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MD legislators consider higher vehicle fees in 2011 tax package

Net-of-trade in title tax not on the table

Maryland needs to raise \$800 million more in annual transportation funding to shore up the state's depleted Transportation Trust Fund, so a commission recommended last week that the general assembly consider raising vehicle registration fees, tolls and the gasoline tax to do it.

Sen. Rob Garagiola, a Montgomery County Democrat who is a member of the commission, has already introduced legislation to increase registration fees by 50 percent and the state's gas tax by 10 cents. The bill does not, however, include any provision to eliminate the title tax, net-of-trade part of the law that legislators, in their wisdom, made part of the tax code several years ago. As might be expected there are voices in the legislature suggesting that elimination of net-of-trade on title tax should be on the table with other revenue raising proposals.



MADA, with the support of WANADA, is looking to ensure that the trade-difference tax credit remains part of Maryland law. In this connection, MADA recently submitted an Op-Ed piece touting the public benefits of the trade difference to the Maryland Gazette. "Maryland residents expect to receive a trade-difference credit and any attempt by the legislature to eliminate the credit is nothing more than a tax increase," MADA says in the editorial.

Maryland transportation funding took a big hit during the Great Recession, as the state collected less sales tax revenue in general, as well as less in the way of gasoline and vehicle titling taxes.

"We know that it's going to take increases in several of these items in terms of fees and taxes to reach the numbers that we need to rebuild the Transportation Trust Fund," said Gus Bauman, the commission's chairman.

The gas tax in Maryland, which hasn't been raised since 1992, is now 23.5 cents. Garagiola said he believes this is the year to act. "Each year we wait, the hole in the Transportation Trust Fund

gets deeper and deeper to dig out of," Garagiola said after the commission's meeting. "Better to take action now rather than wait, because we can't afford to wait."

Maryland has a \$40 billion backlog in a variety of planned, unfunded road projects. A coalition of business leaders called the State Transportation Alliance to Restore the Trust also has been pushing to firm up commitment to transportation funding and a constitutional provision to protect it, in light of Washington-area commuters facing ever worsening gridlock.

A number of other measures have been introduced this session with implications for franchised auto dealers. These include a bill to allow temporary tags to be issued, even when customers have insurance violations (HB 1222). Accordingly, it will be the customer's responsibility to pay these fines before a hard plate is issued. MADA is behind this, so long as it applies to new vehicle registrations, if the legislature votes to withhold permanent registrations for a resident's failure to pay their state tax obligations.

HB 908, which seems like overkill, would prohibit dealers from failing to include processing fees or freight charges in calculating the base auto lease payment shown in an advertised lease.

SB 597 would prohibit OEMs from taking actions against a dealer because the dealer includes a specific web site address in advertising. It also prohibits OEMs from refusing to offer such a dealer promotional program benefits except under certain circumstances.

HB 1203 would regulate the fraudulent sale or installation of air bags. SB 177 would provide for a tax rebate of 20% of the cost of electric vehicle charging equipment. And, HB 434 would raise the small claim amount in court from \$5,000 to \$10,000 to facilitate the ability of small businesses to afford defending *de minimis* and/or frivolous lawsuits.

MD measure would ban credit checks on most workers

Employers in Maryland would be forbidden from conducting credit checks on potential employees under a measure introduced in the Maryland House of Delegates by Del. Kirill Reznick (D-Germantown). Reznick says his bill is aimed at making it easier for the unemployed to get back to work.

There is no federal prohibition against using credit histories in hiring, but on a state level, Hawaii, Illinois, Oregon and Washington have significant limitations on their use. A survey by the Society of Human Resources Management last year found that 13 percent of organizations conduct credit checks on all job candidates, and another 47 percent consider a person's credit history for certain jobs.

"Reznick says having bad credit does not make someone a bad person nor give any indication on their ability to perform in a job.

