



Council of Industry Newsletter

November 2013

Volume 17

Issue 10

Council of Industry Annual Luncheon Looks at Ways to Promote Growth in Manufacturing

Local manufacturing and associated industry leaders attended the sold out Council of Industry Annual Luncheon and Expo on November 1st where Ned Monroe, Senior Vice President of the National Association of Manufacturers (NAM), discussed policy issues concerning US manufacturers and outlined the NAM pro-growth agenda. The sold out event was held at the Powelton Club in Newburgh, NY and featured a Members /Associate Member Expo displaying a variety of

products and services from the Hudson Valley. Certificates in Manufacturing Leadership were also presented to twenty individuals from eight companies that completed the CI/ SUNY Dutchess supervisor training program. The event was made possible by major sponsor Joe Pietryka, Inc. and supporting sponsors Central Hudson, The Chazen Companies, Fair-Rite Products and TD Bank.



Certificate of Manufacturing Leadership recipients from eight companies were honored at the Luncheon.

The Expo portion of the event featured eighteen member and associate member displays that range from insurance and employment services to packaging, shipping, circuit boards, EMF suppression devices, janitorial supplies and many others in between. This was a wonderful opportunity to see some of the products and services made and offered throughout the Hudson Valley.

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The Fair-Rite Products booth at the Member/ Associate Member Expo where members display their products and services to other Hudson Valley manufacturers.

To kick off the luncheon Virginia Stoeffel, Dean of Community Services and Special Programs at Dutchess Community College presented certificates to the twenty individuals that completed the Manufacturing Leadership Program. This is a joint training for supervisors developed by the Council of Industry and DCC to prepare new managers or reinforce skills in existing managers that help them to be more successful and productive in the workplace. This is the 16th year of this tremendously successful program with graduates this year from Alcoa Fastening Systems, Balchem Corporation, Blaser Swisslube, Inc., EFCO Products, Inc., Konica Minolta, Selux, Viking Industries, and Zumtobel Lighting.

Following the certificate presentation, keynote speaker Ned Monroe addressed the crowd of manufacturers and their associates to provide insight into the politics, economics and issues in Washington that affect US industry and what the National Association of Manufacturers is trying to achieve with their Growth Agenda for Washington.

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Training and Education

"I found the program to be very informative and beneficial, a great training tool and resource for future training,"
Brenda Shaffer, Vice President, Selux.

Are Your Managers and Supervisors Leaders in the Workplace?

The front line leadership of your company are the managers, team leaders, and supervisors but do they know what being a leader involves? The Council of Industry and SUNY Dutchess have been perfecting the Certificate in Manufacturing Leadership Program for the last 17 years to tailor it specifically to our members, local manufacturers and the skills their employees need and use daily. The courses cover the general principles of leadership and the varying leadership styles, best practices, HR issues, problem solving, motivation and discipline, teamwork, communicating effectively, training skills, safety and health issues and understanding financial and accounting concepts in industry.



Over the last two years alone more than 60 individuals from twenty different companies have taken part in these courses.

Many register for the full program, ten classes from January through May but there are some that take one or two specific classes that interest them. The Certificate can be earned over the course of two or three years by taking a few classes a year as well.

Below are the dates and classes offered as part of the 2014 Certificate in Manufacturing Leadership. All courses are full-day classes (from 9am - 4:30pm) and are held at Dutchess Community College, Poughkeepsie, NY with breakfast and lunch included on site. Each class is designed to offer particular skill sets designed by the instructors and manufacturers to help participants meet the challenges of the modern workplace. Participants who complete the required courses are presented with the Certificate in Manufacturing Leadership presented by the Council of Industry and Dutchess Community College (see Luncheon article on front page.)

Register and Pay by December 31st and receive an Early Bird Discount—

	Single Member	Two or More From Same Company
One Day Course	\$200 before discount \$185 with Early Bird discount	\$175 before discount \$160 with Early Bird discount
Fundamentals of Leadership	\$400 before discount \$370 with Early Bird discount	\$350 before discount \$320 with Early Bird discount
Entire Program	\$1,700 before \$1,600 with Early Bird discount	\$1,550 before discount \$1,450 with Early Bird discount

For more information including course descriptions and online registration go to http://www.councilofindustry.org/training/category_courses.html#certificate.



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Network & Council News

Complete the 2013 Wage & Benefit Survey by November 15th

With the help of Marist College's Dr. Ken Sloan and our Human Resources Sub-Council we have developed a survey that will provide useful and meaningful data while also being easy to complete. Participation in the survey is critical to its usefulness. The more companies that participate the more valuable and reliable the data will be. We encourage you to put aside some time to complete the survey to the best of your abilities.

To obtain a copy of the survey go to the Members Only section of the Council website to download a copy or email Harold King at hking@councilofindustry.org.

Full Results will be shared only with companies that return completed surveys.

Some more key information :

- Completed Surveys should be returned to Dr. Sloan no later than November 15th.
- Wage data must be reported as of September 30, 2013 for comparability of analysis.



Questions can be directed to Harold King at hking@councilofindustry.org (limited knowledge) or Dr. Sloan at ken.sloan@marist.edu

Results should be available the week of December 9th .

Last year's survey was excellent and very valuable for all who participated. We expect this years to be even more useful as we will be able to make comparisons to with last year's data as well as national and regional trends.

