Jewelers of America

2013
GUIDE TO LEGISLATIVE ISSUES




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INTRODUCTION

ABOUT JEWELERS OF AMERICA

Jewelers of America is the national trade association for businesses serving the fine jewelry retail marketplace. Jewelers of America's primary purpose is to improve consumer confidence in the jewelry industry by: serving as a forum for discussion and analysis of issues; playing a leadership role in public, government and industry affairs; advocating professionalism, including high ethical, social and environmental standards; and facilitating members' access to education.

ABOUT THIS GUIDE

Jewelers of America has a strong presence in Washington, D.C., where our legislative counsel works on members' behalf to monitor legislative and regulatory activity that might impact the jewelry industry. Counsel also works closely with policymakers to protect the interest of members.

Jewelers of America also recognizes that state-level legislation can impact the jewelry industry. What follows is a report on some of the most important issues the association is tracking in the 113th Congress and in the states.

CONTACT INFORMATION

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SALES TAX FAIRNESS

BACKGROUND

Under the Supreme Court's Quill decision (1992), remote sellers – such as Internet retailers – are not required to collect sales taxes for sales made to purchasers located in states where the seller does not have a physical presence. At the time of the decision, it was considered too difficult for remote sellers to collect and remit taxes to so many different jurisdictions.

What's changed today is that the Streamlined Sales and Use Tax Agreement (SSUTA) has simplified and streamlined state tax collection, enabling remote sellers to easily collect state and local taxes. Thus, Jewelers of America is now pressing for legislation that would permit states to require that remote sellers collect their sales taxes, which would effectively overturn the Quill decision.

WHY IS THIS IMPORTANT TO JEWELERS?

Retailers who do the bulk of their business from brick-and-mortar stores are at a competitive disadvantage to remote sellers: Main Street retailers are required to collect sales taxes; remote sellers aren't. Customers can go to stores and research purchases, and then buy them from an Internet retailer to avoid paying sales tax. The majority of brick-and-mortar retail jewelers have lost key diamond sales to online-only diamond sellers over the past few years.

WHAT'S NEW?

Two viable sales tax fairness bills were introduced during the 112th Congress as e-fairness legislation received unprecedented bipartisan support.

The bills would have allowed states more flexibility in how they collect taxes owed and included exemptions for small businesses. The bills received strong momentum throughout 2012 for passage, but was overcome by the "fiscal cliff" crisis during the final months of the year. Jewelers of America's legislative counsel, Haake & Associates, continues to represent the association in multiple, influential e-fairness stakeholder groups and is working to ensure that the voices of Jewelers of America leadership and its members are heard on this important issue. We expect a favorable landscape for reintroduction and passage of e-fairness legislation this year.

Take action to support sales tax fairness here: http://www.capwiz.com/jewelers/issues/

EXTENSION OF 15-YEAR STORE IMPROVEMENTS DEPRECIATION

BACKGROUND

The cost of improvements made to retail stores is generally depreciated over 39 years. Jewelers of America worked with President Bush and Congress to have a provision included in a post-September 11th stimulus bill that reduced the recovery period to 15 years. The association has been a leader on this issue and has worked with Congressional leaders to have the provision extended and expanded several times since 2002.

WHY IS THIS IMPORTANT TO JEWELERS?

Owners must periodically refurbish and replace many structural components of their buildings to remain competitive. A 39-year depreciation schedule on these improvements is unfair and unrealistic. Reducing the recovery period to 15 years allows a store owner to recover his/her investment quicker and increase cash flow over that period.

WHAT'S NEW?

As part of the American Taxpayer Relief Act (Fiscal Cliff Deal or H.R. 8), Congress extended the 15-year leasehold improvement depreciation through the end of 2013. Jewelers of America supports this extension and believes the provision – which saves retailers and other eligible businesses $4.8 billion over 10 years, according to congressional estimates – should be made a permanent feature of the tax code.

LIFO REPEAL

BACKGROUND

In 2006, members of the Senate suggested repealing the last-in, first-out (LIFO) inventory accounting method to pay for a gas tax rebate. As leaders of the Senate Finance Committee came to understand how widespread the use of LIFO is, and how devastating repeal would be to companies that use it, the proposal was withdrawn. In 2007, Rep. Charles Rangel (D-NY) introduced a tax reform plan that also included LIFO repeal, but the measure was not acted upon. In early 2009, the Obama Administration once again introduced the idea of LIFO repeal, as one means to raise taxes to pay for the growing budget deficit.

