Sold vehicle is headed overseas; is sale subject to sales tax, or not?

The weakening U.S. dollar makes goods sold in this country attractive to foreign buyers, including car shoppers. Many area dealers are reporting an upswing in sales to persons who intend to take their vehicle out of the country.

Whether such a transaction is subject to Illinois sales tax boils down to a simple matter: where the foreign customer takes possession of the vehicle.

If the customer takes delivery of the vehicle in Illinois, it is a taxable sale—even if he says he intends to transport it out of the country. The logic, of course, is that if consumers believed they could beat the tax simply by pledging to ship the vehicle abroad say, next week, then everyone would pledge that. Sales tax can be avoided only if, following the sale, the dealer delivers the vehicle directly to a freight forwarder who arranges for the item to be transported out of the country. Any paperwork the freight forwarder offers the dealer should be retained in the deal jacket, not sent to Springfield; auditors will want to review it to justify the tax exemption.

On privacy:

Change your clock; keep your customers’ private information secure

By Catharine E. Stark

Have you ever heard the saying “Change your clock, change your battery”? Twice a year, when you change your clock for daylight savings, you should also take the opportunity to change the battery in your smoke detector. Or, so the saying goes. The idea is to get people to associate two things that they may not otherwise consider related.

Bearing this saying in mind, as you embark on implementing an Identity Theft Prevention (ITP) Program at your dealership, as required by the new Red Flag Rules, it is worth associating your new ITP Program with your existing privacy, information security, and anti-fraud policies and procedures.

The Red Flag Rules require you to implement an ITP Program before Nov. 1, 2008. As part of your ITP Program, you must identify and detect “red flags” that may indicate the possibility of identity theft at your dealership. Doing so will involve a thorough examination of every aspect of your handling and use of customer information.

Implementing your ITP Program

Illinois lawmakers mull bills that adopt California air standards

Illinois dealers would be permitted to sell only vehicles that meet the standards of the California Clean Air Act, under similar legislation before the state Senate and House chambers.

Up to 20 states are considering adopting the “California mandate”—fuel efficiency requirements by 2016 of 43.7 miles per gallon for passenger cars and 26.6 mpg for most light trucks.

But opponents of states gaining the authority to enforce their own greenhouse gas emissions rules for vehicles say the multi-state patchwork of standards would disregard consumer demand and threaten vehicle safety and availability.

Congress last year moved to increase the national CAFE standard by 40 percent, to at least 35 mpg by 2020. The new standard, proponents said, would boost fuel economy while preserving consumer choice, vehicle safety, and the jobs on assembly lines.

The proposed Illinois Clean Air Act, which requires the implementation of California’s Low Emission Vehicle Program (CA LEV), is contained in Illinois
NADA offers tips on incorporating diversity as a business priority

The first step toward unleashing the power of diversity is to make diversity an integral part of your dealership’s business plan. Once you develop a working definition of diversity for your dealership—utilizing, perhaps, the varying perspectives of key employees, customers, and business partners—make it known throughout the dealership. Publish it in newsletters, put it on your Web site, distribute it at employee meetings.

Make sure your plan states your commitment to recruit, retain, and empower all employees to develop their talents and skills for the dealership’s benefit. Make sure it’s grounded in knowledge of the demographics of your current workforce and customer base, employee turnover rates, recruitment success, and policies and benefits. Make sure you know what outcomes you want to achieve. And make sure you earmark the resources—human and monetary—to achieve them.

There are many ways to institute diversity programs, none of them mutually exclusive or “set in stone.” All of them demand systematic communication and involvement of all employees, from those lowest on the corporate ladder to those at the topmost rung. Everyone needs to “own” the effort in order to invest fully in making it. Following are some of the methods used to incorporate diversity as a business priority:

- **Diversity training** attempts to help people overcome stereotypes and prejudices, leading them toward comfort in dialogue across multicultural lines. Designed and presented by management or independent diversity consultants, diversity training aims to increase awareness, understanding, and acceptance of diversity, and to develop skills to foster productivity and communication. Training topics may focus on the positive value of human differences as well as on changing behaviors (improving communication skills, for example, or responses to difficult situations).

- **Focus group discussions** attempt to identify differences, illuminate the extent to which employees feel they are valued, and develop strategies for change. Focus groups can be used as a form of feedback on the effectiveness of personnel policies and benefit plans, and as a forum for expressing concerns and ideas.

