As we slide into the holiday season, we’d like to take this opportunity to express our gratitude for our relationship with you! As always, we are thankful for your continued trust in our services and we look forward to continuing that relationship in 2017!

From all of us at V&A Risk Services, we wish you and your family a joyous holiday season!

Federal Judge Puts New DOL Overtime Regulations on Ice

With only a week before its December 1 effective date, a Federal District Court Judge in Texas has entered a nationwide injunction halting the implementation of the DOL’s new overtime regulations. In his ruling, Judge Amos Mazzant found while the DOL has authority to change the duties portion of the overtime exempt test (which were left unchanged in the recently released regulations), it did not have the authority to change the salary basis amounts. Instead, the Court held that this change should come from Congress, if at all. Accordingly, Judge Mazzant held that employers may continue to follow the current salary basis guidelines.

This ruling may provide little comfort to employers, who have already begun planning and budgeting with the DOL’s new regulations in mind. However, for employers who want to continue to follow the current salary basis test of $455 per week and $23,660 per year, they may do so. An appeal of this order is likely to be forthcoming, the effect of which is not known at this time. We will continue to keep you updated on this matter as more information becomes available.

Bugbee & Conkle, LLP is an Ohio law firm concentrating its practice in the area of employment, labor and workers’ compensation for companies and business of all sizes. Visit their website: Bugbee & Conkle, LLP

Deadline Alert for Deductible, Retro and One-Claim Participants

Applications are due in the V&A offices on January 15 Please call our offices with questions.
Important Dates

December 31
ISSP loss prevention activities deadline (public employers)
ISSP on-site consultation survey deadline (public employers)

January 3
Early Payment Discount Due (public employers)
First prospective installment due for PY 2017 (public employers)

January 15
Application deadline for Deductible, Individual and Group Retro and One Claim Program (private employers)

January 31
DFSP Accident Analysis Training and SHI-26 Deadline (public employers)

Anti Retaliatory Rule Injunction Denied by Federal Judge

On November 27, a federal judge in Texas denied a request from employers and business groups for a preliminary injunction to halt the enactment of the anti retaliatory provision in the OSHA recordkeeping rule. The decision affects an employer’s injury reporting process, including post accident drug and alcohol testing policies and safety incentive programs. The decision only denies the preliminary injunction and a decision regarding a permanent injunction will come at a later date. Enforcement will begin December 1st without further delay. Employers should review their policies and make the necessary procedural changes immediately.

While much of the focus on the final recordkeeping rule has been on the electronic reporting requirements, language addressing injury reporting was also clarified. The rule requires employers to have a reasonable injury reporting process. For post accident testing, OSHA said drug testing programs requiring blanket testing of all employees who experience an injury would violate the standard stating the threat of testing would discourage reporting. OSHA has instructed employers to only use post injury drug testing “when there is a reasonable possibility that drug use by the reporting employee was a contributing factor”.

In the decision, Judge Sam Lindsay said the organizations and employers seeking an injunction against enforcement of the rule failed to show that there would be irreparable harm if OSHA moved ahead with enforcing the rule.

On October 19, OSHA issued guidance on safety incentive programs, disciplinary programs and drug testing and is available on the OSHA website.

*Reprinted with permission from First Connect Corporate Services, “A Healthy Workplace Blog”. First Connect Corporate Services is an Ohio based workers’ compensation and healthcare cost control company, specializing in drug free, transitional work, injury nurse triage and onsite medical programs. For more information, please visit their website: First Connect Corporate Services.

Webinar: Medical Marijuana and Post Accident Testing

“Don’t Get Fined! Ohio’s New Medical Marijuana Law and OSHA’s position on Post Accident Testing”

December 20 @ 1 pm

OSHA's position on post accident testing could bring big fines if your company is not in compliance and Ohio's new medical marijuana law is leaving employers perplexed. This one-hour webinar will review both rules and the steps employers should be taking to ensure the safety and compliance of their organization.

Attendance is free of charge to employers.
Seating is limited. Pre-registration is required.

Register here
Presented by: First Connect Corporate Services

info@variskservices.com www.variskservices.com
Temporary Compromise for Unemployment System

As you may know, Ohio has an outstanding loan from the federal government for unemployment benefits that Ohio was not prepared to pay out during the period of recession and extended benefits. Most states have paid their loans back but Ohio is way behind. Legislators agreed to pay the entire debt out of unclaimed funds and then reimburse the unclaimed funds fund with contributions from employers through unemployment tax mutualization.

As part of the plan to prevent this need for a loan from happening in the future, one possible piece of the solution is to increase the taxable wage base from $9,000 to $9,500 per employee beginning in 2018. Currently, employers are taxed for unemployment compensation on the first $9,000 an employee earns during the year. An increase to $9,500 would bring in more taxes from employers to keep the fund well-funded and, perhaps, create a set-aside for such occasions.

Last Tuesday, Business leaders and legislators worked out a temporary compromise to prop up the unemployment compensation system. The compromise includes:

• Freeze on benefits for two years starting in 2018.
• Increase on the taxable wage base starting in 2018 (expected to increase from $9,000 to $9,500).
• Repeal of the penalties in HB390 (this legislation was used to pay off the federal loan).

The leaders and legislators have until April 1, 2017 to work out a final solvency plan. As part of the compromise, labor and business representatives have agreed to cover the costs associated with an actuarial study of proposals that develop from further negotiations.

Contributed by Brian Dicken, Vice President Advocacy and Public Policy at Toledo Regional Chamber of Commerce and summarized by Ken Finley, Unemployment Tax Manager at V&A Risk Services.

Ohio Workers’ Comp Rates Continue to Improve

According to the Oregon Study, Ohio is ranked 40th in workers’ compensation rates, making Ohio the 11th lowest among all states. Ohio has continued to improve, having ranked third highest among all states in 2008.

"A steady decline in rates is one more indicator that BWC is doing its part to promote economic growth in Ohio," said Ohio Bureau of Workers' Compensation (BWC) Administrator/CEO Sarah Morrison. "Beyond the numbers, we're becoming a world-class carrier by improving the customer experience and expanding our nationally recognized workplace health and safety programs and services."

The Oregon Study compares each state’s base rates across a selection of 50 widely used classification codes that are assigned by occupation to indicate their degree of risk. Since the study was conducted, Ohio has reduced average rates for private employers another 8.6 percent. The Oregon Study also does not include the various money saving rate plans and other BWC programs. When rebate plans are factored in, along with the new base rates, the actual amount collected by the BWC averages $1.22 per $100 of payroll compared to the $1.45 rate reflected in the study. The national median rate is $1.84.

Public employers are not included in the Oregon Study but have enjoyed a 25.5 percent reduction over the same time period.