



Some twists in upcoming \$10K trade-in cap law

Little mentioned in the impending \$10,000 credit cap on traded-in vehicles in Illinois: It only applies to First Division vehicles, meaning traded-in pickups are exempt from the cap.

Under Section 1-146 of the Illinois Vehicle Code, motor vehicles are classified either as First or Second Division motor vehicles. The manner in which a vehicle is classified generally reflects

the purpose for which it is primarily used. A motor vehicle subsequently will be issued a license plate reflecting that division.

The Code defines a First Division motor vehicle as one which is designed to carry not more than 10 persons. Most standard passenger vehicles are First Division vehicles.

Second Division Vehicles, according to the Code, “are

designed for carrying more than 10 persons, those designed or used for living quarters and those vehicles which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the First Division remodelled (sic) for use and used as motor vehicles of the Second Division, and those motor vehicles of

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Deadline missed, but auto tariff threats remain

President Trump’s decision to let a deadline to impose tariffs on foreign auto imports lapse without taking action has left the auto industry puzzled over the White House’s next move — which could include restarting the clock with a new levy action.

The president had until Nov. 13 to decide whether to apply the tariffs following a Commerce Department finding that imported vehicles could pose a risk to national security. The White House hasn’t announced a decision.

Experts on trade law said Trump still might seek to impose the tariffs despite the missed deadline, but such an action would be vulnerable to a strong legal challenge for not complying with Section 232 of the Trade Expansion Act of 1962.

“There’s a very good challenge that could be brought if they now decide to impose

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Harassment training mandated in Illinois in 2020

The #MeToo movement comes to Illinois businesses beginning Jan. 1, when a law requiring annual sexual harassment training takes effect.

The Workplace Transparency Act, signed by Gov. J.B. Pritzker in August, requires employers to train all employees in Illinois each year. The sweeping new legislation cleared both chambers of the General Assembly without opposition.

Training must include:

- an explanation of sexual harassment;
- examples of conduct that constitutes unlawful sexual harassment;
- a summary of federal and state statutory provisions, including remedies available to victims of sexual harassment; and
- a summary of the responsibilities of

employers for prevention, investigation, and corrective measures of sexual harassment.

Employers who do not provide compliant training will be subject to civil penalties beginning at \$500 and increasing to \$5,000 for subsequent violations.

In addition to the training requirements, among other things, the new law makes the following changes:

- **Independent contractors** Senate Bill 75 amends the Illinois Human Rights Act to protect not just employees but also independent contractors from harassment and discrimination.

- **Disclosures** The new law requires employers, labor organizations, and local governments to disclose to the Illinois Department

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By **MICHAEL SILVER**

CERTIFIED PUBLIC ACCOUNTANTS, CATA MEMBER

As another tax year comes to a close, it is time to consider your tax planning opportunities. The tax law passed at the end of 2017 continues to have a major impact on your business and personal income tax returns.

Year-End Planning

1. Owners who operate their business as a pass-through entity such as partnerships and S Corporations are entitled to a deduction of up to 20% of their qualified business income. The deduction can be maximized through salary planning and entity aggregation.

2. The Section 179 expensing limit for 2019 is \$1,020,000 with a \$2,550,000 investment limit phase-out. This allows businesses to expense the cost of fixed assets such as equipment and furniture and fixtures. This expensing opportunity is available for qualified improvement property (generally, any interior improvement to a building's interior, but not for enlargement of a building, elevators or escalators, or the internal structural framework), for roofs, and for HVAC, fire protection, alarm, and security systems. Consider placing eligible assets into service before the end of 2019 to take advantage of this expensing limit.

3. 100% bonus depreciation also can be used to write off the cost of both used and new fixed assets that are placed in service before year end. This is not available if you used the floor plan interest exception to fully deduct interest expense in 2018.

4. If you plan to make any charitable contributions, consider making them in 2019 to receive a tax deduction. Payments by credit card are deductible on the day they are made even if the payment to the credit card company occurs on a later date. The IRS requires written acknowledgment for each contribution of \$250 or more. With the increase in the standard deduction, consider bunching two years of contributions into one year in order to benefit from itemizing your deductions.

5. Confirm that you have made all required personal and corporate income tax deposits for 2019 and see that your personal income tax withholding is adequate.

6. Consider maximizing your retirement contributions, \$56,000 for defined contribution plans. This \$56,000 limit includes your employee elected deferrals (\$19,000 for 2019). An additional \$6,000 catch-up deferral is allowed for age 50 or over.

7. If you or the dealership owns stock that has unrealized losses, consider discussing with your tax or investment professional the benefit of selling them by year-end to offset realized gains recognized earlier in the year.

