Talks continue on IDOR bid to tax dealer cash

Illinois Revenue Department representatives meet again Oct. 17 with the CATA to negotiate the department’s intention to subject dealer cash to sales tax.

The Oct. 17 meeting in Chicago follows a Sept. 27 Springfield gathering of the CATA, the Illinois Automobile Dealers Association and the revenue department, which has proposed extracting sales tax from certain rebates and dealer incentives.

The Illinois Appellate Court ruled in 2004 that the state can pursue taxes on all the money received tied to a sale—from the purchaser and the manufacturer. Holdback would not be taxed.

The CATA and the IADA concede that proceeds tied to a single unit could be taxable but that a distinction should exclude the money a dealer receives for meeting the retail objectives of a manufacturer’s program—for instance, earning several thousand

See Dealer Cash, Page 4

IRS developing Form 8300 outreach for dealers

KayDel Marshall, an Internal Revenue Service official in Portland, Ore., said he discovered at a September speech that auto dealers unnecessarily file IRS Form 8300 on many transactions.

“They were doing 8300s on everything over $10,000,” he said. “I told them how the banks took care of most of that with the FinCEN form, so they were delighted to hear they have to do less paperwork.”

Marshall said most of the Portland dealers’ uncertainties involved “relationships.” The CATA is working with the IRS in Chicago to develop a Form 8300 outreach to help dealers with how—and when—to complete the form.

Marshall recounted four prominent questions during his speech.

Q: “Dad comes in the morning and buys a car for $9,000 with a cashier’s check, and says he is sending his son in that afternoon to buy a used car for school. Dad wants to find his son a vehicle for less than $3,000. His son pays $2,500 using savings from his after-school job. In whose name do you put the Form 8300?”

A: “I am assuming that the son is a minor and both cars will be titled to Dad. By definition, the two transactions occurred within a 24-hour period and therefore would be treated as one transaction for Form 8300 filing purposes.

“If there is a Form 8300 filing requirement, the name on the form would be Dad’s. You noticed I said ‘if.’ The definition of cash is expanded to include monetary instruments when you have a designated reporting transaction. Included in the definition of a designated reporting transaction is the retail sale of a consumer durable.

“A consumer durable is defined as an item of tangible personal property that is suitable under ordinary use for personal consumption or use, that can reasonably be expected to be useful for at least one year, and that has a sales price of more than $10,000. There is no provision in the regulations that allows for the grouping of two or more consumer durables for the purpose of the $10,000 threshold.

“Therefore, even though we treat both sales as a related transaction, since neither vehicle has a sales price of more than $10,000, we are not expanding the definition of cash. As a result, since only $3,000 in cash was received, there is no Form 8300 filing requirement.”

Q: “The same question, with husband and wife each buying a car that pushes
Fuel economy legislation stalled on Capitol Hill, likely for year

Congressional staff are beginning preliminary meetings on the differing House and Senate energy bills. Vehicle manufacturers and the NADA endorse House Resolution 2927, the Hill-Terry alternative for Corporate Average Fuel Economy.

With no House-passed CAFE provision, Congress may attempt to move forward with a bolder Senate CAFE hike. The NADA’s legislative affairs office strongly urges dealers to contact their Representatives for support of H.R. 2927.

But the likelihood of Congress passing legislation by the end of the year to raise the fuel economy of the nation’s cars and light trucks is diminishing. Both chambers have introduced separate measures to raise CAFE regulations. The CAFE standard for passenger cars, 27.5 miles per gallon, has not changed since 1975. Light trucks are required to reach 24 mpg by model year 2012.

“It is remarkable. The president put forward the most aggressive proposal for replacing gasoline last January; he asked Congress to achieve that objective by the summer driving season. Well, school is back in, where’s the legislation?” Jim Connaughton, chairman of the White House Council on Environmental Quality, said last month at a White House briefing on climate issues.

On Thursday, House and Senate energy committee staffers met to discuss differences in the respective bills each chamber passed this summer. But Republicans boycotted the meeting, said Bill Wicker, a spokesman for the Senate Energy and Natural Resources Committee.

Wicker said staff members will continue meeting daily, but the House and Senate aren’t likely to quickly appoint a conference committee.

“Energy is not the big picture thematic issue,” Wicker said. “The calendar is filled with Iraq and spending bills.”

Sen. John Kerry (D-Mass.), a key sponsor of the Senate fuel economy bill, insisted an energy bill would come up before Congress adjourns, mostly likely before Thanksgiving.

“The Republicans are refusing to allow (conferences) on any number of bills,” Kerry said. “There are major discussions going on about whether they could bypass it, come up with some agreement with the House.”

The lack of progress is troubling, said Tim Wirth, a former senator and president of the United Nations Foundation, an organization that pushes public-private partnerships to solve pressing issues such as climate change.

“It is remarkable to me that no progress has been made between the House and Senate,” Wirth said.

In June, the Senate passed a sweeping energy bill that would require automakers to hike fuel efficiency by 40 percent to a combined fleet average of 35 mpg by 2020.

