NADA publishes guidance on FTC Red Flags Rule

A new publication by the National Automobile Dealers Association helps dealers abide with the Federal Trade Commission’s new Red Flags Rule. Compliance is mandatory Nov. 1.

“A Dealer Guide to the FTC Red Flags and Address Discrepancy Rules: Protecting Against Identify Theft” explains the requirements and includes detailed, step-by-step guidance on developing the written program required under the rule. Also included: a sample written program, work sheets and other materials.

All NADA members were mailed a free copy of the guide about Aug. 1. The sample written program also is free to NADA members upon request to me@nada.org. Include NADA member identification number in the message.

Additional copies of the guide are available to members at $40 each, to nonmembers at $80 each.

The guide will serve as the basis for two Red Flags Rule virtual seminars hosted by the NADA, Aug. 26 and Sept. 23. To register for one of the seminars, visit www.nada.org/seminars or call 800-248-6323 ext. 7273. Registration is $199 per computer connection.

Navigating new straits of taxable dealer cash

Calls to the CATA have subsided about the July 1 change by the Illinois Revenue Department to the treatment of dealer cash, but a few questions linger.

Most dealer cash programs are excluded from the revenue department’s policy change. The past two editions of this newsletter detailed that manufacturer incentive payments are taxable only if they are conditioned on the retail sale of a vehicle and not upon the sale of any other vehicles.

Other dealer cash incentives—stair step payments, dealer hold-back, and marketing and facility payments, among others—are not taxable.

The revenue department was very explicit about including taxable dealer cash on Section 6, Line 1 of Form ST-556. Less explicit was any guidance about how to itemize that amount on the buyer’s contract, or how to navigate the conversation with customers about them paying tax on incentives that likely would be retained by the dealer.

Computer software usually is programmed to draw from various lines on the buyer’s contract to generate the sums on Form ST-556. But the revenue department offers no direction about

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BBB tracking ads that violate regulations on advertised price

The Better Business Bureau, which monitors all vehicle advertising by Chicago area dealers, is reporting price advertisements where not every consumer who desires to purchase a vehicle is able to purchase that vehicle at the advertised price. Instead, the advertised price is available only to certain consumers who qualify for that price.

This practice violates Rule 475.310 of the Motor Vehicle Advertising Regulations, which states “Purchasers shall be able to purchase all vehicles described by the advertisement at the advertised price.” That means all advertised prices, without exception or any condition, must be available to every possible consumer.

Patricia Kelly, a senior counsel of the BBB of Chicago and northern Indiana, said her office also has seen recent trends of other violations of the regulations. Kelly noted area ads that may include prices where limited rebates are deducted from the advertised price; where certain dealer incentives are deducted from the advertised price and the incentive is not available to all; where certain conditions must be met by the dealer or the consumer before a consumer qualifies for the price; where certain financing
Aftermarket seminar at CATA

Learn how to incorporate or enhance an aftermarket business at a dealership, at a free CATA Management Education Series seminar on Sept. 23. A registration form will appear in the next two editions of this newsletter.

Speakers include representatives from SEMA—the Specialty Equipment Market Association—and a custom builder who has customized cars of all types.

The 9 a.m.-12 p.m. presentation includes a continental breakfast.

Who pays for safety gear?

Businesses, not their employees, must purchase whatever safety gear—also called personal protective equipment or PPE—that the employee would not otherwise wear on the street, the Occupational Safety and Health Administration has ruled.

While small areas of debate remain, the list includes safety glasses, face shields and chemically resistant gloves (rubber, nitrile and latex). Hearing protection should be offered in the form of the small foam plugs that form to the ear. Respirators and dust masks may be required, but only after a formal assessment has been performed by a skilled professional.

Safety shoes, said Phil Troy of CATA allied member ComlyNet, are one category where negotiation is possible. “Dealers can pay for the shoes, offer reimbursement when presented with a paid receipt, offer a flat dollar amount, split the cost or even require affected employees to pay for their own safety shoes,” Troy said.

Most experts say all service department and body shop workers should wear shoes with slip-resistant shoes, and those who expose their feet to crushing hazards should wear shoes with crush-resistant toes.

Troy said ComlyNet offers free safety gear assessments. Call 847-655-2907.