- **Mentoring and coaching programs** attempt to develop employees with diverse backgrounds and perspectives.

- **Networking initiatives** of all sorts attempt to provide employees with connections to one another. A cultural network, for example, might arrange multicultural events; a work/family network might develop lists of child care and eldercare referrals.

- **A published policy statement on discrimination** sets the tone for the workplace, advising all employees and applicants of your dealership’s commitment to equal employment and advancement, its willingness to make reasonable accommodations, and its procedures for responding to questions and concerns.

This article is excerpted from “Diversity as a Business Imperative: Second Edition,” which mailed recently to NADA members. Additional copies of the publication can be ordered online at www.nada.org/mecatalog or by calling the NADA at 800-252-NADA, ext. 2.

What’s driving China?

The Chinese account for 20 percent of the world’s population. But almost none of them have cars to drive, according to United Nations statistics.

Data from 2005, the latest year for which statistics are available, shows China ranks a distant 13th on the world’s list of most motor vehicles per 1,000 residents. The United States leads the pack.

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IADA legislative conference May 13

The annual Spring Legislative Conference hosted by the Illinois Automobile Dealers Association is May 13 in Springfield. To attend, call the IADA at 217-753-0220.

Visits to Capitol lawmakers will be preceded by a Legislative Conference Reception & Luncheon, 11:45 a.m.-2:30 p.m. Speakers include House Republican Leader Tom Cross (R-Oswego), Illinois Treasurer Alex Giannoulias, and political strategist Rich Miller.

A barbeque reception for dealers and legislators at the IADA office, beginning at 6 p.m., caps the day’s events.
Red flag

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gives you a prime opportunity to consider ways to improve your dealership’s existing privacy, information security, and anti-fraud policies and procedures as they also relate to your handling and use of customer information. (Think information security program, privacy policy, record retention policy, customer service policy, customer authentication procedures, anti-fraud procedures, etc.)

Just as taking the opportunity to change the battery in your smoke detector will help to keep your loved ones safe, taking the opportunity to improve your existing privacy, information security, and anti-fraud policies and procedures will help to keep your customers’ private information secure.

As a first step in your ITP Program implementation, take the opportunity to increase the general awareness at your dealership of the importance of protecting private customer information. You can use the Red Flag Rules’ compliance requirements to draw your employees’ attention not only to your ITP Program implementation efforts, but also to your dealership’s other privacy, information security, and anti-fraud policies and procedures. Doing so will help to underscore how important you view the protection of private customer information at your dealership.

Second, use your ITP Program implementation as an opportunity to detect specific substantive gaps in your dealership’s existing policies and procedures. For example, during your ITP Program implementation, let’s say you identify that submission of an out-of-state license with a credit application would raise a red flag, requiring you to verify that the out-of-state license is a valid license. Not only does this raise a red flag, but also it may trigger concerns about your dealership’s anti-fraud procedures generally.

For example, do you currently have a mechanism in place by which to verify that an out-of-state license is valid? In this way, associating red flags with potential gaps in your existing privacy, information security, and anti-fraud policies and procedures will better equip you for creating an environment of security at your dealership under which you minimize the risk of identity theft and increase your protection of private customer information.

Third, during your ITP Program implementation, consider ways to tighten up your privacy and information security practices. The Red Flag Rules require you to incorporate your own experiences in identifying red flags at your dealership. Have you ever heard of identity theft resulting from someone stealing a photocopy of a credit applicant’s driver’s license? If this is your experience, not only do you want to identify any incident of a missing photocopy of a credit applicant’s driver’s license as a red flag in your dealership’s ITP Program, but also you may wish to consider revising your information security program to identify and assess the risk of unauthorized access to a customer’s driver’s license at your dealership.

Driver’s licenses may contain your customers’ social security numbers and other private personal information, much of which is the kind of information you are required to protect by the FTC’s Safeguards Rule and Disposal Rule.

As you evaluate this red flag, consider changing your dealership’s policy to require your employees, upon copying a customer’s driver’s license, to promptly safeguard that information. For example, you may wish to make it your dealership’s policy, upon a customer’s submission of a driver’s license, to immediately copy the driver’s license and store the photocopy in a secure place where you have control over who may access it and where it will remain until the expiration of any required retention period.