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EHS Sub-council Meeting: Chemical & Petroleum Bulk Storage Regulation Refresher on Nov.22

Date: Nov. 22, 2013

Time: 8:30 am - 10:00 am

Location: Council of Industry Office, Desmond Campus, MSMC, Newburgh, NY

Cost: None for members



Joe Farron, an environmental engineer with Council of Industry associate member C.T. Male Associates will present a refresher on Chemical & Petroleum Bulk Storage Regulations.

The NYSDEC has recently proposed revised Petroleum Bulk Storage regulations (6 NYCRR Parts 612-614) and Chemical Bulk Storage regulations (6 NYCRR Parts 595-599) which would repeal and replace the current requirements regulating the handling and storage of petroleum products and hazardous substances. The NYSDEC indicates that approximately 52,000 bulk storage facilities are located in New York which involve an estimated 125,000 bulk storage tanks. Find out how these proposed changes will impact the day-to-day operations of facilities in New York by attending.

The draft revisions to the PBS regulations are intended to make them consistent with the federal regulations governing underground storage tanks ("USTs") to consolidate and simplify compliance. Other major changes in the PBS regulations include modifications of definitions to conform to the New York State 2008 statutory changes.

The draft revisions to the CBS regulations would clarify the reportable quantity ("RQ") provision such that the RQ will apply to a release of a hazardous substance that occurs within any 24-hour period, making this provision consistent with federal release reporting requirements. The existing regulations require reporting anytime a RQ is exceeded, regardless of the length of time during which the release occurs. Additionally, the list of hazardous substances is being updated to be consistent with CERCLA (40 CFR 302.4).

Joe Farron joined C.T. Male Associates in 1998 as an Environmental Engineer after receiving a B.S. in Chemical Engineering at Rensselaer Polytechnic Institute and completing a year of emissions work at General Electric's Gas Turbine Development Lab. In the 15 years at C.T. Male, his primary areas of focus have been Chemical and Petroleum bulk storage assessments and compliance; Clean Air Act assessments, permitting and compliance; air dispersion modeling; stormwater compliance; and environmental auditing.

To register please send an email to Alison Butler at abutler@councilofindustry.org or call (845) 565-1355.

Personnel Matters

Hiring essentials: Tips for Applications and Interviewing

By Steve Jones From HRHero.com



Certain application and interview questions tend to be problem areas for employers. In preparing your job applications and interview questions, you should be aware of some potential pitfall areas.

Many federal employment laws can apply to the hiring process. Even if you are a small business that may not fall under the rules because of a limited number of employees, it's always recommended that you follow legally compliant policies from the start. When hiring an employee, you should consider both your application and your interview process.

EEOC directive

The Equal Employment Opportunity Commission (EEOC) suggests that employers consider the following before including a particular question on an employment application or in a job interview:

- Is this information necessary to judge the individual's competence to perform this particular job?
- Does this question tend to disproportionately screen out minorities and females?
- Are there alternate nondiscriminatory ways to secure the necessary information?

Problem areas

Certain application and interview questions tend to be problem areas for employers. In preparing your job applications and interview questions, you should be aware of some potential pitfall areas. Note that some of the information below are applicable only to much larger employers.

Age, date of birth. Generally, age is considered to be irrelevant in most hiring decisions, and therefore, you shouldn't ask about date of birth. Also remember that the Age Discrimination in Employment Act (ADEA) protects employees who are 40 or older. You may ask an applicant to state his age if he is younger than 18. If you need date of birth for internal reasons (e.g., in connection with a pension or profit-sharing plan), obtain it after the person is hired.

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Race, religion, national origin. Generally, you shouldn't ask questions about race, religion, or national origin. However, if the information is

necessary for equal employment opportunity (EEO) or affirmative action reasons, you should record it on a separate form (not on the application itself), and it should be available only to your personnel department. Don't request pictures of applicants because that can form the basis for a discrimination claim.

Physical traits, handicaps. Care must be taken when you ask a person about any physical, mental, or health conditions she may have. The Americans with Disabilities Act (ADA) prohibits employers from asking any questions about physical or mental handicaps before making a job offer. The general rule of thumb for health-related questions is that you shouldn't ask a question if it might elicit information about a person's disability. If a job does have certain physical qualifications, it's proper to ask questions related to those requirements only.

Education. If a job doesn't require a particular level of education, it's improper to ask questions about an applicant's educational background. When the performance of a job requires a particular level of education, you may ask applicants about their educational background, the schools they attended, the degrees they earned, and any vocational training they had.

Sex, marital and family status. Generally, questions related to gender or marital and family status shouldn't be asked on a job application or in a job interview. Likewise, questions about childcare arrangements are improper in most cases. Questions about the likelihood of pregnancy certainly should be avoided. If such information is needed for social security, income tax, or other purposes, obtain it after the applicant has been hired.

Bottom line

My best advice is to avoid the problem areas outlined above when you interview job candidates. Generally, there's no legitimate purpose for eliciting such protected information. If the information is necessary for some legal compliance or employee benefits purpose, you should obtain it outside the hiring process.



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Legislative Matters

IRS Releases Special Procedures for Employers to Seek Refunds of Taxes on Same-Sex Spouse Benefits

From *BSK.com*, Bond, Schoeneck & King PLLC, a Council of Industry Associate Member

The Internal Revenue Code ("Code") excludes from an employee's income the value of certain employer-provided benefits that cover or are provided to the spouse of the employee. Section 3 of the Federal Defense of Marriage Act ("DOMA"), however, prohibited the IRS from recognizing same-sex spouses under the Code. Thus, until recently, the value of benefits provided by an employer to the same-sex spouse of an employee generally had to be treated (for federal income tax purposes) as additional wages paid to the employee.

