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Labor Department issues final rules on how to classify workers

The U.S. Labor Department has published a final rule that helps clarify how to distinguish an “employee” from an “independent contractor” for purposes of the Fair Labor Standards Act. The FLSA is the law that governs an employer’s minimum wage and overtime obligations, among other things.

The final rule, which takes effect March 8, contains:

- a multifactor test for determining when workers are employees or independent contractors.
SEE **WORKERS**, PAGE 4

Don’t show used car’s Monroney prices in ads

Some dealers reportedly have taken in their advertising to displaying a copy of a used vehicle’s original Monroney label as a way to identify the vehicle’s available equipment. But that practice is drawing the attention of the Better Business Bureau and the Illinois attorney general’s office.

According to Section 475.360 of the state’s motor vehicle advertising regulations, which addresses the disclosure of basis for price comparison, “Under no circumstances may the Manufacturers Suggested Retail Price (MSRP) be used as a basis for price comparisons for used vehicles.”

The Monroney sticker is a label required in the United States to be displayed in all new automobiles and includes the listing of certain official information about the car.

“We recommend that dealers delete the MSRP if they post the Monroney sticker,” said Patricia Kelly, senior counsel of the BBB of Chicago and northern Illinois.

She said her office has not cited any new-car dealers on this issue “because we have not been aware that it is a problem.”

The BBB notifies dealerships about this issue.
SEE **MONRONEY**, PAGE 3

DriveChicago.com is sending customers directly to dealer websites

In May 2020, DriveChicago.com made a significant programming change designed to drive in-market shoppers direct to CATA dealer websites. Prior to this change, DriveChicago.com sent customers to dealers in the traditional portal method, with email leads, phone ups and map views.

Since last May, DriveChicago.com is driving site visitors directly to dealerships’ vehicle detail pages. Over the past nine months, more than

50,000 customers have been sent to CATA dealership websites.

More specifically, the change involved deep linking into dealer website vehicle detail pages. Previously, a DriveChicago.com visitor would search through the more than 100,000 vehicles in inventory and land on a DriveChicago.com vehicle details page that provided links to contact the dealer-



ship or send an email lead.

Now, instead of landing on a DriveChicago.com vehicle details page, that site visitor is sent directly to the vehicle details page on dealership websites.

For many dealers, this change has resulted in DriveChicago.com becoming a leading referral site.

“As traditional email leads

continue to dry up, we realized that dealers best convert from their vehicle details pages,” said Richard Wickstrom, chairman of the CATA’s DriveChicago.com Committee. “So, by making this simple change, DriveChicago.com instantly becomes significantly more relevant to CATA dealers and better fulfills its mission to drive in-market shoppers to members.”

While this lead-generation strategy is effective, it is important to ensure that the information provided is accurate and up-to-date.
SEE **DRIVECHICAGO**, PAGE 3

COVID tax credit extended for employers who keep workers on payroll

WASHINGTON — The Internal Revenue Service has posted updated FAQs about recent legislation that extended and amended tax relief to certain small- and mid-sized employers under the Families First Coronavirus Response Act (FFCRA).

The FAQs are available at COVID-19-Related Tax Credits for Required Paid Leave Provided by Small and Midsize Businesses FAQs.

The updates to the FAQs cover how the COVID-related Tax Relief Act of 2020, enacted Dec. 27, 2020, extends the availability of the tax credits created by the FFCRA to eligible employers for paid sick and family leave provided through March 31, 2021, as well as other amendments to the credits.

The paid sick and family leave credits, which previously were available only

until the end of 2020, have been extended for periods of leave taken through March 31, 2021.

The paid sick leave credit is designed to allow qualified businesses — those with fewer than 500 employees and who pay “qualified sick leave wages” — to get a credit for wages or compensation paid to an employee who is unable to work (including telework) because of coronavirus quarantine or self-quarantine or has coronavirus symptoms and is seeking a medical diagnosis.

Eligible employers may claim credit for paid sick leave provided to an employee for up to two weeks (up to 80 hours) at the employee’s regular rate of pay up to \$511 per day and \$5,110 in total.

In addition, an eligible employer can receive the paid sick leave credit for employ-

ees who are unable to work due to caring for someone with coronavirus or caring for a child because the child’s school or place of care is closed, or the paid childcare provider is unavailable due to the coronavirus. Eligible employers may claim the credit for paid sick leave provided to an employee for up to two weeks (up to 80 hours) at 2/3 the employee’s regular rate of pay, or up to \$200 per day and \$2,000 in total.

Employers also are entitled to a paid family leave credit for paid family leave provided to an employee equal to 2/3 of the employee’s regular pay, up to \$200 a day and \$10,000 in total. Up to 10 weeks of qualifying leave can be counted towards the family leave credit.

Eligible employers are entitled to immediately receive a credit in the full amount of

the paid sick leave and family leave plus related health plan expenses and the employer’s share of Medicare tax on the leave provided through March 31, 2021. The refundable credit is applied against certain employment taxes on wages paid to all employees.

