



December 17, 2019

[www.vpcma.com](http://www.vpcma.com)

## **Northam Proposes 12 Cent Motor Fuels Tax Increase, Cigarette Tax Increases, and New Tax on "Skill Games"**

Presenting his budget to the General Assembly's money committees this morning, Governor Northam proposed to raise the motor fuels tax to 34 cents per gallon, phased in over three years at 4 cents per year. Unaddressed was his support of the Transportation Climate Initiative which has proposed an additional fuels tax surcharge which would impose an additional 10 to 15 cents per gallon "emissions penalty" on each gallon sold. The Northam plan recommends eliminating the annual vehicle inspection and fee, arguing that studies show no link between inspections and highway safety. He also proposes to cut the state's vehicle registration fee in half. The current registration fee for most passenger cars is \$40.75.

Also included is a plan to regulate and tax "skill games" to generate at least \$50 million in the first year and \$75 million in the second year of the budget to protect Lottery profits for education. If unsuccessful, the administration may seek to simply ban the games. Finally, the governor proposes to increase the cigarette tax from 30 cents a pack to 60. We will be reviewing all of this proposal in the coming days.

The General Assembly will consider his proposal during a 60 day session that begins January 9th. Given the fact that Democrats are now in control of both legislative branches, the chances for the success of the governor's proposals are enhanced.

---

## **Congressional Leadership Strike Deal on Tax Extenders/Government Spending Package**

*From PMAA*

In the wee hours of this morning, Congressional leadership reached an agreement on a tax extender's package including a **retroactive extension of the \$1 per gallon biodiesel blender's tax credit through December 31, 2022**. Congress is expected to attach the tax extender's package to a must-pass government spending bill which is slated to be approved by the end of this week. The White House is expected to sign the agreement into law before the December 20th government funding deadline. A retroactive multiyear extension of the biodiesel blender's tax credit is a significant win for PMAA, NATSO, NBB, NACS, NEFI, SIGMA and the Advanced Biofuels Association.

Additionally, in a major victory for PMAA, the **tax extenders package does not include an extension of the \$7,500 electric vehicle tax credit**. PMAA adamantly opposed the EV tax credit extension during its "DC Conference/Day on the Hill" and also [wrote in opposition earlier this year](#). According to a recent study, the EV tax credit alone would cost taxpayers as much as \$15.7 billion, and it would only benefit a few companies who have already hit their EV targets as well as individuals making over \$100,000 per year. The Trump Administration warned lawmakers if they tried to include the EV credit in the extenders package, it could kill the whole deal.

Also included in the tax extenders/gov't spending package:

- **The legal tobacco purchasing age would be raised to 21.**
- **The Oil Spill Liability Tax (OSLT) would be renewed on a prospective basis through December 31, 2020.** The nine cents per barrel OSLT tax is imposed on crude oil at the refinery gate. Proceeds from the OSLT go into a trust fund used by the Coast Guard to pay for clean-up after accidents like oil spills. The effective date of the OSLT would apply on and after the first day of the first calendar month beginning after the enactment date of the tax extenders package. This represents a victory for PMAA after it urged Congress earlier this year to renew the OSLT on a prospective basis rather than making it retroactive.
- **The Alternative Fuel Infrastructure tax credit would be retroactively renewed through December 31, 2020.** Specifically, fueling equipment for natural gas, propane, liquefied hydrogen, electricity, E85, or diesel fuel blends containing a minimum of 20% biodiesel installed from December 31, 2017 through December 31, 2020, is eligible for a tax credit of 30% of the cost, not to exceed \$30,000.
- **The residential energy efficiency tax credit would be retroactively renewed through December 31, 2020** for water heaters, furnaces, boilers, heat pumps, building insulation, windows and roofs.
- The "Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019" is also included which is comprised of a number of relatively small improvements which taken together should improve the qualified retirement plan system. The Small Business Legislative Council will have a full report later.

- **Permanent repeal of Obamacare's "Cadillac tax" on high-cost employer health plans, as well as the health insurance tax and medical device tax** which were originally approved as part of the healthcare law to fund its coverage expansion.
- Wind production tax credit would get one-year extension at existing rates

The tax extender's agreement marks the end of a busy month in Washington, DC. Last week, Congressional leaders and the White House agreed to a new US/Mexico/Canada trade agreement and the White House struck a tentative trade deal with China. We will have more information in this week's PMAA Weekly Review so stay tuned.

---

## **Update on Interchange Fee Settlement**

*From PMAA*

When the settlement in the Visa Mastercard antitrust action was preliminarily approved in January 2019, certain potential claimants were excluded from the settlement class. Claimants who already settled their claims with Visa and Mastercard were prohibited from participating in the multi-billion dollar class action settlement. Some of those who settled with Visa and Mastercard were companies that franchise their brands, like major oil companies, and handle all credit card transactions for their franchisees. For example, Valero entered a settlement agreement with Visa/Mastercard based on one hundred percent of Valero branded transactions, even though the transactions were for sales at Valero branded stations operated by distributors and retailers. In the Valero settlement agreement, Valero purported to waive any claims against Visa and Mastercard by their branded distributors and retailers. The waiver provision was included so that Valero would not have to share the settlement proceeds with its franchisees.

At the November 7, 2019 hearing, however, the Court decided to permit franchisees to file claims for reimbursement from the settlement fund with the understanding that there would be competing claims (by the franchisor and franchisee) for the same transactions. The Court indicated that it would most likely appoint a special master who would decide, after hearing from franchisor and franchisee representatives, whether the settlement funds should go to franchisors (like Valero), to franchisees (like branded wholesalers and retailers), or to both. It is anticipated that a special master will be appointed by the Court, and that the above-described issue will be hotly contested, although it is possible that certain major oil company franchisors may ask the special master to permit voluntary agreements between the branded supplier and branded marketers to share the funds.

The Court is currently considering whether to give final approval to the settlement and to have the special master decide the franchisor/franchisee issue after approval. It is likely, however, that there will be appeals from any final approval on the ground that the franchisor/franchisee issue should have been decided before July 23, 2019, the date when potential claimants were

required to object or opt out of the settlement class. The basis for such an appeal would be that potential claimants had to decide whether to file their objections, and to stay in the class, before learning whether they or their branded suppliers, or both, would be eligible to file claims. PMAA will keep you apprised of further developments in this case as they proceed.

---

## **NORA Needs Your Help**

The National Oilheat Research Alliance is conducting its second survey on biodiesel use and potential issues with service. Your help in this effort is vital to NORA's research and efforts to lay the foundation for the use of bioheat.

If you have already completed this survey, thank you. If not, please [click here](#).