On June 26, 2013, the United States Supreme Court, in *United States v. Windsor*, ruled that Section 3 of DOMA was unconstitutional. (For a more detailed discussion of the Windsor decision, see our July 2013 Employee Benefits Law Action Memo.) Since Windsor, several pieces of IRS guidance have addressed how the IRS will implement the decision. In Revenue Ruling 2013-17, the IRS held that individuals of the same sex who are lawfully married under the laws of any State will be treated as spouses for federal income tax purposes, even if the same-sex couple currently resides in a State that does not recognize same-sex marriages. Employees who are lawfully married to a person of the same sex will no longer be required to recognize income (for federal income tax purposes) equal to the value of certain benefits provided to the employee's same-sex spouse. In addition, because the Windsor decision has retroactive effect, the IRS also indicated that employees who previously paid federal income taxes on the value of benefits provided to their same sex spouses can seek refunds of those taxes by filing amended individual tax returns for open tax years (generally 2010, 2011 and 2012, as applicable).

In Notice 2013-61, the IRS provided special administrative procedures that an employer may follow to correct the employer's overpayments of FICA taxes and federal income tax withholding on same-sex spouse benefits. Generally, employers file an IRS Form 941 to report FICA tax paid and income tax withheld for each calendar quarter. A Form 941-X is used to correct overreported taxes for each calendar quarter. In Notice 2013-61, the IRS pointed out that employers may still use the regular Form 941-X procedure for overpayments relating to same-sex spouse benefits. However, to reduce administrative burden, the IRS provided alternative procedures for employers to use for taxes attributable to same-sex spouse benefits (including taxes on premiums paid for health plan coverage, remitted tuition benefits, dependent care benefits and other fringe benefits).



For 2013 overpayments, the IRS provided the following two alternative procedures for employers:

If an employer repays or reimburses (against subsequent wages) employees for over-collected FICA taxes and income tax withholding for same-sex spouse benefits for the first three quarters of 2013 by December 31, 2013, then the employer may make a corresponding reduction to the FICA wages and income taxes withheld for the first three quarters of 2013 on its fourth quarter 2013 Form 941.

If an employer does not repay or reimburse employees for over-collected FICA taxes and income tax withholding for same-sex spouse benefits by December 31, 2013, then the employer may file one Form 941-X for the fourth quarter of 2013 to correct FICA taxes for all quarters of 2013. However, under this option, an employer cannot

make adjustments for over-withholding income taxes in 2013. Moreover, to use this option, an employer must satisfy the regular Form 941-X filing requirements, including repaying or reimbursing employees for over-collected FICA taxes (or securing employee consents to file claims on their behalf), and obtaining statements from employees providing that they will not also claim a refund of over collected FICA taxes. Finally, the employer must write "WINDSOR" in dark, bold letters at the top of the Form 941-X.

The IRS also provided an optional procedure for overpayment of FICA taxes in years before 2013. The procedure is similar to alternative number 2 above. That is, an employer may file one Form 941-X for the fourth quarter of each prior open tax year to correct FICA taxes for all four quarters of that year. (No adjustment can be made for over-withheld income taxes.)

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LENDER

Healthcare Reform Update

Employer Preparations for the Affordable Care Act

From Jackson Lewis LLP, a Council of Industry Associate Member

Employers who do not formulate their action plans and commence executing those plans now not only are missing an excellent chance to determine how they may accomplish efficient ACA compliance, but also may be missing the opportunity for compliance altogether.

Given the current composition of Congress, it is unlikely employers' obligations under the Affordable Care Act will be significantly curtailed, either by repeal, amendment or by defunding by January 1, 2014, when many employer mandates go into effect. Employers who do not formulate their action plans and commence executing those plans now not only are missing an excellent chance to determine how they may accomplish efficient ACA compliance, but also may be missing the opportunity for compliance altogether.

Employers should consider doing the following now:

Many of the ACA's provisions are effective on January 1, 2014, or, for fiscal year plans, the first day of the plan year following January 1st. For example, annual benefit limitations and plan provisions providing for exclusion of coverage for pre-existing conditions are not permitted after January 1, 2014. Prior to the January 1st deadline, employers that offer group health plan benefits to their employees should ensure their self-funded and fully insured plans comply with the ACA provisions that will become effective in 2014. This means examining and, in some cases amending, plan and insurance contract provisions.

Identify workers who are misclassified as independent contractors. Both the Department of Labor and the Internal Revenue Service have announced that addressing the issue of misclassified workers is a high priority for their audit and enforcement activities.

Complying with the ACA's provisions requiring employers to count their employees and identify which are "full-time," as a foundational matter, begin with distinguishing employees from independent con-

tractors. The financial stakes for errors in worker classification are high and will only increase once the ACA is fully effective. Non-employee status should be examined and documented. Now is the time to correct the misclassification of workers who are erroneously treated as independent contractors. However, this does not mean that workers who currently are employees should be reclassified as independent contractors to avoid the ACA's mandates.

