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ICYMI: Silicon Valley Business Journal: Guest Commentary: Incidental taxes threaten California Businesses

(SACRAMENTO)— In today’s *Silicon Valley Business Journal*, California State Director of the National Federation of Independent Business, Tom Scott, opined about the threat to business posed by the Air Resources Board’s new “incidental to regulation” scheme that has allowed them to extract billions from businesses and consumers.

Silicon Valley Business Journal: Guest Commentary: Incidental taxes threaten California Businesses

Small businesses in California already face some of the toughest tax and regulatory burdens in the nation. But a recent move by the State Air Resources Board threatens to change the game entirely.

Until this point, businesses could count on a safeguard in the California Constitution that requires a “yes” vote from two-thirds of the Legislature to impose new taxes. Since 1978, this rule has prevented untold numbers of additional tax burdens that would have stifled California’s small businesses. Voters reaffirmed their desire for these protections as recently as 2010 by passing Proposition 26, which extends this two-thirds vote requirement to fees passed by the Legislature.

However, the unelected Air Resources Board is now saying it doesn’t need that two-thirds approval to extract billions of dollars from businesses, as long as it decides the revenue is “incidental to regulation.”

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When the Legislature passed AB 32 ten years ago, it charged the Air Resources Board with cutting California’s greenhouse gases down to 1990 levels by the year 2020. A narrow majority vote was sufficient to pass AB 32 because the measure does not authorize new taxes.

But when the Air Resources Board adopted regulations to meet the 2020 goal, evidently the regulations “incidentally” extracted billions of dollars from businesses. These increased costs are now negatively impacting workers, consumers, and various small businesses.

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It’s time we recognize this unlawful tax and spending spree for what it is.

The Air Resources Board claims it will continue collecting these taxes beyond the AB 32 deadline of 2020. Last month, Legislature’s chief attorney had to step in and clarify that all AB 32 programs must legally come to an end in 2020. Naturally, the Air Board disagrees. They see the multibillion-dollar “incidental” cash flow continuing indefinitely.

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Lawmakers need to settle this serious legal ambiguity once and for all. Otherwise, this illegal tax will erode not only the credibility of California’s climate policies, but also one of the last vestiges of taxpayer protections that small businesses and all taxpayers can rely upon.

To read the entire guest commentary, [please click here](#).