Eligible employers may claim the credits on their federal employment tax returns (e.g., Form 941, Employer’s Quarterly Federal Tax Return), but they can benefit more quickly from the credits by reducing their federal employment tax deposits. If there are insufficient federal employment taxes to cover the amount of the credits, an eligible employer may request an advance payment of the credits from the IRS by submitting a Form 7200, Advance Payment of Employer Credits Due to COVID-19.

Despite chip paucity, AutoNation predicts strong US sales this year

AutoNation Inc., the country’s largest auto dealer chain, expects U.S. sales of new cars and trucks to hit 16 million vehicles this year, rebounding on a pandemic-fueled increase in demand for personal transportation.

Chief Executive Mike Jackson predicts the growth despite disruptions to vehicle production caused by a global semiconductor shortage and lingering inventory issues from pandemic-related shutdowns last year. He expects the seasonally-adjusted rate of U.S. new-car sales to grow 7% this year, up from 14.5 million vehicles in 2020, which was the lowest since 2012.

“The demand is higher than that, but I think it’ll be constrained by production,” Jackson said in a phone interview. “The situation is very opaque, no one knows exactly how this is going to unfold, production is definitely unpredictable.”

Vehicle production by carmakers this year has been pinched by the shortfall in supplies of chips, as semiconductor makers have allocated more capacity to consumer products than cars. Now snowstorms are adding to carmakers’ woes by forcing plant shutdowns in states in the central part of the country.

Industry executives and analysts predict strong consumer demand will continue this year and expect a return of commercial fleet sales as local officials distribute the Covid-19 vaccine.

“While the coronavirus was something that no one in the auto industry expected, the industry rallied and adapted to the new state of play,” said Patrick Manzi, chief economist at the National Automobile Dealers Association.

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Review past editions dating to 1998 or search by subject at www.cata.info/publication/bulletins.

David E. Sloan
Erik K. Higgins

President, Publisher
Editor, Director of Dealer Affairs

NADA chairman: '20 made dealers 'stronger, tougher, wiser'

In his final remarks to dealers as outgoing NADA chairman, Rhett Ricart — who led the organization through one of the most tumultuous years in recent memory — had a simple message during Feb. 9 remarks at NADA Show: “Never forget what we went through, because it shaped who we are today.”

Ricart took over as NADA chairman at the previous NADA Show in mid-February 2020. Less than a month into his tenure, the coronavirus pandemic upended everything in the auto industry, including the priorities of the organization Ricart was tapped by his fellow dealers to lead in 2020.

Even though “no playbook was ever written for the challenges we faced in 2020,” Ricart said, the NADA rallied immediately and refocused on the single goal of steering America’s franchised auto dealers through the pandemic.

“This association has never fought

harder, worked faster, or given so much of itself so that business owners, like you and me, had a franchise that remained valuable and protected,” Ricart said at the opening session of NADA’s first-ever virtual Show.

From advocating for dealerships to be deemed essential businesses, to helping dealers navigate coronavirus-related regulations, to maintaining dealership workforces, Ricart reminded auto dealers nationwide of the importance of the NADA’s efforts on behalf of, and hand-in-hand with, franchised dealers.

“We’ve lived through a year we’ve never witnessed before, but the NADA rose to the occasion,” Ricart said. “It is a forcefield that covers every dealer. I am in awe of the NADA staff, our state and metro associations, and their leadership. Everything they did, they did on our behalf.”

And Ricart, president and CEO of Ricart Automotive Group in Columbus, Ohio, credited his fellow dealers

for their perseverance, determination and flexibility in the face of a constantly changing and ever-challenging business environment.

“Despite the darkest days, we kept people on the payroll, we reformulated our business model, we prioritized the health of customers, employees and our families, and we continued to sell and service cars,” Ricart said. “Through the chaos, I saw the strength of auto dealers like I never have before. Dealers became life preservers, contortionists and survivors.”

Ricart urged dealers to stay vigilant and remain confident in their ability to thrive in the face of adversity. And he reiterated his belief that the challenges dealers survived in 2020 will leave them better positioned to succeed well beyond 2021.

“After the year we’ve been through, I know one thing for sure: We are a bulletproof band of brothers and sisters who are stronger, tougher and wiser,” Ricart said.

DriveChicago

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tion change continues to drive 6,000-7,000 site visitors directly to CATA dealer websites each month, DriveChicago.com is also upping its marketing spend to identify and connect with current vehicle shoppers. Though its partnership with Automotive Internet Media, DriveChicago.com has gone all-in on the CarClicks program. As a result, DriveChicago.com traffic went up 35% in one month with a spend of less than \$1,500.

Together the lead-generation change and enhanced CarClicks marketing continue to provide CATA dealers a free alternative to expensive programs of competing automotive shopping portals such as AutoTrader. DriveChicago.com is just another way that the CATA provides benefit to its members.

For more information on DriveChicago.com please contact Mark Bilek at (630) 424-6082 or mbilek@drivechicago.com.

Kentucky dealer is 2021 AIADA chairman

Kentucky dealer Steve Gates on Feb. 17 assumed the chairmanship of the American International Automobile Dealers Association for 2021.