8. Confirm you have substantiation for your 2019 meal and travel expenses. Travel expenses continue to be 100% deductible. Meals including those provided to employees are

50% deductible. Entertainment expenses no longer are deductible.

9. Accrued interest on loans from shareholders and other related parties, as well as rents, must be paid in order for the dealership to deduct these amounts in the current year.

Keep the Accounting Records Open at the End of December

1. Record December finance chargebacks in December.

2. Maximize LIFO deductions. Record all new vehicles that were built and invoiced in 2019 as vehicle purchases in 2019 by keeping the new-vehicle purchase journal open the first few days of 2020.

3. Keep your accounts payable journal open to record all 2019 expenses in 2019, including advertising, interest, utilities, telephone, gasoline, data processing, insurance, etc.

4. Adjust your property tax payable account to equal at least the total you actually paid in 2019.

5. If any vehicle deal is not a 100% completed deal in 2019 (all paperwork and funding in 2019), then treat it as a 2020 vehicle sale.

6. Make sure all miscellaneous inventories are adjusted to actual, including labor inventory, sublet, gas-oil-grease, body shop materials, etc.

7. Distributions paid to S corporation shareholders should be equalized in accordance to their ownership percentage before year-end.

8. You must include a reasonable estimate of your LIFO adjustment for the year on all versions of your December financial statements. **There are no exceptions.** If there is not a separate LIFO cost of sales account, charge the LIFO estimate to cost of sales in a cost account that has no other activity.

9. Compare your actual parts inventory to the accounting parts inventory and make adjustments where appropriate. Have your parts manager determine which parts should be considered worthless. Subject to your review, dispose of these parts by year-end.

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Review past editions dating to 1998 or search by subject at www.cata.info/publication/bulletins.

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checklist for dealers

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10. All wages and commissions paid in 2020 for 2019 services should be accrued in 2019. Make sure the first payroll in 2020 (even though some portion of the payroll was for 2019 services) is not included on your W-2s for 2019, but will instead be on the W-2s for 2020.

a. All accrued payroll for non-shareholders must be paid no later than March 15, 2020, for it to be deductible in 2019.

b. If you are a C Corporation, make sure you pay any salaries, commissions, or bonuses to stockholders and related parties in December (if their ownership exceeds 50% including related party interests) in order to take a 2019 tax deduction.

c. If you are an S Corporation, wages to a shareholder cannot be accrued and deducted for tax purposes. You must pay them in 2019 and include the wages on the 2019 W-2.

11. Reconcile, where possible, all balance sheet accounts before closing the year.

Additional Year-End TO DOs

1. If you are not on LIFO for used vehicles, adjust all of your used vehicles to current wholesale market value at year-end. On an annual basis, used-vehicle LIFO should be discussed with your tax advisor.

2. Businesses should consider the “de minimis safe harbor election” to expense the costs of lower value capital assets, materials, and supplies. Regulations allow businesses to write-off small asset purchases. The safe harbor amount that can be written off is up to \$5,000 per item or invoice if you have an audited financial statement and \$2,500 if you do not. However, you can set a write-off policy at any level that is material to you.

3. Review all past due accounts receivables, including employee receivables. Write-off those receivables that are not collectible.

4. Review prepaid assets and expense all items in this account that are not valid as prepaid at year-end.

5. All payroll tax and sales tax payable accounts must equal the actual amount of the applicable taxes paid in 2020 for the 2019 fourth quarter and year-end filings. Investigate variances. The year-end payroll tax accrual can only include taxes owed on wages actually paid in 2019.

6. Confirm your sales tax calculation for leases. It must include reimbursement for sales tax and interest charges. See the Illinois Department of Revenue compliance letter dated August 2019.

7. Compute the Dec. 31, 2019, accrued vacation wages payable and adjust the books accordingly. Accrued vacation wages paid Jan. 1-March 15, 2020 are deductible in 2019 for tax purposes. No vacation accrual is allowed for any shareholders.

8. Review bank reconciliations for checks (including payroll checks over 60 days old) not expected to clear. These checks should be voided and reissued. Funds owed to payees who cannot be located may be considered unclaimed property, which would require you to remit the funds to the appropriate state agency.

Year-End Tax Reporting

1. IRS Form 1099-MISC must be issued to all businesses that are not incorporated (including LLCs) and received \$600 or more during 2019 for payment of services, awards, commissions, or fees for services. A Form 1099-MISC must be issued for payments to an attorney even if they are incorporated. When preparing the 1099, for those vendors from whom you purchased parts in conjunction with a service, you must report the total payment made to them on the 1099. Also, Form 1099-MISC must be issued for all rents paid to non-corporate taxpayers, including shareholders, and Form 1099-INT must be issued for interest paid to shareholders and any other individuals. The deadline for filing 1099s is January 31, 2020, for both paper and electronically filed for non-employee compensation. All other 1099s are due February 28, 2020, if paper filed and March 31, 2020, if electronically filed.