Review your record-keeping policies to ensure that, once any required retention period expires, you have procedures in place to properly dispose of the information. Keeping a tighter leash on who has access to private customer information at your dealership will make your dealership less vulnerable to a security breach in the future (which, by the way, potentially subjects your dealership to a host of onerous security breach notification duties).

The relationship among the laws governing your handling and use of private customer information is significant. All of the rules governing information privacy and security are written to offer dealerships maximum flexibility to best protect private customer information in light of the circumstances present at each dealership. In order to best protect private customer information at your dealership, consider your existing privacy, information security, and anti-fraud policies and procedures in light of your efforts to comply with the Red Flag Rules.

As you identify red flags during the implementation of your ITP Program, consider whether there is a way to improve your procedures for collecting, using, storing, and disposing of customer information that will minimize the risk of identity theft or a security breach at your dealership.

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Emission

Continued from Page 1

Senate Bill 2238 and House Bill 3424.

If the bills pass, many larger vehicles would be ineligible to be sold or registered in Illinois. Half the vehicles sold in Illinois are considered trucks. Illinois dealers would face a competitive disadvantage with dealers in neighboring states that don’t adopt the California regulations, and consumers likely would explore ways to register larger vehicles out-of-state.

Franchised dealers could face financial hardship if vehicle choice is limited for consumers. Opponents also bristle that by adopting the CA LEV standards, Illinois effectively would cede its regulatory authority to California.

In light of Congress’s CAFE action in December, the Environmental Protection Agency denied California’s request to implement CA LEV. But new federal legislation seeks to overturn the EPA’s waiver denial.

Automakers say the waiver would cost billions and force them to stop selling most vehicles in states with CA LEV standards. They say states can be proactive on climate change, as it relates to the transportation sector, by incentivizing the purchase and use of alternative-fuel and advanced-technology vehicles, among other initiatives.

The CA LEV program, local opponents add, would undercut Illinois’s growing production of ethanol.

IRS guidance coming on special 50% depreciation allowance

The Economic Stimulus Act of 2008 includes more than the ballyhooed $300 direct payments to individuals. It also provides several incentives to businesses, including a special 50 percent depreciation allowance for 2008 purchases, an increase in the depreciation limits on business vehicles, and an increase in the Section 179 small business expensing limitation.

The 50 percent “bonus depreciation” allowance for qualifying purchases is available to all businesses and applies to most types of tangible personal property and computer software acquired and placed in service in 2008.

It allows taxpayers to deduct 50 percent of the cost of qualifying property in addition to the regular depreciation allowance that normally is available.

The IRS will issue guidance soon on how the special 50 percent depreciation allowance can be used to make capital investments this year, and guidance on the newly increased business expensing limitation.

Anticipating questions in the meantime, IRS representatives said businesses may rely on the regulations previously issued regarding bonus depreciation (found at Treas. Reg. Sec. 1.168(k)-1) until the latest guidance is issued.

Unemployment claims deflected

One hundred twenty-eight CATA dealer members reported a combined 533 unemployment claims during the fourth quarter of 2005 to Cambridge Integrated Services Group, Inc., formerly named the Martin Boyer Co.

Another instance of a vehicle sale to a foreign customer that qualifies as tax-exempt is one to a foreign consulate, diplomat, consular officer, or staff member who provides an active tax-exemption card issued by the U.S. State Department.

The former Martin Boyer Co. has represented CATA members since 1979. To discuss retaining the company, call Schardt at 312-381-8241.

Taxable

Continued from Page 1

Dealers can leave it to the customer to coordinate things with the freight forwarder, just as long as it is the dealership that delivers the vehicle to the freight forwarder. Typing “freight forwarder, Chicago,” into an Internet search engine generates about 12 outfits in the area to choose from.

When completing the Form ST-556 for the transaction, tax-exempt sales are treated in Section 5. To claim the exemption, check Box F Other, and write “Delivered to Freight Forwarder” in the space provided.

Another instance of a vehicle sale to a foreign customer that qualifies as tax-exempt is one to a foreign consulate, diplomat, consular officer, or staff member who provides an active tax-exemption card issued by the U.S. State Department.

CATA allied members interested in sponsoring an element of the association’s annual golf outing on June 9 should contact Sandi Potempa, 630-495-CATA.