

WANADA Bulletin # 2-04

January 13, 2004

New Year Tax Review

2003 Federal Tax Law Results in Significant Changes

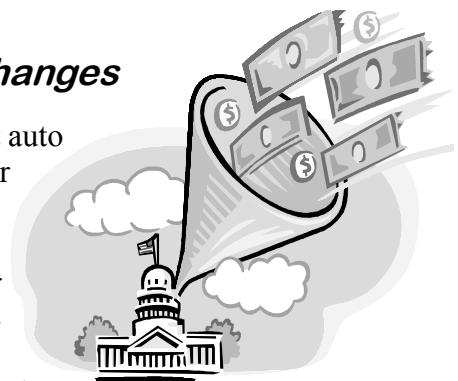
We hate to bring up the subject but, like death, taxes are one of life's sure things. With the passage last year of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA), dealers should be reviewing and updating their tax plans to account for the significant changes made by this new law, which include write-offs for certain newly acquired assets, tax rate cuts on most dividend income and long-term capital gains, an acceleration of previously passed tax rate reductions for other taxable income, and numerous other tax breaks.

The following summary of some of the highlights of JGTRRA is reprinted with permission from the California Motor Car Dealers Association's December, 2003 *Bulletin*. Please consult your tax advisor for more information.

- **Section 179 Expensing.** Small businesses

(including most auto dealers and their customers) are permitted under JGTRRA to expense \$100,000 (up from \$25,000)

worth of new equipment purchases annually for property placed in service in taxable years beginning in 2003, 2004 and 2005. The new equipment phase-out threshold is also increased from \$200,000 to \$400,000. Under this provision, a small business has the ability to expense immediately (up to \$100,000) business use sport utility vehicles, trucks and vans with a gross vehicle weight over 6,000 pounds.



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CAN-SPAM Act Effective Jan. 1, 2004

NADA reminds dealers that on December 16, 2003, the president signed the "Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM Act) of 2003." The law imposes new restrictions on dealers who use e-mail to market their products and services. The law became effective January 1, 2004. Accordingly, dealers must immediately comply with the new requirements.

NADA has prepared a summary to assist dealers and dealer associations with understanding the new law. The summary is available on the Member Services Government Affairs Regulation page of www.nada.org or through NADA's Fax-On-Demand Service by calling (800) 778-7209 and requesting Document #85.

Among the new responsibilities imposed by

the law is that dealers must prominently offer their customers the opportunity to opt-out of future commercial e-mail solicitations. Dealers also must ensure that each commercial e-mail solicitation: (i) identifies the message as an advertisement or solicitation, (ii) includes a functioning return e-mail address that the recipient can use to submit an opt-out request, and

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- **Bonus Depreciation.** All businesses are now permitted to take a 50% depreciation deduction—up from 30%—for new equipment and other capital investments made after May 5, 2003 and before January 1, 2005. Under this provision, a business has the ability to take a first year 50% bonus depreciation for new passenger automobiles, sport utility vehicles, trucks and vans. For SUVs, trucks and vans 6,000 pounds gross vehicle weight and below, and new passenger automobiles 6,000 pounds unloaded gross vehicle weight and below, the first year depreciation limit (for 50% bonus depreciation property) for these vehicles is \$10,710 for cars and \$11,010 for SUVs, trucks and vans.

- **Altered Depreciation Rules.** Under the new tax law, previous years' depreciation can now be reworked and the catch-up deduction claimed all in one year. This technique, known as "cost segregation," allows dealerships with substantial investments in sales and service facilities to take higher depreciation deductions that more closely reflect cumulative cash flow invested in these assets.

Dividends and Capital Gains. The prior tax rate—with a top rate of 38.6%—is the same as other earned income. Now, after JGTRRA, the rate is 15% for dividends for most taxpayers through 2008. For capital gains, the current 20% top rate on the profits from the sale of investments held at least a year drops to 15% through 2008. The provision applies to sales and exchanges (and payments received) on or after May 6, 2003, and before January 1, 2009.

2004 Tax Change Highlights

Here are the highlights of 2004 rates on primary federal taxes that affect all businesses.

- Social Security taxable wage base limit (FICA) is \$87,900, up from \$87,000 in 2003. The tax rate remains 6.2 percent.
- Medicare payroll tax remains at 1.45 percent for 2004, with no wage base limit.
- Federal Unemployment Tax Act (FUTA) tax rate remains unchanged at 6.2% on the first \$7,000 paid each employee as wages during the year.
- Business mileage rate is 37.5 cents a mile for

all business miles driven, up from 36 cents a mile in 2003; 14 cents a mile for medical or moving expenses, up from 12 cents a mile in 2003; and 14 cents a mile (unchanged) when giving services to a charitable organization.

- Federal minimum wage is \$5.15; minimum cash wage (tipped employee) \$2.13; and youth sub-minimum wage: \$4.25.
- 401 (k) Pre-Tax Contribution Limit: The maximum amount employees can defer in 2004 is \$13,000, up from \$12,000 in 2003.

REMINDER:

Cash Reporting Notices for '03 Transactions Due Jan. 31

Under IRS regulations, dealers must notify each person identified on an IRS cash-reporting form (IRS Form 8300/FinCEN Form 8300) for transactions of \$10,000 or more during 2003. Such notices must be in writing, furnished to the purchaser no later than Jan. 31, 2003.

