



News from the Hill

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New Laws, Regulations Impacting Your Bottom Line

This month, let's discuss some of the changes in the laws and regulations most directly affecting your bottom line: tax laws, minimum wage, new requirements for compliance guides, and European cost/fee regulations.

Increased Expensing Limits

Planning on investing in new equipment? The government has increased the expensing limits for this tax year and future tax years.

For last year (FY06), a company could expense up to \$100,000 worth of new equipment. If a company purchased more than \$400,000 worth of depreciable equipment, the expensing provision was phased out.

Under the new law, beginning with this tax year (2007), a company can expense up to \$125,000 worth of new equipment. If a company purchases more than \$500,000 worth of depreciable equipment, the expensing provision is phased out.

This increased expensing is a benefit to repair stations that are considering making investments in new equipment, from test equipment to new office furniture. The expensing provision permits a company to deduct 100 percent of the value of the investment in the same tax year it is purchased and put into service, instead of depreciating the investment over a period of years. This acceleration of deductions puts more money into the hands of the

business to follow-up on the capital investments it is making.

For example, an avionics shop buys new office furniture, which costs \$45,000, and a new diagnostic computer system, which cost \$85,000. The computer is considered to have a five-year class life for IRS depreciation purposes, and the office furniture has a

The increase in the expensing provision is not just a boon to avionics shops, however. It also is useful to customers considering avionics upgrades for their business aircraft. The change in the tax laws reflects an extra \$25,000 in avionics purchase, which can be immediately expensed instead of being depreciated.

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class life of seven years for IRS depreciation purposes. The repair station has a total of \$130,000 in equipment expenses for the tax year. Under the new expensing provisions, \$125,000 of this amount may be expensed rather than being depreciated. The distributor probably will elect to expense the office furniture and all but \$5,000 worth of the computer system. The remaining \$5,000 in computers would be depreciated over the five-year class life.

This choice maximizes deductions by accelerating deductions under the expensing provision and also by choosing to accelerate the seven-year class life equipment so only the five-year class life equipment becomes the equipment actually subject to the normal depreciation schedules.

Details on the new tax provisions are available in Public Law 110-28, Section 8212. Specific details of your own tax strategy should be discussed with your tax accountant.

Minimum Wage Increases

On May 25, 2007, President Bush signed a new law increasing the federal minimum wage. The last increase was 10 years ago, in 1997.

The new federal minimum wage increases to:

- \$5.85, effective July 24, 2007
- \$6.55, effective July 24, 2008
- \$7.25, effective July 24, 2009

This new increase could affect AEA members who have tied their pay scales to the minimum wage, or who employ part-time or temporary help at lower wages.

Many states also have minimum-wage laws. For cases in which an employee is subject to both the state and federal minimum-wage laws, the employee is entitled to the higher of the two minimum wages. The minimum-wage rate in several states is tied to the federal rate in various ways; so, it is important to find out how this federal minimum-wage increase affects the state(s) in which you do business.

Currently, there are five states with no minimum-wage law: Alabama, Louisiana, Mississippi, South Carolina, and Tennessee. In those states, employers simply are required to follow the federal minimum wage.

Small Business Compliance Guides

Congress recently passed a law requiring agencies to publish one or more small entity compliance guides for certain rules. For groups of related rules, the FAA could publish a single guide for all of the rules in Part 145, for example.

The guides must be published whenever an agency is required to prepare a final regulatory flexibility analysis. The guides will explain to small businesses in simple language how they can comply with the rules in question.

In many ways, they will be similar to the FAA's existing advisory circulars. But the new rule makes it clear these compliance guides cannot add additional requirements to the requirements published in the regulation(s) — they can only describe how to comply with the rules themselves.

Most importantly, the new compliance guides are required to explain to small businesses the actions needed to meet the requirements of the rule and enable the small entity to know when such requirements are met. This often has been a problem with some of the FAA's rules because they are sufficiently ambiguous and there is no clear standard for when the rule has been met. The purpose of the compliance

guides is to remove that ambiguity.

