New Cook County 1% tax hike on general merchandise, not cars

Chicago sheds its Second City moniker on one front July 1, when its sales tax rate becomes the nation’s highest on general merchandise.

The city’s new 10.25 percent sales tax is part of a measure passed in February to avert a Cook County government shutdown. But the 1 percent countywide sales tax increase does not apply to vehicles, so showrooms and parts departments effectively will have different tax rates. Food and medicine also are unaffected by the tax hike.

The tax on all general merchandise sold in Cook County increases 1 percent. The new state and local combined rate will be preprinted on Line 4a of Form ST-1, Sales and Use Tax Return; or Form ST-2, Multiple Site Form, as a total general merchandise rate.

The Cook County Board measure that more than doubles the county sales tax—to 1.75 percent from 0.75 percent—gives Board President Todd Stroger the cash to hire more than 1,000 new employees and close the county’s projected $234 million deficit.

“Good government is when the right thing happens. So, today is good government,” Stroger said after the 10-7 vote in February.

Indeed, Stroger settled for a smaller sales-tax increase than he originally sought. Critics also say in the process, which was often marred

How to get 100% fixed coverage? CATA Bootcamp

Whether new Service Manager or seasoned veteran, there is something to be gained at the CATA Service Manager Boot Camp. The Boot Camp is a four-day program that takes participants through an intense training regimen geared to bring more dollars to the bottom line.

Every attendee since the CATA camp began in 2006 has rated this program “Excellent.” The best part is, the Chicago Automobile Trade Association negotiated a deep discount for all CATA dealer members.

The camp is a two-phase program. Phase 1 is the four-day Bootcamp. The next camp, at the CATA office in Oakbrook Terrace, is Sept. 23-26.

Phase 2 is three years of follow-up with a Service Manager 20 Group. This peer review group reinforces what is learned in the Boot Camp and brings the best ideas from managers all over the Chicago area. The CATA reimburses much of the dealer’s participation costs.

Some dealers say, “I can’t afford to have my Manager out of the Service Department for four days.” In fact, a service manager can’t afford to miss the Boot Camp. The industry is changing rapidly, and dealerships need to have the knowledge and processes taught at the camp. The investment more than pays for itself.

A mailer about the upcoming Boot Camp will be sent soon to CATA dealerships, or inquirers can call 913-649-7830 and ask for Pat or Meda.

AYES summer update

By Jim Butcher
Illinois AYES Manager

Your AYES (Automotive Youth Educational Systems) schools currently have summer interns available for your service depart-

Flood-damaged vehicles ahoy!

Drenching Midwest rains this spring likely means flood-damaged vehicles will be headed to the marketplace. Dealership personnel should guard against accepting flood-damaged vehicles. Illinois dealers are required to disclose whether a car has been flood-damaged or salvaged.

As a checklist, telltale signs of flood damage can be detected if inspectors:

• Check all dashboard gauges for signs of water and make sure they’re accurate.
• Test the lights, windshield wipers, turn signals,
NADA wants more NHTSA clarity on tire information ruling

After the National Highway Traffic Safety Administration’s clarification of its tire-information rule last December, the NADA and several other associations asked the agency to further clarify a number of issues.

The rule requires light-duty vehicle tire labels that identify tire size, tire cold-inflation pressure and vehicle capacity weight rating information; and for the labels to be placed on or near the driver’s door.

Dealerships installing tires on new vehicles before first sale must re-label them if those tires are of a different size or have a different cold-inflation pressure. Moreover, re-labeling is required if the weight of any parts or accessories added to a vehicle prior to first sale exceed the lesser or 100 pounds or 1.5 percent of the gross vehicle weight rating.

Any reasonable means can be used to determine the accurate weight of any additions, including scales or their shipping weight. Re-labeling is not required if pre-sale changes result in a new vehicle’s weight being reduced or for changes involving used vehicles.

When re-labeling, dealerships may place new labels on top of existing labels; update existing labels with new tire or weight information; or, for weight changes only, place a supplementary label next to the existing label.

The NADA is awaiting NHTSA decisions on whether or not:

1. Re-labeling only is necessary for altered light-duty vehicles (those to which major changes are made).
2. To set the re-labeling trigger threshold at the greater of 3 percent of GVWR or 220 pounds.
3. To eliminate re-labeling for tire changes. The NADA urged the NHTSA to recognize that tire changes made before first sale typically involve size options recommended by the vehicle’s OEM, are at the request of purchasers, and involve no significant safety concerns.

