NEWSLETTERS

InterConnect FLASH! No. 24 – Federal Preemption - The Tug and Pull Between States’ Labor Laws and Tax

The InterConnect FLASH! Practical Bursts of Information Regarding Critical Independent Contractor Relationships

MAY 1, 2012

We have mentioned the use of the theory of federal preemption to defeat worker misclassification challenges and other related state laws, but all laws may not be created equal. A recent case involving owner-operators and employment taxes in Washington may be an illustrative example of just that.

In a lawsuit filed in Federal court by the Washington Trucking Associations and six trucking companies against the Washington Employment Security Department, the WTA sought relief because of the Department's enforcement of Washington's unemployment tax regulations. Essentially, the WSESD conducted audits and reclassified drayage owner-operators to employees under the unemployment tax regulations and assessed the motor carriers unemployment taxes.

The motor carriers argued that Washington tax regulations were preempted by federal law under the Federal Aviation Administration Amendments Act because states cannot enforce laws related to the price, route, or service of a motor carrier. The WSESD countered that Washington's Tax Injunction Act prevents the motor carriers from bringing the case in federal court. The TIA says that courts cannot enjoin, suspend, or restrain the collection of state taxes if a plain, speedy and efficient remedy exists in the state's courts.

The Federal Court examined the case under a three-part test, looking at (1) the relief requested; (2) if it would restrain the collection of taxes; and (3) if a plain, speedy and efficient remedy is available in state court. The Court determined that the relief sought by the motor carriers is exactly the type of relief barred by TIA. Thus, the Federal Court found it did not have subject matter jurisdiction and never mentioned the FAAA challenge.

This result is in contrast to two other cases which were recently decided on preemption grounds. Both were California cases where the motor carriers were sued by employees, claiming, among other things, that they failed to provide off-duty meal and rest breaks as required by the California Labor Code. The motor carriers argued that the employees' claims were preempted by the FAAAA, and the Courts agreed. California's fairly rigid meal and break requirements effectively deprived drivers the choice to take any route that did not fit the criteria for stopping at certain times and for certain lengths of time.

The ability to collect taxes is apparently closely guarded by the states. In contrast, regulations which do not affect the states' fiscal bottom line seem to receive careful scrutiny in regard to FAAAA preemption claims.

We are involved in an identical case in Washington which had been stayed pending this decision. Thus, whether you have worker misclassification issues regarding taxes or issues related to a state's labor code, we at Benesch can assist. Please call if you have questions or if we can be of further assistance.