Investigate the application of the controlled and affiliated service group rules. The ACA requires employers that are "related entities" to count employees as if they are employed by a single entity. The ACA rules are similar to the rules applicable to quali-

fied employee pension plans in this regard. Two related employers, each with 25 full-time and full-time equivalent employees, for example, are counted as one "applicable large employer" that reaches the 50-employee threshold to be covered under the ACA. Controlled and affiliated service groups of employers are often overlooked in this analysis. Now is a good time for employers to review their corporate structure to determine whether related-entity issues exist and try to resolve them, if possible.

Examine temporary and leased employee agreements. The Treasury Regulations promulgated under the ACA suggest that an applicable large employer may be subject to the ACA penalties for any worker who is a "common law" employee, as determined under the Internal Revenue Code provisions and Regulations governing payroll taxes. Employers that hire workers through temporary and employee leasing agencies may find themselves deemed to be co-employers with the agencies and, thus, jointly and severally liable with the agencies for ACA penalties. Therefore, employers who contract with temporary employment and employee leasing agencies should examine their contracts and take steps to ensure the agencies both shoulder the burden for ACA compliance for these workers and indemnify their client-employers from ACA penalties.



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More Personnel Matters

Stop Ignoring Workplace Incivility – It is costing you BIG \$\$

By Grant Lewis, Executive Coach, Full Contact Leadership Development, LLC

My last article “1,000 paper cuts” highlighted how poor leadership behavior leads to disengaged employees, low morale, decreases in productivity, creative declines and, ultimately, negative impacts on overall profitability. While the “managers from hell” scenario is at the root of many of these poor-performing, lackluster work places, there is another epidemic lurking that, in fact, may be more prevalent, more overlooked and, in many cases, even encouraged: incivility.

Incivility is a lack of courtesy and/or civility, which takes shape in a number of ways including rudeness, impolite behavior or as a general disrespect for others. Despite its seeming disconnect with a forward-moving, productive work environment, incivility is typically overlooked and even casually dismissed as a natural side effect of chaos, stress or overextended managers and staff. But the behaviors—from personal insults and intimidation to cruel jokes, teasing, shaming, interrupting, dirty looks or even ignoring a subordinate—can have dire consequences.

The Porath and Pearson study of 800 managers and employees from 17 industries said:

- 48% intentionally decreased their work effort
- 47% intentionally decreased time spent at work
- 38% intentionally decreased quality of work
- 80% lost time worrying about incident
- 63% lost time avoiding the offender
- 25% took their frustration out on customers

It was also noted that employee’s creativity suffered and performance and team spirit deteriorated.

During a 14-year study professors Christine Porath and Christine Pearson looked at the impacts of workplace incivility and how these under-the-radar behaviors damage companies’ morale and, more importantly, their bottom lines. Overall, 98% of participants reported experiencing some level of incivility in the workplace, and half indicated they were treated rudely in the last week. The impact was staggering: employees reported taking out their frustrations at work by stifling their own creativity or deliberately decreasing their efforts. In a later study focused solely on managers, Porath and Pearson found that 12%

had left a job over incivility, and that Fortune 1000 executives spend an average of seven weeks per year dealing with in-office conflicts—that seven weeks could have been spent on revenue-generating endeavors, new business initiatives or other productive engagements but, instead, was spent soothing ruffled feathers and resolving issues of incivility that simply should not be present to begin with.

What’s more, when left unchecked incivility often leads to workplace bullying. Bullying—defined as “the deliberate repeated, hurtful verbal mistreatment of a person (target) by a cruel perpetrator (bully)” —was found in an increasing number of professional environments with sometimes surprising culprits and even more alarming consequences. The Campaign Against Workplace Bullying conducted its large-scale civility study and found that, overwhelmingly, women are the target of workplace bullying 75% of the time. Moreover, women are far more likely to target other women—they do so 84% of the time—and in 81% instances, the bully in a boss or supervisor. The very same person who should be fostering and furthering a positive environment is, instead, the main source of its emotional and creative demise.

Besides general discomfort and damage to morale and productivity, incivility and bullying can have a truly deep impact on employees’ health and well-being: 41% of those employees who reported bullying were later diagnosed with depression while an astounding 80% reported symptoms such as loss of sleep, anxiety or a lack of focus that led to a decrease in professional productivity.

My next piece will examine the methods for overcoming workplace incivility as well as how to identify more commonplace “bad behaviors” that, in many offices, are allowed to slip by or,



Recent events in the NFL show a worse case scenario of unchecked bullying.

When left unchecked incivility often leads to workplace bullying. Bullying was found in an increasing number of professional environments with sometimes surprising culprits and even more alarming consequences.

Continued on page 14

EHS Matters

Increased Product Compliance Regulations Will Make 2014 High Impact Year for Manufacturers

By Glenn Tanzman, Tanzco Management Consulting, LLC, a Council of Industry Associate Member

What is important to understand is that even if you don't export to the EU, the effect of authorization might drive the producer to stop manufacturing that substance. So you should be tracking these events and planning substitutions to replace any of these substances in your designs before you have to do it in panic mode because it was suddenly discontinued.

2014 will bring a myriad of new or enhanced requirements that will challenge US manufacturers to create a Responsible Supply Chain Management System to avoid penalties or loss of market share or market access.

ROHS: On July 1, 2014 Categories 8 (Medical Devices) and 9 (Consumer Monitoring/Control Instrumentation) and will come into the scope of ROHS and many of the existing exemptions will sunset (end). This will increase requests for compliance information from customers. For electronics manufacturers, ROHS compliance now requires CE marking making enforcement of goods entering the EU easier. China and India ROHS rules went into effect that are similar to the EU versions.