2. W-2s for S corporation shareholders must include in wages health insurance premiums paid by the corporation. This amount is not subject to Social Security or Medicare tax. If the dealership pays the insurance premiums on behalf of the shareholders' children who are employees of the dealership, the children's W-2 must include the insurance premiums.

3. Under the Affordable Care Act, if you have 50 or more full-time or full-time equivalent employees, you are considered an Applicable Large Employer. ALEs are required to complete Form 1095-C, Employer-Provided Health Insurance Offer and Coverage for all full-time employees. This form details by month the employer health insurance offered to individual employees. The deadline for providing the forms to employees is Jan. 31, 2020. Paper filed forms are due Feb. 28, 2020, and electronic forms on March 31, 2020. At this time, the IRS has not provided any extensions for these forms.

4. Determine if you are receiving services from individuals who should be considered employees. The IRS provides a voluntary program that will allow you to convert these individuals prospectively from independent contractors to employees with partial relief from penalties and interest.

Review Procedures for the Use of Demonstrators to Ensure You Comply With the Current IRS Regulations

1. All individuals who are provided a demo to drive should sign a written demonstrator agreement.

2. There are two IRS-approved methods that can be used

Regulation Z, M exemption thresholds to increase in 2020

The dollar thresholds in Regulation Z (Truth in Lending) and Regulation M (Consumer Leasing) that determine exempt consumer credit and lease transactions increases from \$57,200 to \$58,300 effective Jan. 1.

The thresholds are adjusted annually based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) as of June 1 each year.

NHTSA issues e-odometer rule, delays disclosure mandates

The U.S. Department of Transportation's National Highway Traffic Safety Administration on Nov. 26 delayed for one year the implementation date of an electronic odometer disclosures rule that was set to take effect Dec. 31, 2019.

The NHTSA's e-odometer rule, published in October, would allow the odometer disclosures that must be made with the transfer (sale, lease, auction, etc.) of used vehicles to be issued and stored electronically. The new rule lists minimum security and authentication criteria states must adopt to enable

e-odometer disclosures. Once implemented by the states, the e-odometer rule will remove a key obstacle to paperless vehicle transactions, thereby helping consumers and dealers save time and money.

In addition, in noting that the average age of used vehicles has increased markedly since the mid-1980s, the new rule will expand the obligation to make required odometer disclosures for vehicles under 10 model years old to vehicles under 20 model years old, beginning with 2010 model year vehicles.

The NADA is working with other industry stakeholders, including the American Association of Motor Vehicle Administrators and Automotive Trade Association Executives, to facilitate the rule's implementation. A Dec. 13 webinar on the new rule will feature NHTSA Chief Counsel Jonathan Morrison and representatives of the AAMVA.

"Electronic records," said NHTSA Acting Administrator James Owens, "are more efficient than paper documentation and are harder to forge, helping to prevent fraud."

Checklist

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for full-time salespeople. The first method, used by most dealers, is the partial exclusion method. Under this method, an amount is added to wages on a monthly basis. The IRS has provided daily income amounts based on the value of the vehicle. For example, for a vehicle valued at \$40,000, the daily inclusion is \$9.00. Under this method, employees are not required to maintain logs. The second method provides them with tax-free use of the demo. This method is fairly complicated and restrictive.

3. For employees who are not full-time salespeople and any other individuals who drive demos, the annual lease value method is used. The amount included in income is based on personal-use mileage and the IRS annual lease table. The IRS requires that logs be maintained in order to verify business versus personal use of the vehicle.

4. The amount included in income is to be added to each employee's W-2. Non-employee family member income amounts must also be included in the employee's W-2. This income is subject to social security and Medicare tax. Shareholders not on the payroll and any other non-employees must be issued a Form 1099-MISC for the income.

5. You can obtain more information about the personal use of autos including sample demonstrator agreements by requesting our Dealer Demonstrator Guidelines.

Other

1. Form 8300 must be filed if you receive cash in excess of \$10,000 from a customer. This includes cashier checks, money orders, and traveler's checks except those issued by financial institutions requiring a lien on the vehicle.

2. If the dealership has a Section 125 plan (cafeteria plan), make sure eligible employees complete the 2020 election forms before the first 2020 payroll. Remember that stockholders owning more than 2% in S Corporations (LLCs, etc.) are not eligible to participate.

