



# CATA Bulletin

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## Seminar guides dealers through compliance maze

The list of federal acts with which dealerships must comply sometimes can be viewed as the football equivalent of piling on. Nevertheless, attorneys general have stepped up actions against dealers for noncompliance.

“Attorneys general are voted in by consumers, so that’s who they’re there to protect. The AGs do not have an issue about dealers making money,” said Gil Van Over. “Profit is not discouraged, it’s how you get your profit.”

Van Over led a recent CATA seminar, “A Compliance Review for F&I Departments,” that reviewed the myriad compliance issues dealers face as creditors and warned of attorneys who wait in the weeds for dealers who are not in compliance.

Van Over, president of gvo3 Consulting in Schererville, Ind., said attorneys attack contracts that don’t fully disclose particulars such as the annual percentage rate of the loan and warranty specifics. Some agencies even dispatch “mystery shoppers” to measure compliance, Van Over said.

An example of a recent change: An April revision of the federal Truth-in-Lending Act makes it insufficient to merely show the retail installment contract to the customer and ask for it to be signed. Customers now must be allowed to take physical possession of the contract and review it before signing. “Give replaces show,” Van Over said.

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## ‘0 down’ not an ad trigger: officials

Forget the rules of mathematics. Zero is nothing, and don’t confuse something with nothing.

“Zero down payment” written or spoken in automotive advertising does not constitute one of the five “triggering terms” which invoke further disclosure, according to a recent opinion by the Illinois attorney general’s office and the Better Business Bureau.

The two agencies monitor automotive advertising in the state to verify that the ads adhere to the Illinois Administrative Rules on Motor Vehicle Advertising and the Federal Truth-in-Lending Act.

“An advertised down payment that requires actual money down would trigger further disclosure. But ‘zero’ is not a tangible amount, so that figure does not represent a triggering term,” said BBB operations director Steve Bernas.

The five triggering terms, which de-

mand further disclosure, are:

- amount or percentage of down payment;
- number of payments;
- period of repayment;
- amount of payment (expressed as percentage or dollar amount); and
- amount of any finance charge.

A review of the expression “zero down payment” followed extensive incentive advertising of late by manufacturers, such as the General Motors “triple zero” program—no down payments, no payments for three months and no-interest loans.

Staff commentary by the attorney general’s office states that the trigger term provision “applies only if a down payment is actually required; statements such as ‘no down payment’ or ‘no trade-in required’ do not trigger additional disclosures” under the Truth-in-Lending Act.

## NADA fights for Ford dealers over Blue Oval

Ford Motor Co. would seriously impact its working relationship with its franchised dealers if Ford proceeds with intentions announced in November to revise its Blue Oval Certified program, the NADA wrote in a Dec. 3 news release.

Ford indicated it would reduce Blue Oval incentive payments by 60 percent but otherwise leave intact the program. Many Ford dealers who made major financial commitments to earn Blue

Oval certification so they did so with the belief the program would be in place for at least five years.

While the NADA recognizes “the importance of a financially healthy manufacturer, we have underscored that such health should be achieved without damaging the equally important dealer/factory relationship,” the NADA release states.

Officials of the NADA are calling for Ford dealers’ input on the matter.

# 2002 year-end

With precious few weeks remaining in 2002, now is a good time to prepare for tax filings. The following list can get dealers started, but accountants should be consulted for more detail.

1. Review all past-due accounts receivable and write off those receivables that are uncollectible.
2. Make sure interest is paid on loans to or from shareholders or other parties that are on the dealership's books by year-end. Also, be sure an IRS Form 1099 is issued for any interest and any rents paid to individuals.
3. If the dealership or its owner has stocks with unrealized losses, talk to a tax or investment professional about the benefit of selling them by the end of the year.
4. Try to keep the accounting records open at the end of December:
  - Record December finance chargebacks in December
  - To maximize LIFO deductions, record all new vehicles that were built in 2002 as vehicles purchased in 2002 by keeping the new-vehicle purchase journal open the first few days of 2003.
  - Keep the accounts payable journal open to record all 2002 expenses in 2002, including advertising, interest, utilities, telephone, gasoline, data processing, insurance and property taxes.
  - Account for all missing documents.
  - If any vehicle deal is not a 100 percent completed deal in 2002, then treat it as a 2003 vehicle sale.
  - Make sure all miscellaneous inventories are adjusted to actual, including labor inventory, sublet, gas/oil/grease, body shop materials and the like.
  - Where possible, reconcile all balance sheet accounts before closing the year.
5. If any building repair or maintenance needs to be done in the next few months, such as painting, try to perform them by the end of 2002.
6. Compare actual parts inventory to the accounting parts inventory and make any adjustments where appropriate. Have the parts manager determine which parts would be considered worthless. Subject to the dealer's review, dispose of those parts by year-end. Have the parts manager submit a copy of the parts inventory summary that shows the dollar amount of parts in inventory at the end of the year along with an aging of the inventory.
7. Make sure that a reasonable estimate of the LIFO adjustment for the year is on all versions of the December financial statement. There are no exceptions. The best

place to charge the LIFO estimate is to cost of sales in a cost account that has no other activity.