WHY IS THIS IMPORTANT TO JEWELERS?

This repeal would negatively affect many small businesses, including Jewelers of America members, given that businesses often use the LIFO accounting method to decrease their profits and thus minimize taxes. LIFO can help small businesses maximize after-tax cash flow, which in turn may reduce the need to borrow and incur additional financing costs. It is also a useful accounting method when the costs of inventory are rising, as they are currently in the jewelry industry.

WHATS NEW?

Multiple LIFO reform and repeal options were considered but ultimately rebuffed in 2012. President Obama has included LIFO repeal in each of his preceding budget proposals. Jewelers of America's legislative counsel, Haake & Associates, anticipates the President will again seek to repeal LIFO in his budget proposal for fiscal year 2014.

In fighting LIFO repeal, Jewelers of America continues to serve as an active member of the LIFO Coalition's Lobbying Committee and played a critical role in their efforts to educate Congress and key Administration decision makers on the harmful economic impact a repeal would have on countless large and small businesses. A critical victory for the LIFO Coalition and Jewelers of America came in the form of a July 2012 Final Securities and Exchange Commission (SEC) Staff Report on U.S. adoption of the International Financial Reporting Standards (IFRS), under which LIFO is not allowed. The SEC report made no recommendations regarding adoption of IFRS, but significantly, the report noted the importance of LIFO to certain companies, among several other supportive references to LIFO.

While Jewelers of America has won the battle to keep it as a legitimate option for jewelry businesses for now, pressure remains. The measure could raise an estimated \$60 to \$80 billion over 10 years keeping it an attractive revenue-raising option to policymakers in both the Administration and Congress.

Jewelers of America continues to lead the opposition to LIFO repeal within the jewelry trade, providing information and materials to assist other industry associations to also fight repeal (the association has learned that many manufacturers and others in the supply chain also use the LIFO accounting method).

Take action to protect LIFO here: www.capwiz.com/jewelers/issues/

ESTATE TAX

BACKGROUND

In keeping with the post-September 11th Bush tax packages, the estate tax was phased out over a number of years. There was no estate tax in 2010.

WHY IS THIS IMPORTANT TO JEWELERS?

Jewelers of America believes a return to 2002 estate tax levels would be onerous and unfair to jewelers, whose businesses are often family-owned.

WHAT'S NEW?

As part of the American Taxpayer Relief Act (Fiscal Cliff Deal or H.R. 8), Congress made permanent the existing exclusion amount of $5 million for individuals and $10 million for couples. The deal also increased the top tax rate from 35% to 40% on estates that exceed those thresholds.

This represents a victory for Jewelers of America and its members. Had Congress failed to address the estate tax in the Fiscal Cliff Deal, this year the effective rate and exemption level would have reverted to 55% and $1 million for individuals ($2 million for couples).

PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2010

With the passage of health care reform in 2010, jewelry businesses will need to look at how the law could have an effect on their businesses – and their customers – over the next few years. Jewelers of America's legislative counsel in Washington, D.C., prepared the following breakdown of the health care law for Jewelers of America members.

PENALTIES FOR CERTAIN EMPLOYERS

Starting in 2014, firms with more than 50 employees that do not offer coverage will have to pay a fee of up to $2,000 per full-time employee, if any of their workers get government-subsidized insurance coverage in the exchanges. The first 30 workers would be excluded from the assessment.

If an employer offers coverage but the coverage is deemed unaffordable to a full-time employee, that employee can opt out to buy from the new purchasing exchange. The company would then be assessed a penalty of the lesser of $3,000 for each full-time employee who receives a premium subsidy from the exchange, or $2,000 for each full-time employee on the payroll (excluding the first 30 full-time employees).

TAX CREDITS FOR CERTAIN EMPLOYERS

Companies that have 25 or fewer employees and a workforce with an average wage of up to $50,000, could get tax credits to help buy insurance for their employees through the state exchanges that will eventually be set up.

Tax credits of up to 35% of the cost of premiums were made available in 2010 and will reach 50% in 2014. The full credits are intended for the smallest firms with the lowest paid workers. The subsidies are phased out as a company's workforce and average wages rise.

More information about the tax credit for small business can be found here at the IRS website, www.irs.gov.

In 2014, small businesses with less than 100 employees will be able to purchase insurance through the state-run exchanges.