Flood

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cigarette lighter, radio, heater and air conditioner several times to make sure they work.
• Flex wires under the dashboard to see if they bend or crack. Wet wires become brittle upon drying and can crack or fail at any time.
• Check the trunk and glove compartment and beneath the seats and dash for signs of mud, rust or water damage.
• Look for discolored, faded or stained upholstery and carpeting.
• Look for carpeting that has been replaced. It may fit too loosely or may not match the interior color.
• Check for a well-defined line, or watermark, and for musty odors resulting from mildew.
• Examine the engine compartment for evidence of water and grit from suspected submission in water.

Meanwhile, identical bills in the U.S. House and Senate that address total-loss disclosures have gone nowhere since they were introduced in February 2007. The bills call for the VINs of wrecked, flooded or stolen vehicles to be made publicly available before the cars are resold.

Sen. Trent Lott (R-Miss.), whose home was destroyed by Hurricane Katrina, introduced Senate Bill 545. But only 11 other senators have joined as cosponsors, including just one this year. Rep. Cliff Stearns (R-Fla.) introduced H.R. 1029 and has secured 66 cosponsors, none from Illinois.

David Regan of the NADA said that problems with total-loss data exist because of confusing, incomplete and contradictory state titling systems and because insurance companies underreport total-loss declarations.

Tax increase

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by bitter personal attacks, that Stroger lost his credibility as a manager by raising taxes rather than instituting reforms.

“As a result of a lack of a reasonable financial plan we’re going to raise taxes and jeopardize the economic vitality of the Chicago region,” said Laurence Msall, president of the Civic Federation, a fiscal watchdog group.

Msall said the county’s increase is four times greater than the sales-tax increase granted to the Chicago Transit Authority, which agreed to a series of “comprehensive and historic” reforms.

“There is no reform tied to this,” said Msall. “There is nothing here the taxpayers can look forward to. Nothing in this budget that gives the Civic Federation confidence that the millions collected [under the tax increases] are going to be spent any differently than the other $3 billion in the budget.”
Fair Credit Reporting Act
Auto finance marketing: 7th Circuit makes U-turn on ‘firm offer’ requirements

BY JEAN NOONAN

Car dealers, their marketing companies, and auto finance companies got good news last month from a court that has been creating legal havoc for the past three years. In Murray v. New Cingular Wireless Services, Inc., the U.S. Court of Appeals for the Seventh Circuit did a major about-face on its opinions regarding pre-approved credit offers – opinions that have been making plaintiffs’ lawyers rich and tormenting dealers and auto finance creditors.

For more than 30 years, sellers have used pre-approved credit offers to encourage customers to come in and shop. Congress officially blessed this practice in 1996, when it amended the Fair Credit Reporting Act to set out the rules for using credit bureau information to identify potential recipients of pre-approved credit offers. In exchange for getting a peek at consumers’ credit information, creditors must follow the FCRA’s “firm offer” rules. This generally worked well for dealers and other merchants that extend credit, until the 7th Circuit decided one company took the firm offer rules too far.

In Cole v. U.S. Capital, Inc., the court objected to a company’s use of prescreened credit lists to make $300 offers of credit to finance a car purchase.

The court said that the credit offer must have “value” to the consumer in light of the merchandise the consumer must purchase to use the credit. By itself, this opinion was not a disaster; few people wanted to defend using prescreening to make worthless credit offers. But courts around the country, and especially those in Illinois, Wisconsin, and Indiana, quickly extended the Cole opinion. The 7th Circuit seemed to go along when, in Murray v. GMAC Mortgage Corp., it said that all material terms of the credit offer had to appear in “the four corners of the offer.”

Over 300 class action lawsuits were filed against companies that made firm offers of credit. Some of them were settled for millions of dollars each. Companies faced being put out of business by judgments that could be from $100 to $1,000 for each piece of mail containing a pre-approved offer. It didn’t matter that companies were making legitimate, valuable credit offers. Courts were often siding with plaintiffs just because the pre-approved offer did not spell out every credit term.

The New Cingular decision restored some sanity to the “firm offer” rules. The best part of the opinion is the court’s clear rejection of the notion that the “firm offer” rules require a company to include all material terms of the offer when using prescreening.

The court noted that the FCRA’s “firm offer” definition simply does not include such a requirement. We are pleased the 7th Circuit has learned how to read. This decision should bring a swift end to the class action lawsuits seeking millions simply because an auto finance offer did not promise a specific credit amount, interest rate, or other credit term.

Our celebration over the newly found literacy skills of this court is not unqualified, however. The court clung to its earlier holdings that sales finance offers must have “value” as credit offers. We might have hoped that the court would extend its reading ability to this issue, too, because the judges would quickly see that the FCRA’s “firm offer” definition nowhere mentions the concept of “value.” For now, however, companies using prescreening must still be prepared to justify their sales finance credit offers as having value.

In the wake of this decision, we are left with two questions:

What must we do to show our auto credit offers have value to consumers?