8. If the dealership does not have LIFO for used vehicles, adjust all of the used vehicles to current wholesale market value at year-end. Also, consider adopting USED VEHICLE LIFO. The Internal Revenue Service has developed an acceptable "alternative used-vehicle LIFO" method similar to the new-vehicle method. However, because used-vehicle prices are declining, electing LIFO may not be appropriate now.

9. If the dealership is a "C" corporation, make sure to pay any salaries, commissions or bonuses to stockholders (where appropriate) in December, to take the deduction this year.

10. Review bank reconciliations and void any checks that are not expected to clear. These checks should be voided and reissued, if possible. Before reissuing a check to a vendor, be certain it has not been paid with a subsequent billing. Be careful when voiding a check written to the state; many governmental departments are behind in their processing.

11. Carefully review prepaid assets, and expense all items in this account that are not valid assets.

12. Make sure that all wages and commissions that are paid in 2003 for 2002 services have been accrued in 2002. Also, make sure the first payroll in 2003 (based on the date the payroll checks are handed out, even though some portion of the payroll was for 2002 services) is not applied to W-2s for 2002. That payroll belongs on 2003 W-2s.

13. Review current year fixed asset additions to determine if the costs should be capitalized or expensed.

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Review past editions at <http://cata.drivechicago.com/>

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# dealer checklist

Generally, assets with a cost in excess of \$500 with a useful life beyond a year should be capitalized and depreciated. Consider accelerating the purchase of capital assets to take advantage of the additional 30 percent bonus depreciation. The bonus is available for all assets with a depreciable life of 20 years or less, and it extends to purchases through Sept. 11, 2004.

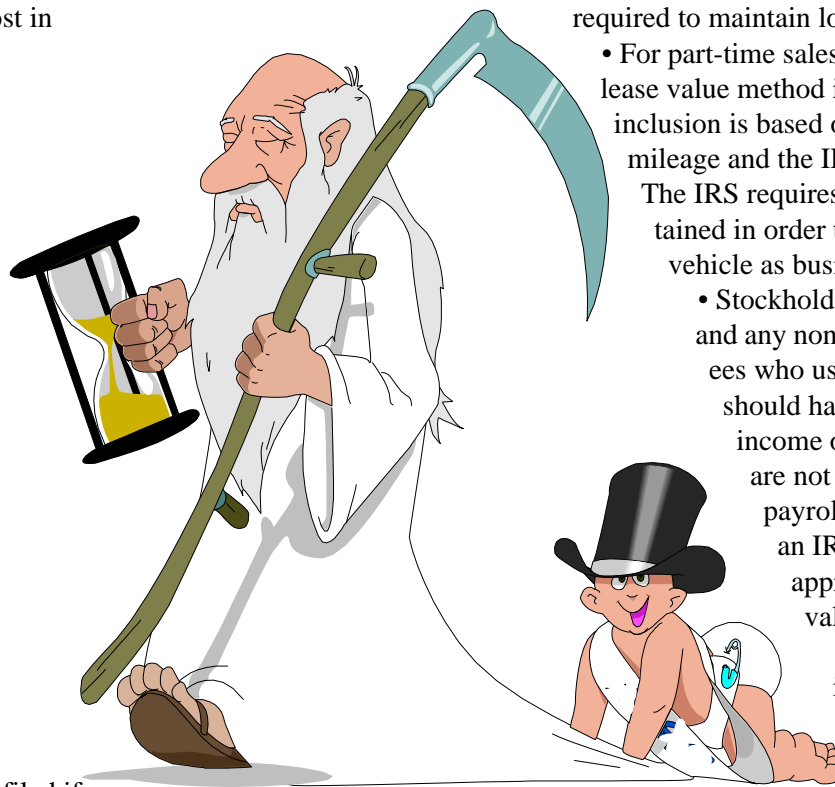
14. Make sure the payroll tax and sales tax payable accounts equal the actual amount of all taxes paid in 2003 for the 2002 fourth quarter and year-end filings.

15. Form 8300 must be filed if cash in excess of \$10,000 is received from a customer. Cash includes certain cashier's checks, money orders, and traveler's checks. Make sure to file the form for each transaction and notify the customer of the filing before Jan. 31.

16. Have any records available of 2002 meal and entertainment expenses. Travel expenses and the cost of the employee Christmas party should not be included in this amount.

17. Review procedures for the use of demonstrators to insure the dealership complies with the current IRS regulations.

- All individuals who are provided a demo to drive should sign a written demonstrator policy agreement.
- There are two IRS-approved methods that can be used for full-time salespeople. The first method provides for tax-free use of a demo, but it is fairly complicated and restrictive. The second method, used by most dealers, is the partial exclusive method. Under that 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 a vehicle valued at \$25,000, the daily inclusion is \$6. Under this method, employees are not



required to maintain logs.

- For part-time salespeople, the annual lease value method is used. An income inclusion is based on personal use mileage and the IRS annual lease table. The IRS requires that logs be maintained in order to verify use of the vehicle as business or personal.