REACH: 68 new substances of very high concern were added to the EU REACH list in 2012 and 8 more in June 2013 bringing the total to 144 (<http://echa.europa.eu/web/guest/candidate-list-table>). More substances will be added in December. More importantly 22 chemical substances were moved to the authorization list. In simple language, these substances require authorization for each specific use of that substance which amounts to a de-facto ban. To date only one authorization application has been received. All the SVHC's have begun the evaluation process which is likely to conclude with them being moved to the authorization list. What is important to understand is that even if you don't export to the EU, the effect of authorization might drive the producer to stop manufacturing that substance. So you should be tracking these events and planning substitutions to replace any of these substances in your designs before you have to do it in panic mode because it was suddenly discontinued.

If you do export into the EU be aware that U.S. companies are not immune to REACH requirements or penalties. U.S. companies that violate REACH are subject to penalties in the country they exported to. Each Member State has its own enforcement regime to address REACH violations. Penalties can be administrative, criminal, economic, and financial with most countries imposing fines between \$65,000 and \$130,000 per violation. Member States may also utilize injunctions, such as market withdrawal order, orders to stop an infringing procedure, and product confiscation.

California: On Oct. 1, California's Safer Consumer Products law (also called the Green Chemistry Initiative) went into effect, with the goal of making hundreds of commonplace consumer items safer - from shampoos and cosmetics to cleaning supplies and food packaging.

The law represents a sea change in how products are made safer. Instead of trying to determine how toxic specific chemicals are, it asks why they are necessary at all. Instead of banning specific chemicals from particular products, such as bisphenol A in baby bottles, they are looking at classes of products. The Department of Toxic Substances Control has prepared a list of about 1,200 toxic chemicals by aggregating authoritative sources. The next step is to develop a list of about 200 products that contain chemicals of greatest concern.

By April, they will select up to five "priority products" for manufacturers to reformulate into safer products using green chemistry. If manufacturers wish to sell those products in California, they must perform a detailed analysis that either justifies their current formulation or results in a safer alternative. The impact will be widespread -- across global supply chains of manufacturers. The lifecycle evaluation will be based not only on risk during product use, but also during manufacture and disposal.

Glenn Tanzman is the principal of Tanzco Management Consulting, a global compliance, supply chain, quality, and operations consulting firm.





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CI Calendar of Training and Events

Nov 22	<u>EHS Sub-council meeting: Chemical & Petroleum Bulk Storage Regulation Refresher</u> — 8:30 am—10 am at the Council of Industry Office, The Desmond Campus, MSMC, Newburgh, NY. No cost for members.
Dec 31	<u>Deadline for Early Bird Discount on Certificate in Manufacturing Leadership Program</u>
Jan 15 & 22	<u>Certificate in Manufacturing Leadership: Fundamentals of Leadership</u> –9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Feb 5	<u>Certificate in Manufacturing Leadership: Best Practices & Continuous Improvement</u> —9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Feb 12	<u>Certificate in Manufacturing Leadership: Human Resource Management Issues</u> —9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Mar 5	<u>Certificate in Manufacturing Leadership: Problem Solving & Decision Making</u> –9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Mar 19	<u>Certificate in Manufacturing Leadership: Positive Motivation & Discipline</u> —9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Apr 2	<u>Certificate in Manufacturing Leadership: High Performance Teamwork</u> —9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY
Apr 9	<u>Certificate in Manufacturing Leadership: Effective Business Communication</u> —9:00 am—4:30 pm at Dutchess Community College, Bowne Hall, Poughkeepsie, NY

*You can find more information on the courses and events listed in our calendar by going to our website—
www.councilofindustry.org or if you are reading our electronic version just press Ctrl and click the course title.*

Manufacturing Job Opportunities

If you have job openings and positions to fill:

- Post it on the Council of Industry Website www.councilofindustry.org
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Financial Matters

Year-end Tax Planning: Expiring Tax Breaks for Businesses May Merit Action Now

From Anchin, Block & Anchin LLP

With the battle in Washington over tax reform, it's difficult to predict what will happen with expiring breaks.

You may want to take steps now to lock in any breaks that can benefit your business while they're still available.

Although tax legislation signed into law this past January made a wide variety of tax breaks permanent, it extended several valuable breaks for businesses only through Dec. 31, 2013. It's possible that some, or even all, of them could be extended again. But with the battle in Washington over tax reform, it's difficult to predict what will happen with expiring breaks.

So you may want to take steps now to lock in any breaks that can benefit your business while they're still available. Don't, however, ignore traditional year-end strategies for your business — or yourself.

Enhanced depreciation-related breaks

Many businesses may benefit from purchasing assets by Dec. 31 to take advantage of depreciation-related deductions that are scheduled to either become less favorable or disappear in 2014:

Bonus depreciation. For qualified assets acquired and placed in service through Dec. 31, 2013, this additional first-year depreciation allowance is, generally, 50%. Among the assets that qualify are new tangible property with a recovery period of 20 years or less and off-the-shelf computer software. With a few exceptions, bonus depreciation is scheduled to disappear in 2014.