The notification statement must include the name and address of the dealership, the total amount of cash reported to the IRS during 2002 for that person, and a statement that the information was reported to the IRS. The statement should go to the person's last known address. Dealers are encouraged to review 2002 transactions carefully to be certain that all affected customers are notified in writing and to record a copy of the notice furnished to the customer.

To soften the surprise that some customers may get from receiving this notice, it is recommended that dealerships include a short letter along the following lines:

Dear (customer name):

We are required by the Internal Revenue to report transactions involving more than \$10,000 in cash and "cash equivalent" under the provisions of 26 U.S.C 60501. (Name of dealership) has filed a Form 8300 with the IRS on (month, day, year) indicating that you provided us (\$ amount) in connection with the purchase of your (year, make, model). We wanted you to know that we have complied with this federal requirement. Again, thank you for your patronage.

*Sincerely,
(dealership name)*

The exact wording of the customer notification should be reviewed by the dealership's legal advisor.

WANADA Tag & Title Seminar Prompts Follow-up Meeting with DC DMV

DC DMV Director Anne Witt (right, speaking and being introduced by WANADA's Nick Champeau) was a key speaker at WANADA's popular annual Tag & Title Seminar, held recently in conjunction with the Washington Auto Show.

Seated to left of Witt are DC DMV Assistant Director Lucinda Babers and Mary Parker, manager of the Penn Branch DMV office.

Also on hand to share important information on procedures and contacts within their departments were Rhonda Witt, branch manager Glen Burnie, Maryland MVA; Nadine D'Onofrio Virginia DMV manager Northern Virginia Dealer Center; and Philip Vasquez, deputy commissioner for the Virginia DMV.

Seminar participants from dealerships throughout the area value the seminar for bringing together officials from all three area motor vehicle agencies.

The seminar which also led to a follow-up meeting last week, led by Babers, (at right, below) in which DC DMV officials and regional dealership tag and title personnel discussed and answered questions concerning the department's restructuring changes. The DC DMV is now reviewing those matters for answers to be reported in the near future.



CAN-SPAM Act

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(iii) provides a valid physical postal address for the dealer's business. Dealers must process opt-out requests within 10 business days of receipt and ensure future e-mail solicitations are not sent to the requesters.

These requirements do not apply to transactional or relationship e-mail messages, which are defined in the summary.

"As you can see, this legislation provides very little lead-time to comply with the new requirements," said Tad Hinder, chairman of NADA's Regulatory Affairs Committee. "We will keep you updated on regulatory developments in what continues to be a steady stream of congressional mandates and implementing regulations."

Dealership's Garageman's Lien Trumps Vehicle's Secured Lender's Claim In MD

The Maryland Court of Appeals recently ruled that a garageman's lien for repair costs has priority over the vehicle's secured lender, even if the lender's interest was perfected first (*Friendly Finance Corp. v. Orbit Chrysler* decided November 18, 2003).

The owner of the vehicle in question brought the car to the dealership for servicing. He did not pay the repair bill or retrieve the car so the dealer became the holder of a garageman's lien. Subsequently, the owner defaulted on his loan and notified his lender of the car's location. The lender then sued the dealer for possession.

A unanimous Court of Appeals held that the garageman's lien has priority and that the dealership, which has possession of the car, can sell it and recover the amount owed. The lender would then be first in line for any money left over after the dealer has recouped its repair costs, storage charges and lien expenses.

As a practical matter, lenders seeking to repossess a vehicle held under a garageman's lien, face the choice of paying off the repair bill or cutting a deal with the repair shop.

FOOTNOTES:

2,235 Revelers Take Advantage of Holiday SoberRides *Over 25,000 Rides Offered Since Program's Inception in 1993*

Thanks to unusually heavy media coverage, the Washington Regional Alcohol Program's Holiday SoberRide Campaign was another huge success, with 2,235 rides (661 rides were given on New Year's Eve) offered from December 12 to January 2. That means a would-be drunk driver was removed from our roadways every 45 seconds. The Holiday campaign raised the total number of rides since the beginning of the SoberRide program in 1993 to over 25,000.



Bumper Crop of Washington Area Dealer Reps poised to attend the '04 NADA Convention in Las Vegas

With this Bulletin is the list of WANADA members registered for the upcoming NADA convention which commences the last weekend of this month. Las Vegas is always a popular dealer association destination as the enclosed list of WANADA registrants attests.

WANADA and MNCTDA is joined by VADA this year in hosting a regional dealer association reception on site at the convention Sunday evening Feb 1 (see below). The VooDoo Lounge provides one of the highest vistas in Las Vegas and one of the most popular. Big screen TVs will be on hand to catch the closing plays of the super bowl which commences mid afternoon Pacific time.

The annual meeting of the American International Auto Dealers Association is planned over lunch on Monday Feb. 2 at the Las Vegas Hilton. To register click on aiada.com or call 1-800-GO-AIADA.

Tri Dealer Association Reception

Hosted by

WANADA/MNCTDA/VADA At NADA Convention

Sunday, Feb. 1, 2004, 6-8 p.m.

In the fabulous VooDoo Lounge high a top the , Rio Hotel
700 W. Flamingo Rd., Las Vegas

(Invitation enclosed)



Thought for the Week...

Income tax returns are the most imaginative fiction being written today.

—Herman Wouk