TAX INCREASES ON CERTAIN TAXPAYERS

Most of the $940 billion bill will be paid for by an increase in taxes on upper-income taxpayers. Beginning in 2013, the legislation imposes a new 3.8% tax on all unearned income – including capital gains, dividends and rental properties – for individuals earning more than $200,000 per year and married couples earning more than $250,000 annually. Also beginning in 2013, these taxpayers will see their Medicare Hospital Insurance payroll tax rate increase by .9% to 2.35%.

The law has also put in place, effective January 1, 2013, a decrease in deductions for medical expenses. The threshold for claiming an itemized deduction on medical expenses has risen from 7.5% to 10% of adjusted gross income for individuals under 65. In 2016, the 10% threshold will also apply to those 65 and older.

INSURANCE INDUSTRY REFORMS

The legislation contains several insurance industry reforms that could impact Jewelers of America members.

Going into effect immediately: a ban on lifetime limits on coverage and on "rescission" (canceling policies already issued) except in cases of fraud.

In 2014, a number of other reforms kick in: insurers will no longer be able to set rates or exclude coverage based on pre-existing conditions and can vary premiums only by geographic location, age and tobacco use.

WHAT'S NEW?

Provisions, like the Medicare Tax Increase and a decrease in deductions for medical expenses for those under 65, are in place as of January 1, 2013.

In June 2012, the U.S. Supreme Court largely upheld the health care law. Challenges to the law had focused primarily on the individual mandate, a requirement that all Americans buy health coverage or pay a fine. The court ruled that the fine amounted to a tax that the government had the power to impose and therefore could stand.

The decision did restrict the expansion of Medicaid, which was a key provision. Under the ruling, states have some flexibility if they choose not to expand their Medicaid programs and will not have to pay financial penalties called for under the law.

The Supreme Court's decision does not end the debate over health care reform. Jewelers of America will continue to watch the issue closely.

MINING REFORM

BACKGROUND

The 1872 Mining Law has not been significantly reformed since its original passage.

Jewelers of America supports meaningful reform that will help protect our natural resources by encouraging environmentally sound mining practices. The association believes that reform of the 1872 Mining Law will help protect the health and profitability of mines the jewelry industry will depend on for years to come.

WHY IS THIS IMPORTANT TO JEWELERS?

Jewelers of America has long been an advocate of responsible mining and conservation practices. The association believes the jewelry industry can be profitable, while still supporting efforts to protect the natural resources affected by hardrock mining.

WHAT'S NEW?

In November 2011, Rep. Ed Markey (D-MA 7) introduced the Fair Payment for Energy and Mineral Production on Public Lands Act of 2011 (H.R. 3446). The bill was referred to the House Natural Resources Committee's Subcommittee on Energy and Mineral Resources and was not enacted. A key component of the legislation would have been reform of the 1872 Mining Law.

Also in 2011, President Obama shared his plans for significant royalties and fees on hardrock mining to help with abandoned mine cleanups and federal deficit reduction. The President proposed a fee of 7.8 cents per ton of material displaced that would apply to all U.S. mining – not just on federal land. He proposed a royalty on hardrock mining on federal land to be set at 5% of the gross value of output. Additionally, the proposal included a $1 per acre per year fee to maintain a lease on federal land.

H.R. 3446 would have imposed higher royalty fees – a 12.5% gross royalty tax on the mining of locatable minerals on federal lands – which are opposed by the National Mining Association.

Jewelers of America will continue to watch this issue. We support reforms that make business sense while protecting the environment and providing a fair return to taxpayers from federal mineral resources.

TAX/ENTITLEMENT REFORM

BACKGROUND

The federal deficit – which has been rising over the past decade – is of major concern to legislators and policymakers. Spending on programs like Medicare and Social Security are expected to outpace revenue growth as the country's population ages. With that in mind, legislators will have to look at ways to reduce the deficit in the short and long term.

WHY IS THIS IMPORTANT TO JEWELERS?

There will be much debate and negotiation, but most observers say small adjustments won't be effective in balancing the budget and that all categories of spending and revenues will be included. This long and difficult process is sure to impact all industries, including jewelry.

WHAT'S NEW?

Reducing the national debt was at the top of the legislative agenda for the 112th Congress and remains a priority for the new Congress. In the short-term, Congress must address three fiscal policy matters: an increase in the federal debt limit; the implementation of approximately $109 billion in across-the-board domestic and defense spending cuts known as sequestration; and the continued funding of the federal government. Lawmakers have already postponed the debt ceiling debate to mid-May this year. Sequestration will need to be addressed by March 1, while funding for the federal government is set to expire March 27.