Section 179 expensing. This election allows a 100% deduction for the cost of acquiring qualified new or used assets. But, a couple of rules may make Sec. 179 expensing less beneficial to certain businesses:

- For 2013, expensing is subject to an annual limit of \$500,000, and this limit is phased out dollar for dollar if purchases exceed \$2 million for the year. So larger businesses may not benefit.
- The election can't reduce net income below zero. So, for businesses that are having a bad year, it can't be used to create or increase a net operating loss for tax purposes.

The expensing and asset purchase limits are scheduled to drop to \$25,000 and \$200,000, respectively, in 2014.

Breaks for leasehold improvement, restaurant and retail improvement property. All of these breaks are scheduled to expire Dec. 31:

- 50% bonus depreciation. This additional first-year depreciation allowance is available for qualifying leasehold improvements.
- Sec. 179 expensing. You can use part of your Sec. 179 election to deduct up to \$250,000 of qualified leasehold-improvement, restaurant and retail-improvement property.
- Accelerated depreciation. A shortened recovery period of 15 — rather than 39 — years can be applied to qualified leasehold-improvement, restaurant and retail-improvement property.

Although all of these depreciation-related breaks may offer substantial savings on your 2013 tax bill, it's possible they won't prove beneficial over the long term. Taking these deductions now means forgoing deductions that could otherwise be taken later, over a period of years under normal depreciation schedules. In some situations — such as if in the future your business could be in a higher tax bracket or tax rates go up — the normal depreciation deductions could be more valuable.

Credit for hiring from disadvantaged groups

The Work Opportunity tax credit is designed to encourage hiring from certain disadvantaged groups. Examples of qualifying groups include food stamp recipients and nondisabled veterans who've been unemployed for four weeks or more, but less than six months.

For hiring from these groups, the credit generally equals 40% of the first \$6,000 of wages paid, for a maximum credit of \$2,400 per qualifying employee.



Continued on next page



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Please keep in mind, targeted hires must be certified as qualifying within 28 days of their hire in order for the employer to claim the tax credit.

A larger credit may be available for hiring disabled veterans or veterans who've been unemployed for six months or more in the preceding year.

Currently the Work Opportunity tax credit is scheduled to expire Dec. 31. So if new hires from one of the eligible groups might make sense for your business, consider making the hires soon to ensure you can benefit from the credit if it's not extended.

Credit for research

The research credit (also commonly referred to as the "research and development" or "research and experimentation" credit) is for increases in a wide variety of research activities, not just laboratory experiments. Wages for researchers, the cost of research supplies and the cost of computer licensing for research purposes are among those expenses that may qualify.

The traditional research credit is equal to 20% of qualified research expenses over a defined base amount related to your gross receipts and previous research spending. The simplified credit is equal to 14% of qualified spending for that year that's over 50% of your qualified research expenses for the previous three years. As of now, the research credit is scheduled to expire Dec. 31, so you may want to take advantage of this opportunity in 2013.

Tried-and-true tax strategies for businesses

Considering traditional income and expense timing strategies is always a good idea. If you expect to be in the same or a lower tax bracket next year, it's generally a tax-smart idea to defer income to next year and accelerate deductible expenses into the current year. The opposite approach can save tax overall if you expect to be in a higher bracket next year (though it will increase your tax bill this year).

Maximizing tax credits will also help save tax. In addition to the credits mentioned above, examples of credits your business may qualify for include:

- Empowerment zone,
- New markets,
- Energy-related,
- Health care coverage for small businesses, and
- Retirement plan for small businesses.

Some of these credits also are scheduled to expire Dec. 31.

Federal taxation compliance issue for businesses in the Life Sciences industry

A new medical device excise tax was enacted as part of the Affordable Care Act (ACA) under Internal Revenue Code (IRC) Section 4191 effective for sales occurring after December 31, 2012. The tax is 2.3% of the price for which taxable medical devices are sold by the manufacturer, producer or importer. Your company should understand:

- What constitutes a taxable medical device?
- What are the tax exemptions?
- How are the sales of taxable medical devices for further manufacture or export treated?
- What are the tax filing requirements?

The medical device excise tax is reported on Form 720, Quarterly Federal Excise Tax Return, which is typically filed quarterly; medical device manufacturers are generally required to make semi-monthly tax deposits. According to IRS Notice 2012-77, the IRS and Treasury department will provide temporary penalty relief for failure to make timely deposits (under IRC Section 6656) for the first three calendar quarters of 2013.

Your individual tax plan

Although most tax breaks for individuals were made permanent, year-end tax planning is still critical for individuals — especially higher-income taxpayers. Why?

Beginning in 2013, the top ordinary rate of 39.6% and top long-term capital gains rate of 20% return for taxpayers with taxable income that exceeds \$400,000 (singles), \$425,000 (heads of households), or \$450,000 (married couples filing jointly).

Also beginning in 2013, under the 2010 health care act, an additional Medicare tax on earned income and a new Medicare tax on net investment income will be imposed when income exceeds certain levels. The additional 0.9% Medicare tax applies to FICA wages and self-employment income exceeding \$200,000 (singles and heads of households) or \$250,000 (married couples filing jointly). The new 3.8% Medicare tax applies to net investment income to the extent that modified adjusted gross income exceeds those same thresholds.

Finally, the income-based reductions on itemized deductions and phase-out of personal exemptions return in 2013. The thresholds for them are \$250,000 (singles), \$275,000 (heads of households) and \$300,000 (married filing jointly).

