



CATA Bulletin



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Figure tax due on sale amount, before employee discount price

Amid the current blitz of the domestic manufacturers' vehicle employee pricing promotions, state revenue department auditors, it appears, could be the real winners.

Dealers who fail to correctly calculate the tax due in special pricing promotions could owe the difference, plus more, when an audit uncovers the error. Important, any money a dealer receives from the manufacturer should be treated as a rebate, and the tax should be determined on the total amount—"gross receipts," in Illinois Revenue Department parlance—that the dealer would receive in the transaction.

For example, if a dealer collects \$20,000 in the sale, it does not matter whether the customer paid \$20,000 or whether the customer paid \$18,000 and the manufacturer paid \$2,000 to the dealer as part of some type of program. In either case, the dealer's gross receipts from the vehicle sale are \$20,000, and that is the amount subject to tax.

According to the revenue department: "A rebate for

which a dealer will be reimbursed must be included in the total price and is subject to tax. A rebate offered by a dealer that will not be reimbursed should not be included in the total price and will not be subject to tax."

Auditors regularly rule that dealers who underreport sales tax would face additional tax, penalty and interest on the amount of the rebate—for each transaction uncovered.

CATA board repeats call for dealers' Carfax reports

The CATA board of directors repeated its call for copies of accurate and inaccurate Carfax reports, following a Chicago television news report on the state government's inability to share compiled vehicle accident data with companies like Carfax.

Lobbyists for several industries helped to derail an attempt last spring by Carfax to gain access to the Illinois Transportation Department's vehicle-specific accident information. But it wasn't the first such attempt by Carfax,

CATA board committees take shape

Newly elected CATA board Chairman Terry D'Arcy's fellow directors confirmed D'Arcy's board committee assignments for the next 12 months, in action at the July 7 board meeting.

The 18 directors each serve on several of the board's 11 committees. Chairpersons of the committees are:

Attorney General Advisory	Bill Hartigan
Secretary of State Advisory	John Guido
Employee Relations	Kevin Mize
Civic and Dealer Relations	Mary Dolan
CAT/PAC-DEAC	Lee Drabek
Media Strategy	Bill Hawkinson
DriveChicago	Mark Scarpelli
Finance/Pension/Audit/Compensation	Arthur Kelly
2006 Auto Show	Arthur Kelly
2006 Executive Show	Arthur Kelly
Nominating	Terry D'Arcy

and it likely won't be the last. Similar laws exist in 39 states.

To help prepare for the next Carfax maneuver, CATA directors want their fellow dealers to submit to the CATA copies of accurate and inaccurate Carfax reports they have encountered.

Pam Zekman, a reporter for CBS 2 Chicago, said July 11 that consumers are "at risk because, under Illinois law, the state cannot reveal information contained in police reports about cars involved in accidents."

Zekman failed to note that inaccuracies related to accident reports are common. The incorporation of such data into a vehicle's history report, then, would harm the values of used vehicles, including customer trade-ins.

Carfax officials who visited the CATA in 2003 conceded the company's reports do contain erroneous information, but they said such information would not be removed from a report—even after it is uncovered.

Send any Carfax reports to Erik Higgins at the CATA.

Federal Reserve extends critical regulatory exception to dealers

The Federal Reserve Board issued an interim rule July 5 that extends a critical regulatory exception under the FACT Act to automobile dealers and other non-bank creditors. If the FRB retains this approach in its final rule, dealers would be spared a hardship that would have resulted if the FRB and the other federal banking regulatory agencies excluded dealers from the regulatory exception.

Section 411 of the FACT Act prohibits creditors from obtaining or using medical information for credit eligibility decisions. In addition to preventing creditors from considering a consumer's medical condition during the underwriting process, the broad language of Section 411 prevents creditors from such routine uses as considering a consumer's medical debt as a component of the consumer's overall debt (as may be used in a debt-to-income analysis).

Despite the breadth of this prohibition, Section 411 authorizes the federal banking regulatory agencies to issue rules that would "permit transactions" that might otherwise be precluded. However, Section 411 does not extend the same authority to the Federal Trade Commission, the agency with enforcement authority over dealers and other non-bank creditors.

In 2004, the banking agencies jointly proposed rules that permit creditors to obtain and use medical information when determining a consumer's eligibility for credit, subject to certain conditions. However, the banking agencies limited the

scope of the exception to the bank and credit union creditors they regulate.

The banking agencies' proposed exception did not extend to dealers, captive finance companies and other non-bank creditors. This would have significantly limited the ability of non-bank creditors to assess a buyer's credit capacity and placed them at a competitive disadvantage with bank creditors not subject to this restriction.

In response to this development, the NADA sent a joint NADA/Alliance of Automobile Manufacturers letter to each of the banking agencies, urging them to expand the scope of the above-mentioned exception to include non-bank creditors.