Layered on top of these immediate issues are tax reform and entitlement reform. There appears to be general bipartisan agreement in Congress and in the country that the current tax code is too complicated and unfair and that social programs cannot be left unchecked. Erskine Bowles and Alan Simpson, co-chairs of President Obama's deficit commission have stated, "Our leaders must now have the courage to reform our tax code and entitlement programs such that we stabilize our debt and put it on a downward path as a percent of the economy."

Congress' goal will be to reduce the deficit (pay down our debt) and at the same time reduce current levels of spending. There will be pressure for more tax revenues by those hoping to minimize painful spending cuts. Republicans will argue that the tax increases agreed to as part of the Fiscal Cliff Deal should close the door on additional tax increases.

If Congress does, in fact, take up comprehensive tax and entitlement reform, Jewelers of America will have to be an active participant in the debate. Jewelers of America's legislative counsel, Haake & Associates, will continue to work with members of the Senate Finance and House Ways and Means committees to ensure the association has a voice at the negotiating table when tax reform is seriously considered.

STATE LEGISLATION

STATE SALES TAX FAIRNESS

In 2010, Jewelers of America began to track state-level sales tax fairness legislation and joined the American Booksellers Association in urging gubernatorial candidates to consider e-fairness at the state level.

The issue of sales tax equity on the state level continues to gain momentum. Provisions that uniformly enforce existing sales tax law have passed in several states, including New York, California, North Carolina, Illinois, Kansas, Utah and Connecticut. These laws require e-tailers that have a nexus in a state – through affiliates, warehouses or subsidiaries – to collect sales tax.

Jewelers of America supports a federal solution to this issue, but state-level laws have contributed to the increased momentum on the federal level.

Take action to support state sales tax fairness here: www.capwiz.com/jewelers/issues/

LUXURY TAX LEGISLATION

Jewelers of America believes luxury taxes or surcharges that target jewelry or expensive products have a negative impact on businesses, deterring purchases and not bringing in the tax revenues that legislators intend. In the past (most recently in the early 1990s), the Congress enacted, but then quickly repealed, excise taxes on luxury goods after they proved to be utter failures. These taxes were complex to administer, raised virtually no revenue and caused workers in the affected industries to lose their jobs, which increased unemployment costs to the states.

While Congress has wisely not attempted to pass another federal luxury tax, several state-level bills have been introduced over the last few years. Jewelers of America has been active in fighting against these measures.

In 2009, Jewelers of America helped to successfully fight luxury tax proposals in New York and Illinois.

In 2011, Jewelers of America spoke out against a luxury tax of 3% on jewelry over $5,000 in Connecticut. Legislators eventually passed a bill that imposed a .65% additional tax on jewelry over $1,000.

In 2012, Jewelers of America fought against a luxury surcharge introduced in the Maryland legislature. It would have imposed a "luxury" surcharge on most retail sales over $5,000 (including jewelry).

CHILDREN'S JEWELRY LAWS

Jewelers of America supports the ASTM Children's Jewelry Safety Standard (F2923-11), which sets safe limits for heavy metals – such as cadmium and lead – in fine and fashion jewelry. It was developed in response to various federal and state government initiatives to limit the amount of cadmium and other heavy metals in children's jewelry and other products. These efforts arose after a January 2010 Associated Press investigation identified dangerous levels of cadmium in some Chinese-made children's costume jewelry.

Jewelers of America, along with the Manufacturing Jewelers & Suppliers of America (MJSA) and the Fashion Jewelry & Accessories Trade Association (FJATA), is urging state legislators who are considering children's product safety legislation to look to the standard as a way to ensure the safety of children without having a negative impact on business.

Take action to support the Children's Safety Standard here: www.capwiz.com/jewelers/issues/

METALS BUY-BACK LEGISLATION

With precious metals prices reaching record highs, a number of states have introduced or passed laws to regulate precious metals dealers. In some cases, this regulation has extended to retail jewelers who buy back precious metals. For example, in 2012 the Ohio General Assembly introduced a bill that would require anyone who advertises to the public that they buy back precious metals or jewelry of any kind to be licensed. Currently, businesses that derive less than 25% of their overall business from these transactions are exempt from Precious Metals Dealers licensing.

In New York, the assembly introduced a bill, which would have required businesses that purchase silver, gold and platinum to display current prices. Jewelers of America spoke out against the proposal, which would have had a negative impact on jewelers by confusing customers on the issue of jewelry value as it relates to precious metal content.

Jewelers of America continues to watch precious metals legislation and will provide more information as needed.