All of these tax increases warrant additional year-end, but you can take steps to help minimize their impact.



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Energy Matters

America's Move Toward Being an Energy (LNG) Exporter

By Randy Burns, Senior Market Intel Analyst, Direct Energy Business, Council of Industry Associate member

America as an exporter of energy? That doesn't sound right, does it? The country's large demand for energy has made it an energy importer despite being the world's top producer, having just surpassed Russia and Saudi Arabia this year. Due largely to the production of natural gas from shale, the US has the potential to consistently be a net exporter of energy for the first time since 1949 thanks to Liquefied Natural Gas (LNG). Many questions are being asked such as: What is LNG? What is LNG's role in the broader U.S. energy picture? What is LNG's role in the global natural gas market? This post will focus on those answers, as well as take a look at the current projects underway in the U.S.



What Is LNG?

LNG is natural gas that has been cooled to -260 degrees Fahrenheit until it becomes a liquid. The cooling process is known as Liquefaction, while the corresponding process to return LNG to its gaseous state is known as Regasification. The volumetric equivalent is reduced by approximately 600 to 1 allowing for transport across large distances on ocean tankers. It is this last characteristic of LNG that presents a huge opportunity for the U.S. given the current global natural gas market and the large increase in U.S. supply. LNG serves several purposes in the natural gas market:

- 1) It can be imported or exported using tanker ships,
- 2) It is used for domestic storage and
- 3) It can also be used as a vehicle fuel.

What Is LNG's Role in the Broader U.S. Energy Picture?

Prior to 2007, U.S. LNG imports were increasing as the country strove to meet its increasing natural gas demand. This happening during a time when domestic production was flat and several new import facilities were opened between 2005 and 2010. However,

since the proliferation of drilling natural gas from shale has resulted in a well-supplied market, the level

of LNG imports has decreased dramatically thereby drumming up potential for exports.

It is worth noting that the Northeast U.S. natural gas market will remain dependent on LNG imports to meet their demand. Currently, there is insufficient pipeline capacity, or other methods of transport, to deliver shale gas to the New England region.

What is LNG's Role in the Global Natural Gas Market?

Where will the exports go? Western Europe and Asia don't have the same access to natural gas reserves as the US and as a result, the price of gas in these countries can be two to three times higher than the U.S. cost. This price disparity is especially evident in Japan where they experienced \$14/MMBtu prices at the end of 2012. Also, following the Fukushima tragedy, Japan shut down all of their nuclear power plants and is relying primarily on natural gas to fuel electricity generation. European nations are heavily reliant on costly pipeline supplies from Russian to meet winter demand.

There is a lively debate in the US whether LNG exports should be allowed. Exports benefit the energy industry and create jobs, but there is risk that gas prices will rise and the domestic industry will lose its advantage of low cost energy. It's difficult to predict the result of this debate. The debate is not slowing down developers of LNG export terminals. More than 30 terminals have been proposed (<https://www.ferc.gov/industries/gas/indus-act/lng/lng-proposed-potential.pdf>), but only four have received approval to export to non-FTA (Free Trade Agreement) nations giving access to key European and Asian markets. And only one plant is under construction by Cheniere Energy at Sabine Pass, LA. It is highly unlikely that all the sites will be built due to:

- 1) Huge capital development costs to build terminals,
- 2) Eventual international shale gas development that will limit the duration of opportunities and
- 3) Price impact of exports if the market is flooded with supply with prices being higher in the US and lower abroad.

If built, these export terminals will allow for gas to be liquefied and shipped abroad for a substantially higher price. The four sites approved thus far have the capability to export approximately 6 Bcf/day in or around 2017, but that date is also uncertain.

What's the Bottom Line?

The bottom line is that LNG exports are likely to occur, although not for a few years. And due to shale gas and new technologies, the U.S. has a tremendous opportunity to turn a once bleak energy scenario into a very profitable one. It will be very interesting to watch how the U.S.' move to export LNG plays out.



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Continued from page 6

Healthcare Reform Update

Avoid “messing” with your insurance contract renewal dates. The Treasury Regulations promulgated under the ACA basically “freeze” a group health plan’s year to the 12-month period that was defined as the “plan year” as of December 27, 2012. Thus, it is too late for employers to try to delay the ACA’s effective date by altering their plan year. An insurance contract that may be used to pay for health plan benefits only constitutes the plan’s funding mechanism, it is not, by itself, the “plan.” Therefore, changing the renewal date of the insurance contract that funds a group health plan will not be successful in altering the actual plan year. The only consequence of changing an insurance policy renewal date at this point will be to have a plan that must comply with the ACA by January 1, 2014, and a non-compliant insurance policy that funds the plan into or through 2014. Both large and small employers should avoid doing this.

Take the time to model the impact of the ACA’s mandates and penalties. The removal of the ability of insurance carriers and self-funded plans to limit liability by imposing annual and lifetime benefit limitations compels the recognition that the financial risk of offering group health plan benefits has risen and, therefore, so will the cost of coverage. It is thus imperative for all employers to model the impact of potential rising cost of coverage, the non-deductible expense of ACA penalties, the effect of moving employees from full-time to part-time status, and the affordability of different group health plan designs in order to forecast and plan for the impact of the ACA on the employer’s “bottom line.” Modeling various ACA-driven scenarios allows employers to control the ACA’s impact, rather than being driven by it. The employer that finds an accounting or consulting firm with good ACA-modeling software and takes advantage of it will be better able to respond to the ACA’s mandates.