In August, the House passed an energy bill that side-stepped fuel economy standards, mostly because more than 170 House members supported the smaller increase that’s backed by automakers.

Those members endorsed a compromise bill named after its sponsors, Reps. Baron Hill (D-Ind.) and Lee Terry (R-Neb.), that would raise fuel economy mandates by at least 28 percent to between 32 mpg and 35 mpg by 2022.

PriceWaterhouseCoopers Automotive Institute said Detroit automakers have the most to fear from the Senate bill.

“Newly minted CAFE standards may encourage a profound product portfolio shift, potentially accelerating (Detroit Three) pickup truck and SUV market share erosion,” the report said.

Marketplace


Office Manager 20 years’ dealership experience.
Financial statement preparation, payroll, insurance and taxes. Strong record of reducing expenses on services, supplies. Maintain company computer network, telephone system, and e-mail administration. Mary Henderson, 630-802-7230.

Warranty Administrator 19 years’ dealership experience, specializing in Ford, Lincoln-Mercury warranty work. Strong background with warranty accounts receivable schedules, booking, ticket invoicing. ADP, Reynolds and Reynolds. Dean Michals, 847-299-5464.
Résumés of all candidates on file at the CATA.
Washington Conference draws record attendance

BY RAY SCARPELLI SR.
METRO CHICAGO NADA DIRECTOR

More than 520 new-car dealers and state and metro dealer association executives (ATAEs) from around the country were in the nation’s capital for the NADA’s 32nd annual Washington Conference, Sept. 11-12.

“With the current climate on Capitol Hill, it is vital that dealers be highly visible and absolutely clear in presenting their views to Congress,” NADA President Phil Brady said.

In other Washington Conference news:

- The Mexican Auto Dealers Association (AMDA) attended this year’s conference, the first time a dealer association from outside the United States was invited to participate.

AMDA representatives also met with the NADA’s International Dealer Task Force and attended a meeting organized by the NADA’s Government Affairs office to discuss the total-loss disclosure bill with various government agencies. The AMDA has expressed support for the bill.

- In conjunction with the Washington Conference, the NADA and the Alliance of Automobile Manufacturers launched a new Web site, www.AutoChoice.org. The site, which contains actual vehicle registration data from 39 states, clearly illustrates that trucks—pickups, minivans and vans—were the No. 1 selling vehicle type in 2006. The data will give Congress a better understanding of the need for an aggressive but reasonable fuel economy boost, as well as separate car and truck fuel economy standards.

- With renewed media attention and a rising number of bipartisan co-sponsors of the total-loss disclosure bills, H.R. 1029 and S. 545, dealers have the opportunity to use the momentum to seek total-loss disclosure support from their own congressional delegations.

Significant progress was made in September as 10 new House members cosponsored H.R. 1029, the Damaged Vehicle Information Act. Also, the NADA owes a special thanks to the efforts of our North Dakota and New Hampshire dealers for securing additional cosponsors for the Senate version of the bill, S. 545. Through their efforts, Sen. Kent Conrad (D-N.D.) and Sen. Judd Gregg (R-N.H.) signed onto the legislation. These developments come on the heels of increased media attention on total-loss vehicles from recent stories related to the two-year anniversary of Hurricane Katrina. Consult www.nada.org/tld for updates, and contact federal lawmakers who have not yet cosponsored the bills.

In legislative and regulatory news:

- As of Sept. 1, vehicle manufacturers were required to include National Highway Traffic Safety Administration New Car Assessment Program (NCAP) safety ratings on automobile Monroney labels. By law, automobiles include passenger cars and vans, station wagons, sport-utility vehicles, crossovers, and small buses under 10,000 lb. gross vehicle weight rating. Because NCAP assigns star ratings based on test performance, the new safety information label is known as “stars for cars” and features a one- to five-star graphic display.

The NHTSA conducts NCAP testing on a rolling basis throughout the model year, but does not test all models and doesn’t always conduct all tests for each model. Manufacturers are required to add safety label information to Monroney labels within 30 days of receiving NCAP test results. The NHTSA offers an explanatory brochure titled “Coming to a Wind Sticker Near You.” It includes sample labels and can be used to help consumers understand the new safety information. The new labels reference www.safercar.gov and the NHTSA’s hotline.

The NHTSA also requires dealerships that alter covered vehicles to attach a second label adjacent to the Monroney label stating that the vehicle has been altered. Changes made to used vehicles are not subject to alteration labeling.

- Dealerships may receive “no-match” letters when an employee’s name or Social Security number on an I-9 Employment Eligibility Verification or W-2 form does not match government records. Discrepancies should be addressed within 90 days. If a discrepancy persists, the dealership may have to terminate the employee or risk a finding by the Department of Homeland Security that it had constructive knowledge of an illegal alien being employed.

