787, wrote James Madison: “I hold it that a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical.” Jefferson wasn’t suggesting that nations throw out their foundations for the sake of change, but that citizens elect officials who reflect their will. Jefferson felt people had a right to express their grievances against government, a sentiment that remains a cornerstone of today’s society.

The Illinois Constitution works. It has worked for nearly 40 years and will continue to work in the future. Our Constitution ensures stability for our homes, businesses and educational institutions, thereby guaranteeing our rights to freedom.

On November 4th, the IMA urges you to vote NO on holding a Constitutional Convention. Illinois’ current Constitution serves us well.

IMA Seminars offer more for your money

The IMA will host two educational seminars next month: **Annual Sales & Use Tax and Privacy Primer: Best Practices for Responding to a Security Breach or Data Theft.**

The ever-popular **Annual Sales & Use Tax** seminar is specific to manufac-

turing and covers topics such as the Manufacturer’s Purchase Credit, Multi-state taxes, Recent Tax Law Changes and Exemptions, Exclusions and Deductions including M & E Exemptions.

Presenter Joe Bigane is Senior Tax Partner in the Tax and Financial Services Division of Wolf & Company. Mr. Bigane works with a variety of industries including manufacturing, and wholesale and retail & distribution. His areas of concentration include business tax planning for corporations, partnerships and executives as well as multi-state tax planning.

The Tax seminar is being held on Tuesday, November 4, from 8:30 a.m. to noon at Northern Illinois University’s Naperville Campus, 1120 E. Diehl Road in Naperville.

To register please visit: https://www.ima-net.org/tax_seminar.cfm.

The second educational opportunity, **Privacy Primer: Best Practices for Responding to a Security Breach or Data Theft** is hosted by IMA, Vedder Price and Chubb Insurance.

You’ll hear CyberSecurity Specialists

at Chubb Insurance and data privacy attorneys from Vedder Price discuss: Litigation, Enforcement and Legislation, Proactive Steps to Preserve Data Security and How to Navigate a Data Security Breach.

With data security becoming an increasing concern for manufacturers and other business organizations that collect and maintain personal data, you won’t want to miss this informative seminar. Register today: https://www.ima-net.org/plp_seminar.cfm.

The IMA strives to provide you with timely, relevant information regarding issues affecting manufacturing. Member participation and feedback is essential to our success. The IMA will continue to seek education credits for its seminars to assist with your continuing education goals. Both the Sales Tax and Privacy Primer seminars offer education credits. More information is available at <http://www.ima-net.org/calendar.cfm>.

Questions regarding these seminars should be directed to Kimberly McNamara at 800-875-4462, Ext. 2109.

Illinois Manufacturers’ Association



2008 Annual Meeting Friday, December 5, 2008

Hotel InterContinental, Chicago
Keynote address by University of Illinois
President B. Joseph White.

Visit www.ima-net.org/annual08a.cfm for more information and to register.



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