EPA issues final SPCC ruling

After years of rumors and misinformation about what was to come, the EPA recently ruled that dealers who maintain more than 1,320 gallons of oil on-site and above ground still are required to have an SPCC plan. Dealers also are required to provide periodic training for those who are expected to respond to a spill.

A Spill Prevention, Control and Countermeasure Plan is a site-specific for a business’s location, with all containers and connections identified. The plan describes how container spills can be prevented and what employees can do when a spill occurs.

The new regulations offer some cost savings because a licensed engineer is not required to approve a typical dealer’s plan, said Phil Troy, president of ComlyNet, a CATA allied member that has worked with dealers since 1984 on safety and environmental services.

“Basically,” Troy said, “you can write it yourself. But writing your own plan is not where the savings will be for the dealer. There’s just too much liability. The real savings will come every five years when the plans have to be rewritten.

“If there have been no changes in content or location, you can certify that yourself and save the professional fees.”

Troy said ComlyNet consults licensed engineers to review initial SPCC drafts. “Just often enough,” he said, “they find something we hadn’t caught or ask a question that makes us look at a situation in a new light. And we’ve done hundreds of these plans.”

For facilities other than a farm that started operations on or before Aug. 16, 2002, the facility must maintain its existing SPCC plan and amend and implement the plan no later than July 1, 2009. If the facility began operations after Aug. 16, 2002 through July 1, 2009, it must prepare and implement an SPCC plan no later than July 1, 2009. If the facility starts operations after July 1, 2009, it must prepare and implement an SPCC plan before beginning operations.

Marketplace


The CATA Bulletin is published by the Chicago Automobile Trade Association
18W200 Butterfield Rd. Oakbrook Terrace, IL 60181-4810

The CATA Bulletin is published and mailed every other Friday except during the Chicago Auto Show, when it is not published.

Listings of items for sale are subject to the approval of the CATA. Candidates for employment must submit a full resume to the Editor.


Jerry H. Cizek III President, Publisher
Erik K. Higgins Editor, Director of Dealer Affairs
CATA’s Chicagoland Dealers Care identifies more funding recipients

Chicagoland Dealers Care, the new benevolent entity of the Chicago Automobile Trade Association, has bestowed $5,000 donations to two more area nonprofit groups.

The campaign, which began dispensing funds this spring, provides up to $5,000 in matching grants for a dealer’s contributions to local charities. Grant requests can be for a variety of causes: academic programs, cultural arts, performing arts, medical research, and more.

The Jeffrey Pride Foundation for Pediatric Cancer Research and Operation Support Our Troops-Illinois, Inc. are the latest beneficiaries. The former was nominated for funding by Emir Abinion, president of Fox Valley Volkswagen in West Chicago. The latter was nominated by George Honiotes, who operates Saturn of Naperville.

Jeffrey Pride cancer

Abinion has supported the Jeffrey Pride Foundation for Pediatric Research since a neighbor invited him to a fund-raiser golf outing for the foundation eight years ago.

Since then, Abinion has donated time, money, vehicles and sponsorships to help the foundation raise funds to bring experimental drugs to market for children cancer patients.

Several years after he began supporting the Jeffrey Pride Foundation, Abinion said his nephew was stricken with the same form of cancer to which Jeffrey Pride succumbed at age 7. Abinion’s nephew, now 17, is cancer-free.

“One in 300 kids is diagnosed with pediatric cancer before they turn 17,” Abinion said. “Chicagoland Dealers Care is a great idea to utilize some of our (association) funds. A lot of dealers are embedded in their communities and support worthy causes.”

Troop support

Deborah Rickert, president of Support our Troops-Illinois, Inc., said the organization is incorporated in Illinois, but it benefits U.S. soldiers from all states with packages of items that are not readily available to the troops in their deployed locations. The packages also include personal letters, cards and notes of support from the community at large.

Rickert said her group in 2007 shipped 6,000 packages, which weigh 25 pounds apiece. The postage alone for those shipments cost $120,000.

The group in July hosted its third annual Rockin’ for the Troops event, which doubles as a fund-raiser and a day for awareness of the troops and the sacrifices made by them and their families. Rickert said last month’s event still is being reconciled, but the 2007 edition raised $270,000.

Operation Support our Troops-Illinois, Inc. hired its first paid employee in May. All previous efforts were handled by up to 300 volunteers, who in 2007 logged 10,000 hours.