The DHS issued a notice, effective Sept. 14, describing safe harbor procedures for how to address no-match letters from the Social Security Administration. To verify a SSN, call the SSA at 800.772.6270, or go to www.ssa.gov/employer/ssnv.htm or www.ssa.gov/employer/ssnvadditional.htm. For more information, call 800.421.7105 or visit faq.ice.gov, the DHS Safe Harbor Information Center.

In NADA news:

- Thousands of new-car dealers around the country hosted free child safety seat inspections at their dealerships last month as part of the fifth annual “Boost for Safety” national campaign, a program developed by the NADA and the National Highway Traffic Safety Administration.
Dealer cash

Continued from Page 1
dollars for selling a certain number of units.

A major obstacle to meet the revenue department proposal involves developing a method to accurately calculate taxes for stair-step programs and lump-sum payments. For example, a manufacturer pays cash incentives to a dealer who sells 15 units of one model in a month. How would tax be determined for a dealer who sells a 16th unit, only to see two deals later unravel?

The two dealer associations appealed to the revenue department to tax only guaranteed payments, not bonus payments earned for reaching a sales goal.

In the 2004 lawsuit, the manufacturer paid a specific sum to the dealer for every sale that qualified under a program. The court ruled that because each payment could be tied to a specific sale, it was part of the proceeds from the sale and subject to tax. The Revenue Department, in turn, applied the decision to dealer cash payments from manufacturers to dealers.

IRS

Continued from Page 1

them over the $10,000 and requires a Form 8300. OK, you can do one 8300, but, in whose name do you put it?”

A: “The Form 8300 instruction is clear on this point. If two or more individuals conducted the transactions you are reporting, check the box and complete Part I for any one of the individuals. Provide the same information on the back of the form. If more than three individuals are involved, provide the same information on additional sheets of paper and attach them to this form.”

Q: “If a guy comes in with a book of traveler’s checks issued by the same source bank in denominations of $1,000 each, and he signs 11 of them to buy a car, would this be something the bank would have taken care of when he bought the traveler’s checks, or would the dealer need to do a Form 8300?”

A: “If the traveler’s checks were purchased at the same time with cash, the financial institution issuing the checks would have been required to file a Currency Transaction Report. Nevertheless, since the traveler’s checks used in the transaction have a face value of less than $10,000, and since we are dealing with a retail sale of a consumer durable, the business would be required to treat these monetary entrustments as cash and file a Form 8300.”

Q: “One of my questions was about a guy from Hong Kong who came in and bought a car for $30,000. He had one cashier’s check for $15,000 (which the bank would have taken care of), and two more cashier’s checks for $7,500 each.

“The dealer would not have been required to file on the first one, but the other two would have set up a filing requirement, right? We didn’t file an 8300 on the second two and it has been over two months. Are we looking at a penalty situation?”

A: “The business can be assessed a penalty for failure to file. However, if you file the form and attach a statement to the delinquent Form 8300 explaining the circumstances, most likely no penalty will be assessed.

“The purpose of our AML laws is to create a paper trail that law enforcement can use to identify the bad guys attempting to launder money or perpetrate other financial crimes.

“We are not trying to balance the budget on the backs of the small business owners. But file the delinquent today.”

AYES update

BY JIM BUTCHER
ILLINOIS AYES MANAGER

All 12 Chicago Public Schools with an automotive program are seeking dealerships willing to job-shadow their automotive students on Oct. 17.

Job-shadowing means allowing two to three students to spend several hours at a dealership, shadowing a technician. Job-shadowing activities are a school requirement, thus all liability falls under the schools’ insurance.

As industry leaders, we need to do all we can to encourage young people to enter this industry. Please help if you can, and call me at 630-424-6020.

• Chicago Vocational Career Academy, 2100 E. 87th St.
• Collins High School, 1313 S. Sacramento Dr.
• Crane High School, 2245 W. Jackson
• Curie Metropolitan High School, 4959 S. Archer Ave.
• Farragut Career Academy, 2345 S. Christiana Ave.
• Juarez High School, 2150 S. Laflin St.
• Lane Tech High School, 2501 W. Addison
• Prosser High School, 2148 S. Long
• Carl Schurz High School, 3601 N. Milwaukee
• Senn High School, 5900 N. Glenwood
• Simeon High School, 8147 S. Vincennes
• Tilden High School, 4747 S. Union Ave.

As we continue to grow the AYES program to accommodate more dealerships, we first need to bring additional high schools into compliance with NATEF standards. I have been busy working with various schools in preparation for NATEF Certification.

AYES update

Continued from Page 1

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Q: “If a guy comes in with a book of traveler’s checks issued by the same source bank in denominations of $1,000 each, and he signs 11 of them to buy a car, would this be something the bank would have taken care of when he bought the travelers checks, or would the dealer need to do a Form 8300?”

A: “If the traveler’s checks were purchased at the same time with cash, the financial institution issuing the checks would have been required to file a Currency Transaction Report. Nevertheless, since the traveler’s checks used in the transaction have a face value of less than $10,000, and since we are dealing with a retail sale of a consumer durable, the business would be required to treat these monetary entrustments as cash and file a Form 8300.”

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