The letter argued that Congress never intended to treat bank and non-bank creditors differently and that excluding non-bank creditors from the exception would threaten the ability of dealers "to continue to offer their customers the choice and convenience of dealer financing." The FTC also sent a letter to the banking agencies urging them to avoid this unintended result.

The banking agencies agreed with the arguments and recently decided that the FRB would create a separate interim rule that extends the regulatory exception to "creditors not otherwise covered by the rules of any of the agencies." The interim final rule takes effect March 7, 2006.

The NADA will comment in support of the separate rule, which is available at www.federalreserve.gov/boarddocs/press/bcreg/2005/20050606/default.htm. The NADA also will post a summary of the new section 411 restrictions at www.nada.org/factact (requires member number) well in advance of the effective date.

Chicago puts brakes on drivers who use handheld cell phones

Motorists in Chicago face fines of \$50 to \$200 if they are caught talking on a hand-held cell phone while driving, under a city ordinance that took effect July 8. Such use is permitted only if the vehicle is parked or if the driver is placing a 911 emergency call. Cell phone use with a headset is permitted.

The hand-held ban came the same day a poll was released that showed one-third of American motorists say cell phone use by fellow drivers is their main annoyance on the road—and a habit that four out of 10 admit they engage in themselves.

Thirty-one states have no restrictions on driving and cell phone use, although five states are debating the matter. Seventeen states have partial cell phone restrictions, mostly against school bus drivers.

New Jersey and New York have statewide bans on cell phone use by drivers, and the practice is illegal in several cities across the country. The New York restriction is the oldest, dating to 2001.

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

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NADA dealers and their customers: safe and sound

By **RAY SCARPELLI SR.**

CHICAGO METRO NADA DIRECTOR

Ah, summer! It's the time when people head to the mountains, the shore and other vacation destinations. Summer also is a great time for America's dealers to continue their efforts to ensure safety on our nation's roads. Notify your local media about dealership safety programs, to both increase your attendance and improve dealer image.

The NADA is working to safeguard dealer rights in the legislative and regulatory arenas:

- The NADA continues to push for reasonable CAFE legislation that does not unduly restrict product availability, consumer cost or passenger safety. To that end, the Senate Energy and Natural Resources Committee defeated a measure that would have required automakers to boost to 27.5 mpg by 2011 the fuel economy of trucks and SUVs sold in the United States.

- As part of a coalition of business organizations, the NADA wrote to Senate Finance Committee chairman Charles Grassley (R-Iowa) and ranking member Max Baucus (D-Mont.), arguing that to eliminate expensing of business-use SUVs over 6,000 lbs GVR would amount to a tax increase on small entrepreneurs. The proposal now seems less likely to take effect.

- Ed Tonkin, the NADA's Regulatory Affairs Committee chairman, testified before the U.S. Small Business Administration in support of a proposal to replace many of its gross-receipts-based small-business size standards with ones based on the number of employees in a company. The proposal would decrease and simplify the number of size standard levels and help reduce the need to update and adjust the levels for inflation.

- A Minnesota appellate court ruled that "lenders aren't required to disclose to retail vehicle loan customers the difference between the annual percentage rate they offer dealerships . . . and the interest rate that dealerships quote to customers." The NADA encourages and supports clear written disclosure to consumers that states:

(a) the annual percentage rate for the installment sale of an automobile may be negotiated with the dealership; and

(b) the dealership may receive some portion of the finance charge or receive other compensation for providing the financing.

- A new Federal Trade Commission rule sets forth the format, type size and manner of the "opt-out" disclosures that must accompany pre-approved (or prescreened) offers of credit sent to consumers based on information contained in their credit files. Short- and long-form notices must be sent with the solicitation. The new rule takes effect Aug. 1. Log onto www.nada.org/factact for more information.

- A federal regulatory fairness hearing sponsored by the SBA will be held July 20 in Spokane, Wash., where small business owners can express concerns about unfair practices or burdensome policies imposed by federal agencies. More information is at www.sba.gov/ombudsman/

Summer is the perfect time to catch your U.S. senators and representatives in their home state. Make sure you maintain grassroots contact and voice your views, and invite them to your dealership events. E-mail photos of legislators at your dealership to PublicAffairs@nada.org; we'll send you back a framed print.

Plan for these NADA consumer awareness programs now:

- Host tire safety events to be sure your customers are ready for longer summer trips and provide service reminders to reduce accidents and keep customers from being stranded in unfamiliar locations. Free information on the "Be Tire Smart, Play Your PART" (Pressure, Alignment, Rotation and Tread) campaign is at www.rma.org/

- Automotive Career Week kit order forms are included with the July AutoExec. The kits are free and contain everything you need to plan your event for middle- and high-school teens. Information and forms are also on the newly created Web page www.nada.org/careers/ Start planning now for your event during the week of Oct. 24-29.

- The NADA's newest video, "From Trucks to Bucks: Great Careers at Truck Dealerships," is another excellent way to reach young people. All NADA truck dealers recently received a copy. Get future employees excited about working in auto and truck dealerships — especially yours.