3. If you offer a health care Flexible Spending Arrangement (FSA) as part of your cafeteria plan, in order for it to be a qualified benefit under a cafeteria plan, the maximum salary reduction contribution to the health care FSA for 2020 is limited to \$2,750. Stockholders owning more than 2% in an S Corporation or an LLC are not eligible to participate. If your company offers a qualified high deductible health insurance plan, you and employees might be able to contribute to individual Health Savings Accounts (HSAs). Contribution limits for 2020 are \$3,550 for an individual and \$7,100 for a family with a \$1,000 additional contribution for those who are age 55 and over.

4. If you make gifts to individuals each year for estate tax purposes, the payments must be made by year-end. You may also be required to file a gift tax return depending on the size of the gift — please consult your tax advisors on further guidance on this.

Trade-in

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the First Division used and registered as school buses.”

A pickup truck is registered as a Second Division vehicle because it is designed for pulling or carrying freight.

Under the cap, a person in northeast Illinois who buys a \$35,000 vehicle and trades in a First Division vehicle worth \$20,000 still can buy the next car for \$15,000, but will see the sales tax based on a \$25,000 transaction, meaning the consumer will pay about \$700-\$920 more in sales tax compared to today’s computations.

Trade-in credits from multiple traded-in vehicles still can be combined, so long as the credit does not exceed

\$10,000. Likewise, any trade-in credits up to \$10,000 still can be split among multiple purchases.

Important, if a customer enters into an advance trade-in agreement for tax credits of, say, \$20,000 before 2020, the total credit that can be claimed after Jan. 1 cannot exceed \$10,000.

The CATA and others will petition lawmakers again beginning in January to repeal the new cap. The association had garnered the support of key legislators going into the General Assembly’s fall veto session, but House Speaker Mike Madigan did not call the matter for a vote.

If there is uncertainty about which division a vehicle is registered under, call the secretary of state’s Taxpayer Assistance Division at (217) 782-3336.

Safety

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ment of Human Rights the total number of final adverse administrative or judicial decisions involving sexual harassment or discrimination in the previous year entered anywhere in the U.S.

Employers must make the disclosure beginning July 1, 2020 and each July 1 thereafter. Employers may also be required by the IDHR to disclose during an investigation the total number of settlements involving sexual harassment and discrimination claims entered into during the previous five years any-

where in the U.S.

• **Non-disclosure agreements, non-disparagement clauses, and mandatory arbitration agreements** SB 75 places significant restrictions on the use of these types of agreements for cases involving harassment, discrimination, or retaliation.

• **Victims Economic Security and Safety Act** The law expands VESSA to allow victims of domestic, sexual, or gender violence to take unpaid leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty, if requested. A victim of workplace harassment could be entitled to such leave.

Q3 '19 jobless claims stopped

One hundred twenty-four CATA dealer members reported a combined 354 unemployment claims during the third quarter of 2019 to Sedgwick Claims Management Services, Inc., which has been serving CATA dealers under various names since 1979. The company’s efforts saved those dealers a total of \$1.1 million in benefit charges by contesting the claims.

Sedgwick monitors any unemployment claims against its clients and contests all unwarranted claims and charges. The company counts about 237 CATA dealers among its clients.

Claims that can be protested and subsequently denied help minimize an employer’s unemployment tax rate. The rate can vary between 0.475 percent and 6.4 percent of each employee’s first \$12,960 in earnings.

The 2019 average unemployment tax rate & new employer rate for Illinois employers is 3.175 percent, or about \$411.50 annually per employee (\$418 in 2018). The rate has inched down each year from 2007, as the Illinois economy continues to improve.

“The unemployment tax is really the only controllable tax in business, in that it’s experience-driven,” said Bruce Kijewski of Sedgwick. An ex-employee’s claim affects the employer’s tax rate for three years.

For new enrollees, Sedgwick client fees amount to \$2.85 per employee, per fiscal quarter. For the fee, Sedgwick monitors all unemployment claims; files any appeals; prepares employer witnesses for hearings, as necessary; represents the client at any hearings; verifies the benefit charge statements; and confirms the client’s unemployment tax rate.

For more information and information on how to retain Sedgwick’s unemployment services, contact Kijewski at (773) 824-4322 or Bruce.Kijewski@Sedgwick.com.

Tariffs

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tariffs” under Section 232, said Jennifer Hillman, a senior fellow at the Council on Foreign Relations and a former U.S.-appointed World Trade Organization judge.

Alternately, Trump could decide to abandon Section 232 action and pursue tariffs under Section 301 of the Trade Act of 1974, which is the same mechanism the president used to impose tariffs on Chinese imports.

Under Section 301, the U.S. first would have to determine that a foreign country pursued unfair trade practices.