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Happy Holidays!

WANADA's offices will close
at 1 pm, Dec. 23 and Dec. 30
and be closed Dec. 24 and 31

Dealers have certainty on taxes for next two years as President Obama and Republicans reach an accord

House Republicans and Democrats bowed to political reality last week, agreeing to set aside their differences for the time being and voted to pass a tax measure they could "live with," thereby bringing to an end, for now, a bitter debate about how to sustain economic recovery and move the country forward. President Obama promptly signed the measure, which he and Republican leaders had brokered earlier in the month and the Senate had passed earlier last week. The highlights are these:

1. A two-year extension of the Bush-era income tax cuts at all income levels
2. An extension of unemployment benefits for a year
3. A two-year increase in the estate tax exemption to \$5 million and a top rate of 35 percent.
4. A 100 percent write-off of capital investments for 2011
5. A two percentage point reduction (from 6.2% to 4.2%) in the Social Security payroll-tax
6. An extension of the revised, less extensive Alternative Minimum Tax for 2010 and 2011

The final vote in the House was 277 to 148 after liberal Democrats failed in one last bid to change the estate-tax provision in the bill that they said was unnecessary for the wealthiest Americans. The amendment failed, 233 to 194.

The new tax proposal does not include repeal of the new health law's 1099 provision, which requires businesses to file a tax report when they pay a vendor more than \$600 in a year. NADA and other business groups have pushed hard for this noting that "It puts onerous compliance and administrative burdens on small businesses."

Neither does it put to rest the ongoing concern about the bulging U.S. budget deficit and the unsustainability of the current Congressional pattern of lowering taxes and increasing spending. Indeed, Capitol Hill observers suggest the next two years on the political scene will focus on competing Republican and Democrat proposals to reduce federal spending and entitlement programs, while at the same time revising the code to lower taxes overall.

From President Obama's standpoint, it's obviously no accident that the tax package he worked out with Republicans comes to an end when he'll be running for a second four-year term.

Auto Alliance names interim CEO with McCurdy's impending departure

The Alliance of Automobile Manufacturers has named its vice president and general counsel John Whatley, as interim CEO.



John Whatley

Whatley will take over from the current CEO, Dave McCurdy. Who will be leaving before the end of the year. A former congressman from Oklahoma, McCurdy has headed the Alliance since 2007.

"There is a new Congress taking office, and our priority is to communicate our priorities and advancements in auto safety and energy efficiency, so the Alliance has decided to begin the transition process immediately. This will allow us to focus on the Detroit and Washington auto shows, as well as industry efforts to support a single national standard that is based on solid research and studies," said Ernst Lieb, president & CEO of Mercedes-Benz USA and chairman of the Alliance board.

Whatley joined the Auto Alliance in 1999 from the Association of International Automobile Manufacturers where he served as assistant general counsel. The Alliance will begin a national search for a new CEO in 2011.

McCurdy is expected to become head of the American Gas Association.

Dealer business seminars at The 2011 Washington Auto Show

- **Increasing profitability in Parts and Service** – with NADA's Robert Atwood
- **The secrets to credit approval in today's market** – with Tony Dupaquier of American Financial & Automotive Services



NADA's Atwood is a management instructor with the National Automobile Dealers Association Dealer Candidate Academy who specializes in fixed operations management. In addition to his regular fixed operations classes, Atwood provides week long advanced training for experienced service managers. He has been with NADA for fourteen years and previously worked as a service manager for several of the largest metro dealers in Baltimore.



Tony Dupaquier is responsible for the content, direction and marketing for American Financial's F&I training curriculum and conducts various F&I workshops throughout the year in locations nationwide.

He has a Communications degree from Sam Houston State University and began his retail automotive career in 1990 as a sales representative in Houston, TX, and held various other positions in dealerships before joining AF in 2000.

Tony
Dupaquier

The seminars will be presented on Wednesday, Feb 2, 2011 onsite at the Auto Show.