There is no bright line for a value test, which is why we cannot be completely happy with the New Cingular decision. Financing of only $300 for a car sale does not have value, the court has said. But how much is enough?

Your minimum offer apart from prescreened solicitations should be a good guide. For example, if a sales finance company’s usual minimum credit amount is $5,000, and the dealer has cars available in that price range, a $5,000 minimum offer should be sufficient. The best way to show an offer has value is to show that previous customers have accepted and used credit on those terms.

Is there any legal reason to include credit terms in our prescreened credit offers?

Even though the court has confirmed that the FCRA doesn’t require including all material credit terms, there are still good reasons to provide them, or at least as many of them as you can. By putting the terms of the credit offer in the mailer, you let consumers (and their class action lawyers) see just by reading it that the offer has value. That makes any FCRA challenge much easier and cheaper to defend. Even better, it means you are much less likely to be sued in the first place.

You sometimes will not have enough information to provide the precise credit terms. Those terms may depend on information the consumer provides after accepting the offer, such as income, and on the car selected for purchase. Providing ranges for some terms will usually be enough to demonstrate the offer’s value. Avoid using only the most favorable end of the offer range, however, such as “You are pre-approved for up to $25,000” or “Down payments

SEE FINANCE, PAGE 4
Attitude survey going paperless

As a reminder, the NADA Dealer Attitude Survey (DAS) henceforth is collected and managed exclusively online. Under the new system, the NADA no longer will mail paper surveys to dealers.

The move to online-only will significantly speed up survey processing time and allow NADA Industry Relations to report the results of face-to-face DAS meetings with manufacturers back to the dealers who completed the survey.

The NADA has designed a new full-service DAS Web site, www.nadasurvey.com, to facilitate the move to online-only. At the site, dealers will register their dealership(s) to receive a unique User ID that will enable them to access and complete the survey online (dealers must be registered to participate in the survey).

Those who sign up prior to the survey start date will receive their User ID via email on July 7. While not recommended, dealers can still register and complete the DAS while the survey is in progress. In that case, User IDs will be emailed in one or two business days.

Action is required by all dealers, but signing up is simple. All dealers must register to receive a User ID and take the survey, including those who “subscribed” in the past to receive an email notification about the DAS. This is a one-time registration process, except for revisions needed as a result of changes at the dealership.

The new DAS Web site also includes a schedule of future surveys, past survey results published in AutoExec magazine, a printable discussion guide and frequently asked questions. A lost/forgotten User ID utility will be added once the DAS becomes active.

The Dealer Attitude Survey remains confidential. Manufacturers never see a dealer’s individual responses, which are reported with those of same-make dealers.

The upcoming summer survey will be conducted July 7 to August 7. Questions can be directed to industryrelations@nada.org or 703-821-7010.

Finance

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as low as $1.” The point is to show that even the least favorable offer has value to some consumers.

The 7th Circuit’s U-turn on firm offers is a welcome development, even though the court is still not entirely on the right path. The road for dealers who use pre-screened lists for pre-approved credit offers has now become much safer.


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AYES

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ments. Students are 17 and 18 years old. These are entry-level students capable of working as porters or detailers; or as lube rack, semi-skilled or entry-level technicians.

For other service department needs, we also have access to local community college-level students in the Chicagoland market. These automotive students are aged 18 or older. Many have several years’ study of automotive service technology.

These students have either Automotive Certificates, two-year Associate in Applied Science degrees, or four-year Bachelor of Science degrees. Most are looking to work in service as entry-level technicians, service advisors or parts department personnel.

The local AYES schools are:
• Hammond Area Career Center, Hammond, Ind.
• Joliet Township High Schools, Central Campus, Joliet
• Lake County High Schools Technology Campus, Grayslake
• Parkland College, Champaign
• Streamwood High School, Streamwood
• Technology Center of DuPage, Addison

Should you have any questions regarding these students, please call me at 630-424-6020.

In Memoriam

Jerome “Jerry” Montell, who operated several area dealerships, died June 9 at age 72.

Mr. Montell, who was born Montalto to Sicilian immigrants, founded Montell Chevrolet in Chicago and previously owned namesake Chrysler and Pontiac stores in Blue Island.

He is survived by his wife, Judy; daughter, Shawn; sons Kurt, Christopher and Darren; and six grandchildren.

Memorials appreciated to the American Cancer Society in Tinley Park, 708-633-7770.

Minimum wage increases July 1

Illinois employers are reminded that the state’s hourly minimum wage increases to $7.75 effective July 1. The threshold will climb another 25 cents on that date in 2009 and 2010.

By comparison, the federal minimum wage for covered nonexempt employees is $5.85 an hour.