“Becoming chairman of the AIADA is by far the biggest honor I’ve ever received,” said Gates, who represents the third generation of dealers in the Gates Auto Family. “I can promise you that

day in and day out I will do everything I can for this industry and the AIADA. I’m excited and ready to go.”

The Gates Auto Family operates Audi, Ford/Lincoln, Honda, Hyundai, Kia, Lexus, Nissan, and Toyota dealerships with more than 500 employees. Gates has served on the AIADA’s board of directors since 2014

and in 2018 testified during a U.S. Senate Finance Committee hearing on behalf of dealers on the disastrous impact of 232 proposed tariffs on vehicles.

His industry leadership also includes representing dealers on Toyota’s National Dealer Council for six terms and Toyota’s National Product Advisory Council.

Monroney

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infractions to the advertising regu-

lations that they see. If ads are not corrected, the matters are forwarded to the attorney general’s office for pursuit.

Mustang Mach-E is MotorWeek's top new vehicle

MotorWeek, television's longest-running automotive series, on Feb. 10 named the new **Ford Mustang Mach-E** the best vehicle of the year, in its 2021 Drivers' Choice Awards.

The awards, presented in 12 categories, traditionally are announced during the Media Preview segment of the Chicago Auto Show. This year, the winners were revealed in a YouTube video.

MotorWeek host John Davis said the Mach-E brings a host of firsts to the Mustang: first battery-electric powertrain, first with all-wheel-drive, and, of course, the first SUV to ever wear the Mustang badge.

Other 2021 Drivers' Choice category winners:

Best Small Car: **Mazda3**

Best Family Sedan: **Kia K5**

Best Luxury Sedan: **Acura TLX**

Best Sport Sedan: **Mercedes-AMG CLA 35**

Best Sports Coupe: **Toyota GR Supra**

Best Performance Car: **Porsche 718**

Best Eco-Friendly: **Ford Mustang Mach-E**

Best Small Utility: **Ford Bronco Sport**

Best Midsize Utility: **Land Rover Defender**

Best Large Utility: **Chevrolet Tahoe/Suburban**

Best Luxury Utility: **Mercedes-Benz GLE**

Best Midsize Pickup: **Honda Ridgeline**

Best Full-size Pickup: **Ford F-150**

Workers

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pendent contractors;

- a clarification that when applying the test, no one factor is conclusive and that the actual practices between workers and employers are more relevant than what is stated contractually or is theoretically possible; and

- six fact-specific examples applying the multifactor test.

The multifactor test is designed to determine whether a worker is economically dependent on a business and is its employee, or whether the worker is self-employed. The test identifies and explains two "core factors" and lists three other factors that are probative to worker classification determinations.

The two core factors are:

- the nature and degree of control over the work; and
- a worker's opportunity for profit

or loss based on initiative and/or investment.

The three other probative factors are:

- the amount of skill required for the work;
- the degree of permanence of the working relationship between a worker and a business; and
- whether the work is part of an integrated unit of production.

Caution to dealers: The final rule applies to dealerships with respect to their federal FLSA compliance. It does not necessarily apply to other federal or state laws governing the relationship between dealerships and workers, including federal and state tax laws.

Dealers are advised to work with their attorneys and HR professionals to carefully evaluate those relationships where it is not readily apparent whether workers are employees or independent contractors.

Listen to "Drive Chicago," the CATA's automotive radio show, 8-9 a.m. Saturdays and 6-7 p.m. Sundays on WLS-AM 890.

Enrollment open for 2021 Dealership Workforce Study

The NADA's annual Dealership Workforce Study is now open. Dealers are encouraged to participate in the study, which provides valuable compensation and retention data on more than 60 dealership positions.

Participants receive a custom report that compares and ranks their dealership against a peer group of participating dealerships; a national and regional analysis report; and access for one year to NADA's Database Search Tool.

The study closes April 15. Enroll at www.nada.org/workforcestudy. For questions, contact workforcestudy@nada.org.

Congratulations!

Twenty-eight area dealerships are winners of DealerRater's 2021 Dealer of the Year Award, for providing outstanding customer experiences: **Arlington Heights Buick-GMC, Audi Naperville, Berman Nissan of Chicago, BMW of Schererville (Ind.), City Volkswagen of Chicago, D'Arcy Hyundai (Joliet), Fox Lincoln (Chicago), Gerald Subaru of Naperville, Hawk Mazda (Joliet), Heritage Cadillac (Lombard), Infiniti of Naperville, Bill Jacobs BMW-Mini (Naperville), Jaguar Schaumburg, Gary Lang Kia-Mitsubishi (McHenry), Mercedes-Benz of Chicago, Muller's Woodfield Acura (Hoffman Estates), Napleton Aston Martin (Downers Grove), Napleton Autowerks of Indiana (Schererville), Phillips Chevrolet of Frankfort, Porsche Orland Park, Joe Rizza Alfa Romeo-Maserati (Orland Park), Taylor Chrysler-Dodge-Jeep-Ram, Bourbonnais, Taylor Ford of Manteno, Toyota of Naperville, Valley Honda (Aurora), and Volvo Cars Lisle. Phillips Chevrolet is the award's national winner among Chevrolet dealerships.**