- Stockholders and their families and any non-owner, non-employees who use a demonstrator should have the value shown as income on their W-2. If they are not on the dealership payroll, they should receive an IRS Form 1099 for the appropriate annual lease value of the vehicle.

- The income inclusion amounts should be included on the employee's W-2 wage state-

ment.

18. Issue an IRS Form 1099-MISC to all non-employees (not corporations) who received \$600 or more in 2002 for payment of services, awards, commissions or fees for services. Review those non-employees to see if they would be considered employees for payroll tax purposes.

19. If gifts to relatives are bestowed each year for tax purposes, make the payment by the end of the year.

20. Make all required personal and corporate income tax deposits for 2002, and confirm that personal income tax withholding is adequate. Pay all personal state income tax by the end of the year, in order to take a federal income tax deduction for the state tax.

21. If any charitable contributions are planned, consider making them in 2002 to receive a current-year deduction. Payments by credit card are deductible on the day they are made, even if payment to the credit card issuer occurs later. The IRS requires written acknowledgment for each contribution in excess of \$250.

22. If the dealership has a Section 125 plan (cafeteria plan), do not take any deductions from stockholders who own more than 2 percent in "S" corporations (LLCs and the like); those are not eligible.

## Northwood course at CATA Dec. 10-11

“Financial Statement Analysis, with Corrective Actions” a two-day course to improve dealership profitability, will be offered Dec. 10-11 by Northwood University at the CATA offices in Oakbrook Terrace.

Participants will review the various analysis, performance comparisons and industry guides using the Dealership Operating Statement and the Balance Sheet. The goal is to identify opportunities to improve profitability, implement actions and correct areas of weakness, and improve profitability and performance of the dealership.

The \$795 tuition includes a textbook and workbook. To register, call Northwood at 800-684-2786.

## Drivers, regulators clash over use of navigation systems in vehicles

Consumers seeking to further their use of video navigation systems while driving stand opposed to federal studies that indicate such use increases driver distraction. Federal safety officials believe it is “ill-advised” to make the systems easier for drivers to use while moving.

About half of the navigation systems allow drivers or passengers to manipulate them while moving, creating a safety hazard, critics say. General Motors, worried about that, programs its systems to refuse inputs once the vehicle starts moving. “We took the conservative route,” said Jim Rillings, research fellow at GM Research and Design.

But drivers get frustrated if they can’t enter or alter route requests on the move, a J.D. Power & Associates study found. And Jeremy Bowler of J.D. Power said

regulators overstate the danger by failing to note that people get less distracted as they become familiar with the systems.

Automakers, hurting for profits on new-vehicle sales, are reluctant to slow the explosive growth of profit-making navigation. About 60 models offer navigation, up from seven models in 1998. Once a luxury option, the systems now are in mainstream cars like the Honda Accord and Nissan Altima.

The J.D. Power survey of 5,000 drivers who own cars with navigation systems shows fewer than 3 percent of them believe the systems are distracting.

A complaint on file at the NHTSA states a woman was severely injured when a man staring at a navigation system in his rental car ran a red light and struck her vehicle. The man was killed.

## Michigan dealers seek sixfold increase in DOC fee, to \$250

New- and used-car sellers in Michigan want more money to prepare paperwork for securing a license plate and title, verifying odometer readings, calculating sales tax, and checking if a buyer has insurance. Now, \$40 is the most that sellers can charge customers for preparing the paperwork.

Dealers want to increase the cap to either \$250 or 5 percent of the sale—which ever is less—saying it is needed to cover rising costs.

Those costs include some resulting from government mandates imposed since the fee was set in 1990, such as verifying that a buyer does not have three or more alcohol-related driving convic-

tions, said Pete Kuhnmuench, director of legislative affairs for the Michigan Automobile Dealers of Michigan.

A bill passed 9-2 in November with bipartisan support in the House Insurance and Financial Services Committee. Whether the entire state legislature will take it up before the end of the year is uncertain.

Consumer groups contend the move is a greedy attempt by car sellers to gouge consumers by pressuring lame-duck lawmakers who are no longer accountable to voters. The current legislative session ends Dec. 31, and many lawmakers are being replaced next month.

## Disclosure

CONTINUED FROM PAGE 1

Dealerships were granted a six-month reprieve from adhering to the USA PATRIOT Act, a money-laundering measure stemming from the 2001 terrorist acts in New York and Washington, D.C. The compliance date for dealerships and other industries which never developed money-laundering programs previously is postponed to April 24, 2003.

Van Over debated several seminar attendees who believed “payment packing” is permissible. Payment packing occurs when a customer agrees to a purchase price and the dealership quotes a monthly payment that is \$10

to \$40 higher than what is needed to cover the price of the vehicle, taxes, license, title and Doc fees.

The additional \$10 to \$40 creates a pack in the payment so that the F&I manager can sell optional products without increasing the payment the customer already agreed to. Using the terms “free,” “included” or “protected payment” when referring to the optional products are indications that the payment was packed in the sales process.

Other attendees have been slow to adhere to the 2001 Gramm Leach Bliley Act, commonly called the Privacy Act. The CATA has examples of notices that must be presented to consumers.