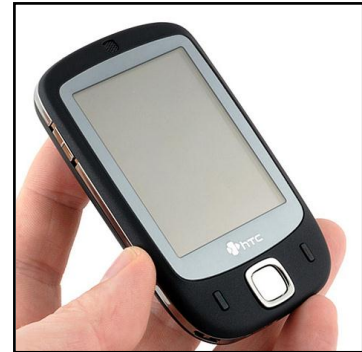
WANADA will also present its annual Tag and Title Seminar for DC, Maryland and Virginia with motor vehicle representatives from the three jurisdictions on Thursday, Feb 3, 2011 at the convention center. Look for registration materials at www.wanada.org next week or contact Kristina Henry for more information at (202) 237-7200 or kh@wanada.org

Smartphone car shopping spikes

The automotive category led all mobile shopping on eBay between Nov. 22 and Dec. 5, which is great news for dealers. In that time, it brought in \$7.9 million in the United States alone, according to the auction site; an increase of 136 percent over last year. Automobile buying easily led the second biggest category, clothing. EBay Mobile users bought nearly \$400,000 worth of vehicles and related items on Thanksgiving Day alone.

The company said vehicle sales made with smartphones during the Thanksgiving holiday were up 17 percent over last year and sales of auto parts spiked 80 percent.

“The reason we are seeing so many mobile automotive purchases on eBay this holiday season is because there has been a shift in consumer behavior,” said Steve Yankovich, vice president of mobile at eBay. “Our mobile app allows consumers to act immediately when a need arises, or as soon as inspiration strikes. When you’re with your vehicle, looking for a matching part or an accessory, or searching for a new car altogether, you probably won’t be at your computer, but you will have your smartphone with you. For example, if you’re driving your car and you realize your muffler needs to be fixed, you can search for a replacement as soon as you park, right from our mobile app.”



EBay will roll out a new eBay Motors-specific smartphone app in the first quarter of 2011 that allows buyers to create a gallery of cars that match their specific interests along with parts searches for their existing vehicles. At the same time, sellers can scan VINs to ensure accuracy.

Car still preferred way to get to work in DC area

Transit use increases slightly

A new report from the Census Bureau suggests Washingtonians are taking Metro more and giving up some on driving to work, but a closer look at the data indicates the shift is almost entirely due to more young people moving into living spaces in and around Metro stations.

According to the American Community Survey, 14 percent of the area's commuters used public transportation in 2010, up from 11 percent in 2000. Meanwhile, the percentage of solo drivers edged downward, from 68 percent in 2000 to 66 percent.

Transportation experts say the gains in public transit were due in part to the result of rising gas prices, but more predominantly the influx of younger residents who have chosen to live in neighborhoods along bus, Metro and rail lines, even if it means sacrificing the suburban amenities of their childhoods.

"They came of age in an environment of urbane media influences, watching 'Friends' and 'Seinfeld,' not 'Leave It to Beaver.' They watched their parents spend hours on the road, and they're not into that," said Shyam Kannan of the Bethesda-based real estate advisory firm RCLCO.

The census study found distinct geographical differences in how many people drive to work alone. In outer Montgomery County, as well as Charles, Calvert and St. Mary's counties, nearly 80 percent of commuters drive solo, while closer in to DC, barely half do.

Transportation experts expect the general pattern to continue over the next decade, though the net impact on the number of vehicles on the road will be very small as population increases in the outer commuter areas offset any increase in Metro use.

Year-end tax reporting checklist and other important compliance requirements

This information generally applies to all dealerships, but WANADA dealer members are advised to seek advice from counsel for their particular circumstances.

COMPLIANCE CHECKLIST FOR W-2s, 1099s AND CASH REPORTING:

1. Have you included the following items in each employee's final payroll, which will be included on the Form W-2?
 - Year-end Bonuses
 - Use of Demonstrators (see below)
 - Cost of Group-Term Life Insurance Coverage in Excess of \$50,000
 - Cost of Shareholder's Health Insurance Premiums and Other Fringe Benefits
2. Issue all appropriate 1099s to recipients by January 31, 2011, and file by

February 28, 2011 (March 31, 2011, if filing electronically).