CATA Chairman John Phelan, who presented the donations to the two groups, points to the effort as a way extend the good that area dealers do with little or no recognition.

“In times like this,” said Phelan, “every dollar counts. Every CATA dealer can be proud of this new initiative.”
BBB
CONTINUED FROM PAGE 1
must be taken to obtain the advertised price but where only some will qualify; and similar scenarios.

“In this day of challenging economic times in general, and for dealers especially, the BBB is aware that dealers do need to advertise aggressively to make sales,” Kelly said. “However, the BBB is also aware that there must be that level playing field for all dealers to compete fairly.

“Therefore, the BBB has begun to pay particular at-
tention to those advertise-
ments that advertise a price that is not available to all, in whatever form that price advertisement takes, whether Rule 310 alone is violated or in conjunction with other more specific Rules.

“Dealers who advertise prices that are not available to all consumers will risk violation letters from the BBB under the BBB/CATA Advertising Review Program, as we continue to monitor advertisements with the goal that all dealers can compete fairly in these difficult economic circumstances.”

Dealer cash
CONTINUED FROM PAGE 1
whether to identify the incentive amount as a rebate or something else.

“It (taxable dealer cash) needs to be on the bill of sale,” said Susie Lonzerotti, vehicle tax liaison for the Illinois Revenue Department. “But we can’t dictate where on the bill of sale that appears because they are all set up so differently.”

As for soothing customers upset about paying the tax on dealer cash that they don’t get, a suggested tactic is to say, “Yes, we are getting an extra $250 from the manufacturer to sell this vehicle, and that’s what enables us to sell it to you at the price we agreed to.”

Survey: Hybrids wanted, but not E85

Of more than 4,000 consumers planning to buy a new vehicle in the next two years, 62 percent are considering a hybrid. That figure is up from 50 percent last year, according to a J.D. Power study released in July.

The main reason cited last year for consumers not considering hybrids was unfamiliarity with the technology. But that number is down 6 percent year year, and no longer the top concern.

Now the top issue for consumers reportedly is the “premium of the powertrain.” Customers want to know whether a hybrid will pay for itself based on their driving styles, whether they’re leasing or buying, and other factors.

The study found fewer consumers this year are interested in E85 vehicles—43 percent said they were interested, down from 47 percent last year. The concern is that E85 vehicles, which can run on as much as 85 percent ethanol, may affect agricultural production.

Unemployment claims deflected

One hundred twenty-five CATA dealer members reported a combined 503 unemployment claims during the second quarter of 2008 to Cambridge Integrated Services Group, Inc., which formerly operated as the Martin Boyer Co. The company’s efforts saved those dealers a total of $1.05 million in benefits by contesting the claims.

Cambridge monitors any unemployment claims against its clients and contests all unwarranted claims and charges. The company counts about 230 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 0.8 percent and 7.2 percent of each employee’s first $12,000 in earnings. The 2008 average unemployment tax rate among Illinois employers is 3.4 percent, or about $408 annually per employee.

“The unemployment tax is really the only controllable tax, in that it’s experience-driven,” said Paul Schardt, senior vice president of Cambridge. An ex-employee’s claim affects the employer’s tax rate for three years.

For new enrollees, client fees amount to $2.60 per employee, per fiscal quarter. For the fee, Cambridge 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.

The former Martin Boyer Co. has represented CATA members since 1978. To discuss retaining the company, call Schardt at 312-381-8241.

Congratulations!

Five area dealers were named President’s Circle Winners for being top sellers of GM Protection Plan and MRP vehicle service contracts: Bill Haggerty of Haggerty Pontiac-GMC (Villa Park); Lee Hoskins of Hoskins Chevrolet (Elk Grove Village); William Koloseike of Bill Kay Chevrolet (Lisle); Dan Kurtz of Sunrise Chevrolet (Glendale Heights); and Michel Van Iten of Village Pontiac-GMC (Naperville).

All nine area Lexus dealers achieved 2008 Elite of Lexus Dealers status: Arlington Lexus in Palatine, Bredemann Lexus in Glenview, Lexus of Highland Park, Lexus of Merrillville (Ind.), Lexus of Naperville, Lexus of Orland, McGrath Lexus of Chicago, McGrath Lexus of Westmont, and Woodfield Lexus ( Schaumburg).