Having a compliance guide that removes the ambiguity in the major-minor analysis of alterations would be a tremendous help to small businesses (but such a guide is unlikely to be published as a consequence of this new law because the FAA is unlikely to publish a new regulation necessitating the publication of such a guide).

The guides are required to be published on the agency's website and they must be published before the effective date of the rule in question (and on the same date as the promulgation of the rule, if possible).

Details on the new, small-business compliance guide provisions are available in Public Law 110-28, Section 8302. The AEA lauds any efforts by the FAA to provide clearer guidance on how to comply with the rules.

New Fees and Charges in Europe

On June 1, the European Aviation Safety Agency issued its new fees and charges rule. This rule establishes that EASA will charge for all of its services, and it sets the amounts EASA will charge for certain services.

Under the new rule, repair stations in the United States wanting to obtain an EASA Part 145 certificate will have to pay 1,500 euros (about \$2,010 U.S. dollars) for the initial certification, and 750 euros (about \$1,005 U.S. dollars) as an annual fee.

So, do you have any recourse if you disagree with an EASA decision? Well, it depends on whether or not you have deep pockets. There is a fee for appealing an EASA decision. The base flat fee of 10,000 euros is modified by the size of the organization; therefore, small organizations (those with annual European revenues of 100,000 euro or less) would pay as little as 2,500 euro for an appeal. The largest companies could pay \$100,000 just to file the appeal. These sums do not include attorneys' fees nor the cost to plead

your case before EASA.

Many companies in the United States and elsewhere have raised complaints about this new rule. One complaint raised is the fees do not accurately reflect the level of effort EASA puts into its functions.

FAA inspectors who act as EASA's agents under the existing bilateral agreements between the U.S. and the European nations, for example, actually inspect European repair stations in the United States. EASA makes non-bilateral foreign repair stations pay even more — a small two-man avionics shop (with a full range of airframe ratings for installation on any aircraft) in a non-bilateral country could pay 14,500 euro for initial certification, then 13,800 euro every two years to retain the certificate.

Other Americans complain the new fees regulation undermines the harmonization effort by making it just as costly to rely on harmonization for validation purposes, as it would be to engage in a full-blown certification project. A type certificate can cost up to 2.6 million euros (about \$3.5 million U.S. dollars) for the largest aircraft, regardless of whether it is obtained by validation or by the normal certification process.

Avionics shops working on European aircraft and needing to obtain data approval from EASA will discover the new fees need to be figured into their repair quotes and/or budgets. For large aircraft (more than 150 tons), approval of major repair data can cost between 3,000 euros (about \$4,020 U.S. dollars) and 20,000 euros (about \$26,800 U.S. dollars) based on the complexity of the repair or alteration. A European supplemental type certificate (STC) can cost up to 25,000 euros (about \$33,500 U.S. dollars).

These figures reflect steep processing costs for obtaining European approval.

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U.S./European Community Bilateral Agreement

Many Americans have anxiously awaited the bilateral agreement between the European community and the United States — and we might have to wait a little while longer.

Some elements of this anticipated document received early implementation in April. These elements included provisions for the formal validation of repair data approved by the other authority. The early implementation was based, in part, on the immanency of the new bilateral agreement.

Originally scheduled to be signed at the Paris Air Show in June, signage of the bilateral agreement has been postponed indefinitely because of a conflict involving the new EASA fees and charges regulation. Some are claiming elements of that new regulation undercut decades of harmonization efforts between the U.S., Europe and other parts of the world.

Political reality likely will force a signature on the bilateral agreement later this year. The fact is the bilateral agreement is good for both U.S. and European aviation businesses.

With FAA Administrator Marion Blakey scheduled to retire from the FAA at the end of her five-year term in September, it is possible the final solution will be reached soon so she can sign the bilateral agreement before her term ends.

There is only limited room for compromise, however. EASA has announced it cannot change the fees and charges regulation once it is promulgated by the European community. □