- Report on 1099 MISC – Payments of \$600 or more for:
 - Services - Unincorporated Service Providers
 - Rents - Unincorporated Lessors
 - NOTE: Reporting is not required for services under \$600
- Report on Form 1099-MISC – All Payments to Attorneys, whether or not incorporated
- Report on Form 1099-INT – Imputed Interest on Shareholder Loans
- Use 1099-B for Settlement Payments (all payments)

3. All customers for whom you filed a Form 8300 (“Report of Cash Payments Over \$10,000”) during 2010 must receive notification on your letterhead by January 31, 2011.

REPORTING FOR DEMONSTRATORS

For the Year Ending December 31, 2010:

As of January 1, 2002, IRS Revenue Procedure 2001-56 sets forth the requirements for a dealer to report demonstrator vehicles provided to their employees. Be sure that appropriate amounts are included in each of the employee’s gross wages. The total 2010 inclusion amount should be reflected in box 14 of each employee’s Form W-2.

For the Year Ending December 31, 2011:

- For January 2011 continue to use daily inclusion amounts calculated under the Annual Average Look Back Method based upon your December 31, 2009 factory financial statements (the amount used in 2010).
- Once your December 31, 2010 factory financial statements are completed, you must recalculate your daily inclusion amounts under the Annual Average Look Back Method.
- Apply the new daily inclusion amounts beginning in the first reporting period for February 2011.

See NADA Management Guide L.17, *Federal Tax Treatment of Demos* (June 2002).

CORPORATE TAX UPDATE

UNICAP: The Internal Revenue Service has issued Revenue Procedure 2010-44, which provides car and truck dealers two safe harbor methods related to the capitalization of inventory, Unicap. This is in complete contrast to the position the IRS took in Technical Advice Memorandum 2007-36026 and could result in tax savings.

Under the first safe harbor method, a dealership may elect to treat its entire sales facility from which it normally and routinely conducts on-site sales to retail customers as a retail sales facility

and associated handling and storage costs are not required to be capitalized. This safe harbor also provides that a vehicle storage lot, which is open to customer visits, is considered part of the retail sales facility with its associated handling and storage costs not subject to capitalization.

The second safe harbor method allows a dealership to treat itself as a “reseller without production activities”. This safe harbor method requires that a dealership only capitalize the costs of parts associated with dealership-owned vehicles and that the other costs associated with dealership-owned vehicles and customer-owned vehicles are not required to be capitalized.

To obtain these benefits, a dealership must elect these safe harbor methods by filing a Form 3115, a copy of which is filed directly with the IRS national office and a copy of which is attached to the dealership's timely filed tax return. The application filed to elect these safe harbors is considered an automatic change in method of accounting and does not require IRS approval. By electing these safe harbors, there may be certain costs that the dealership previously capitalized that can now be deducted.

IMPORTANT PAYROLL LIMITS FOR 2010 & 2011

FICA Limit: For 2010, the maximum wages subject to FICA tax is \$106,800. The wage base limit will remain the same in 2011. Medicare wages have no limitation.

401(k) Contribution Limits: The maximum deferral under a 401(k) plan will remain at \$16,500 for 2011. Additionally, any participant who will be age 50 or older as of December 31, 2011, may contribute an additional \$5,500 for 2011 as a “catch-up contribution”.

Mileage Reimbursement Rate: Beginning January 1, 2010, the standard business mileage reimbursement rate was decreased to 50 cents per mile. As of January 1, 2011, this rate has been increased to 51 cents per mile for business miles driven.

PUT LIFO ESTIMATE ON 12TH MONTH (DECEMBER) FACTORY STATEMENT

A reasonable estimate of the change in the LIFO reserve must be booked and appear on the 12th month factory financial statement. For calendar year taxpayers this would be the December statement. Failure to record a LIFO adjustment on the 12th month statement could result in termination of the LIFO election and recapture of the LIFO reserve into income.