- Child Passenger Safety Month is this September. A Child Passenger Safety event "tool kit" was included with the June AutoExec to help you begin your event planning. Information is also posted to www.nada.org under Auto Safety.

In other NADA news, Automotive Retailing Today's recent survey found that consumers believe salespeople are consistent throughout transactions (84 percent of minority and 93 percent of non-minority respondents agreed); take the time to listen to the buyer's needs (79 percent minority, 88 percent non-minority); and are willing to negotiate to satisfy all parties (82 percent minority, 88 percent non-minority). For complete results, go to www.automotiveretailing.org/

NADA's chief economist says, "The NADA expects light-vehicle sales to strengthen over the course of the year to yield total sales of 16.9 million units for the entire year, compared with 16.86 million units last year." Let's see if we can inch that up to 17 million!

Have a profitable summer by making use of NADA programs, products, and services, and let me know how they work for you.

Franchised New Car Dealers in the 8-county CATA area as of 1 July 2005

Car Line	Chicago only Ill.	Rest of Cook Cnty. Ill.	Lake Cnty. Ill.	DuPage Cnty. Ill.	McHenry Cnty. Ill.	Kane Cnty. Ill.	Will Cnty. Ill.	Lake Cnty. Ind.	Porter Cnty. Ind.	Total [prior] 1/1/2005	Total [present] 7/1/2005
Acura	0	4	2	3	0	0	0	0	0	9	9
Aston Martin	0	0	1	0	0	0	0	0	0	1	1
Audi	1	3	1	2	0	0	0	1	0	8	8
Avanti	0	1	0	0	0	0	0	0	0	1	1
Bentley	1	1	0	1	0	0	0	0	0	3	3
BMW	1	4	1	3	1	0	0	1	0	11	11
Buick	5	13	5	6	4	1	3	1	3	40	41
Cadillac	1	9	2	2	1	1	1	2	1	20	20
Chevrolet	7	23	7	9	4	6	7	6	2	71	71
Chrysler	6	13	5	4	4	3	3	5	2	45	45
Dodge	5	14	6	4	3	3	3	5	2	45	45
Ferrari	0	0	1	1	0	0	0	0	0	2	2
Ford	8	19	7	9	4	4	6	5	2	65	64
GMC	1	11	3	4	3	1	2	2	2	28	29
Honda	4	10	3	2	1	2	1	2	0	25	25
Hummer	0	2	1	1	0	0	0	1	0	5	5
Hyundai	2	8	3	3	1	0	1	2	0	20	20
Infiniti	1	3	1	1	0	0	0	0	0	6	6
Isuzu	0	7	1	0	1	1	0	1	0	14	11
Jaguar	1	3	1	2	0	0	0	1	0	8	8
Jeep	5	12	4	3	3	3	3	4	2	39	39
Kia	2	6	3	4	1	0	1	2	0	18	19
Lamborghini	0	0	0	1	0	0	0	0	0	1	1
Land Rover	1	3	1	2	0	0	0	0	0	6	7
Lexus	1	4	1	2	0	0	0	0	0	8	8
Lincoln	2	12	5	5	1	1	2	2	1	31	31
Lotus	0	0	0	1	0	0	0	0	0	1	1
Maserati	0	0	1	1	0	0	0	0	0	2	2
Maybach	0	4	1	1	0	0	0	0	0	6	6
Mazda	1	8	4	3	1	0	1	1	1	20	20
Mercedes	1	6	1	2	0	0	0	1	0	11	11
Mercury	2	12	6	5	2	1	3	2	2	35	35
Mini	0	1	1	1	0	0	0	0	0	3	3
Mitsubishi	1	7	1	3	0	0	1	2	0	15	15
Nissan	2	12	3	4	1	1	2	2	1	28	28
Panoz	0	0	0	1	0	0	0	0	0	1	1
Pontiac	4	14	4	4	3	2	2	4	2	38	39
Porsche	0	3	1	1	0	0	0	0	0	5	5
Rolls-Royce	0	1	0	0	0	0	0	0	0	1	1
Saab	1	4	2	2	0	0	0	1	0	10	10
Saturn	1	5	2	3	1	2	1	1	0	15	16
Scion	4	12	2	4	1	1	1	2	1	28	28
Subaru	0	6	2	2	1	0	1	1	1	13	14
Suzuki	0	6	2	2	1	0	1	1	1	14	14
Toyota	4	12	2	4	1	1	1	2	1	28	28
Volkswagen	2	9	3	3	1	0	1	1	0	20	20
Volvo	1	4	3	1	0	0	0	1	0	10	10
# of Car lines	79	311	106	122	45	34	48	65	27	848	837
# of Outlets	53	208	62	88	24	25	27	40	14	541	541

NOTE: The difference between car line and outlet figures is the result of outlets that handle more than one car line. The reduction in the number of lines is wholly due to the demise of the Oldsmobile brand and its 14 local dealerships.