ACA compliance, like most legal compliance endeavors, will be easier, more cost-efficient and effective if approached proactively. The next two years undoubtedly will provide many ACA-transition challenges. Employers that take advantage of the upcoming months to undertake these six steps will be better prepared to meet the challenges, both financially and operationally.

ACA compliance, like most legal compliance endeavors, will be easier, more cost-efficient and effective if approached proactively.

Consumer Price Index for Sept. 2013

				<u>Point</u>	<u>%</u>	<u>% Increase</u>
Wage Earners & Clerical	Sept. '12	Sept. '13	Aug. '13	Increase	Month	Year
1967=100	679.69	686.70	686.17	0.53	0.1	1.0
1982-84= 100	228.18	230.54	230.36	0.18	0.1	1.0
All Urban Consumers						
1967=100	693.19	701.41	700.59	0.81	0.1	1.0
1982-84=100	231.41	234.15	233.88	0.27	0.1	1.0
Hudson Valley unemployment rate for September 2013 = unavailable						

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**Continued from front page
Annual Luncheon**

The National Association of Manufacturers is the nation's largest industrial trade association, representing nearly 12,000 manufacturers in every industrial sector and in all 50 states. Their mission is to be the voice of all manufacturing in the United States and inform policymakers about manufacturing's vital role in the U.S. economy. Mr. Monroe is responsible for public affairs activities, including grassroots engagement, issue advocacy and election programs. His team also is responsible for allied organizations, affiliated state associations and meetings management. NAM's four growth goals are:

- The United States will be the best place in the world to manufacture and attract foreign direct investment.
- Manufacturers in the United States will be the world's leading innovators.
- The United States will expand access to global markets to enable manufacturers to reach the 95 percent of consumers who live outside our borders.
- Manufacturers in the United States will have access to the workforce that the 21st-century economy demands.

Monroe explained that one of NAM's top priorities is tax reform at both the corporate and individual level. NAM would like to see corporate taxes reduced to below 25% without an impact on individual tax. He also said top issues after tax reform among manufacturers include raising healthcare costs, unfavorable business climate, and the skills gap and other workforce issues.

Monroe encouraged advocacy efforts among Hudson Valley manufacturers such as participation in the Manufacturing Summit in Washington DC, writing letters to elected officials about the impact legislation or proposed legislation has on their business and holding tours of their facilities for legislators. He said surveys show that the most effective way to influence your elected officials is with a face to face interaction. Monroe took part in



Keynote speaker Ned Monroe, senior vice president of the National Association of Manufacturers, explains the relationship of Federal Government receipts & expenditures as a percent of the GDP from 1947 to present.

a tour earlier in the day of MPI, a manufacturer of wax injection equipment for investment casting and jewelry, in Poughkeepsie. After the tour a round table discussion was held with local industry CEOs.

The Council of Industry has been the manufacturers association of the Hudson Valley since 1910 and has held an annual event like this luncheon for its members since the beginning. It is the sponsors that make these events possible and the council would like to thank **Joe Pietryka, Inc.** for being a major sponsor and **Central Hudson, The Chazen Companies, Fair-Rite Products** and **TD Bank** for being supporting sponsors.

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Continued from page 5 More Personnel Matters

Further, in addition to satisfying the regular Form 941-X filing requirements, including repaying or reimbursing employees, obtaining required statements (and consents, if applicable) from employees and writing "WINDSOR" at the top of the form, the employer must also file Forms W-2c, which reflect employees' corrected wage and tax amounts. Employers may file a Form 941-X and Forms W-2c for prior tax years still open under the statute of limitations, which are generally tax years beginning in 2010, 2011, and 2012.

The deadline for filing a Form 941-X is the later of three years from the date the original Form 941 was considered filed (Forms 941 are considered filed on April 15th of the succeeding calendar year if filed before that date), or two years from the date the taxes reported on the Form 941 were paid. For 2013 Forms 941, this means that the deadline is April 15, 2017, or, if later, two years from the date the taxes reported on the Forms 941 were paid.

Conclusion

Employees and employers that have paid income and employment taxes attributable to benefits provided to an employee's same-sex spouse may now seek refunds or adjustments for those taxes. Refunds and adjustments should generally be available for tax years beginning in or after 2010. Employees seeking refunds of income taxes will have to file amended individual tax returns for prior open years. Employers seeking adjustments/credits may take advantage of the special procedures described above and should be cognizant of the year-end deadline described in the special procedure applicable to 2013.

Continued from page 10 Financial Matters

worse, are enabled by executive management. But, ultimately, it is essential to understand that leaders must maximize effectiveness of its assets—its employees—daily and that rude, inconsiderate or dismissive behaviors not only demean these essential employees but also cause irreparable damages to an organization's morale, productivity, customer service and satisfaction and, of course, the bottom line.

Employees, quite simply, want to understand their jobs, be treated with dignity and respect and feel they are valuable, purposeful contributors. This cannot happen when incivility and, worse, bullying permeate an office space.

Sources:

Pearson, Christine & Christine Porath, "The Price of Incivility." *Harvard Business Review*, January/February 2013

Campaign Against Workplace Bullying, "The Baltimore Workplace Civility Study." January 2003

Grant Lewis, Executive Coach, Full Contact leadership Development, LLC, Poughkeepsie, NY.

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