COMPLIANCE WITH THE ADDRESS DISCREPANCY, “RED FLAGS”, AND SAFEGUARDS RULES

In 2008, the Federal Trade Commission (FTC) introduced two new rules that specifically relate to automotive dealers: the Address Discrepancy Rule and the “Red Flags” Rule. Both of these rules are intended to protect the consumer against identity theft and are a requirement for any organization that opens an account with a customer in which the payments are deferred. These rules are independent and in addition to the FTC’s Safeguards Rule.

Address Discrepancy Rule: The deadline for implementing the Address Discrepancy Rule was November 1, 2008. This rule requires consumer reporting agencies to issue a notice of address discrepancy to any user of a credit report when the address provided to the consumer reporting agency substantially differs from the address on the credit report. The dealership must implement, and document in writing, policies and procedures to reasonably conclude that the

consumer report relates to the consumer for whom the dealership requested the report.

Red Flags Rule: There has been a tremendous amount of confusion surrounding the effective date of the Red Flags Rule due to the numerous delays issued by the FTC. The Red Flags Rule went into effect on November 1, 2008; however, the FTC has delayed enforcement of the Rule until January 1, 2011. The delay in enforcement does not relieve a dealer's responsibility to comply with the rule, as state agencies have the ability to enforce the rule as well. This rule requires dealers to develop, implement, and maintain policies and procedures to prevent, detect, and respond to identity theft. Penalties range from \$2,500 to \$11,000 per violation, and that does not factor the extensive legal fees that could result from the threat of a lawsuit. As with the Safeguards Rule, the Red Flags Rule requires that the dealer document the entire compliance effort, which can be summarized by the following steps:

1. Appoint a Compliance Officer
2. Perform a risk assessment in which you identify the "covered accounts" and the "red flags" that could indicate the potential of identity theft within those accounts
3. Develop policies and procedures that detect and respond to the red flags
4. Document the policies and procedures in a written Identity Theft Prevention Program
5. Employee training
6. Agreements with service providers
7. Senior management's approval
8. Annual compliance reports

Safeguards Rule: As of May 23, 2003, the Safeguards Rule became effective. The main objective of this rule is to outline the policies and procedures that are in place to safeguard non-public customer information. These policies and procedures must be outlined in an Information Security Program. If you are not in compliance, you should still do so even though you are past the May 2003 deadline. The Information Security Program must be in writing and must include the following five specific components:

- Designate a compliance officer(s)
- Identify and assess foreseeable risks to customer info
- Design and implement internal controls
- Agreements with service providers
- Monitor and evaluate compliance

Monitor Compliance: The requirement to monitor and evaluate compliance is an ongoing process. It is important to regularly evaluate the policies and procedures in place to be sure that your dealership is in full compliance with the Safeguards Rule. The written Information Security Program should be revised when necessary. Compliance does not end with the written Information Security Program.

A seasonal reflection from 12th Century England ...

Christmas! What a warm and rosy time!

The hot wine steams, the Yule log roars and we're the fat that's in the fire!

Geoffrey, Duke of Brittany to his brothers and future kings of England, Richard and John, from the play and Oscar winning movie, *Lion in Winter* (1967)

***May you and yours enjoy the peace and joy of the season!
To all WANADA members and WANADA Bulletin readers
from
the WANADA Staff!***

Archie Avedisian
Bill Belew
Wil Desjardins
Ralph Frisbee
Trish Frisbee
Immanuel Garcia
Isabel Garcia

Kristina Henry
Ellen Hicks
Andrea Holmes
Jake Kelderman
Martha Kowalski
Gerard Murphy
Jacqueline Murphy

John O'Donnell
Katy Orme
Kim Rahl
Barbara Robinson
Vince Sheehy
Charlie Spiridopoulos