Called the Job Applicant Fairness Act (HB 87), this measure exempts financial institutions, including banks and credit unions, and law-enforcement agencies that are required to perform credit checks. "We're not trying to target the CFOs or the folks involved in dealing with companies' millions of dollars," he said. "We mean nurses, school teachers, janitors, plumbers and blue-collar workers having trouble making ends meet." Reznick introduced the same bill last year.

VA franchise protection bills headed for governor's desk

Two franchise bills in the Virginia General Assembly (HB1696 and S1191), aimed at limiting various OEM practices that coerce dealers on facilities construction, site control and successorship are on their way to the governor's desk for signature after they unanimously passed both houses. The bills, which will now be combined into one measure, are designed to significantly enhance dealer protection and include provisions related to fair vehicle inventory delivery rules and establishing the dealer right to acquire goods and services beyond the OEM when it makes business sense for a dealer to do so.

The measures had been the subject of heavy lobbying by manufacturers, but VADA and dealers statewide successfully resisted the challenge, which included full page ads in the Richmond Times Dispatch by the Alliance of Automobile Manufacturers urging defeat of the legislation.

Still working its way through the legislature is SB 1372, which provides that in every DMV hearing involving an OEM, the burden of proof is to be placed on the manufacturer, NOT the dealer. This is a reversal of previous practice where it had generally been the rule to put the burden of proof on the dealer. The bill passed the Senate and is now on its way to the House floor where it is also expected to pass.

There are two other measures involving the Virginia Motor Vehicle Dealer Board (MVDB), one that will have an impact on dealer business practices and the other not. HB 2011 will require dealers to maintain vehicle sales records for five years instead of four, and SB 1372 raises the amount that can be recovered by a consumer from the Transaction Recovery Fund from \$20,000 per incident to \$50,000 per incident. HB 2011, which was introduced at the urging of the MVDB, has already passed the House and is expected to pass in the Senate. SB1372 was opposed by VADA and never made it out of committee.

Lastly, Virginia based dealers are urged to counsel their sales staff that dealership Internet postings must follow Virginia law with regard to notification that the ad is a dealership ad, regardless of where on the Internet they are posted. The caution comes from the MVDB's executive director, who has received complaints that this poses a problem with postings to Craigslist. The MVDB is planning to more vigorously monitor Internet sites like Craigslist to ensure that dealers follow the law.

VA DMV cautions on license plate frames

Richard D. Holcomb, the commissioner of the Virginia Department of Motor Vehicles, is cautioning dealers to be careful on how they design their license plate frames, noting that Virginia law requires that all information must be clearly visible on mounted license plates.



Holcomb notes that a number of legislators have reported being stopped by law enforcement because their license plate number appeared to be registered to a vehicle other than the one being driven. This happened, he says, because the license plate frame covered the "House of Delegates" or "Senate" label at the bottom of the plate, which then resulted in incorrect vehicle information being returned to the police

officer. “These stops are not only an unnecessary inconvenience for both the officer and the individual, but also reflect poorly on the dealer,” he says.

Holcomb notes that the verbiage at the bottom of the license plate is the primary factor in determining to which vehicle the plate is registered and that it is essential that dealer plate frames do not obscure any of the information contained on a license plate.

Repeal of IRS 1099 provision working its way through Congress

Repeal of the controversial IRS Form 1099 reporting provision of Health Care Reform that dealers and other business owners have dubbed a “paperwork nightmare,” has begun to work its way through Congress.

Sen. Ben Cardin (D-MD), a frequent supporter of dealer issues in Congress, introduced legislation to repeal the measure at the beginning of the new Congress. President Obama supported that effort in his State of the Union address Jan. 25, and the measure was included in the Federal Aviation Administration (FAA) reauthorization bill that the Senate has now passed.

The House also is considering two measures to repeal the 1099 requirement (HR4 and HR 705), but unlike the Senate bill, the former does not have offsetting revenue provisions and the latter depends on reduction in health care subsidies for premium payments under the new Health Care law for its offsets. Capitol Hill observers expect the House to pass (HR 705) and the Senate to then reject the measure and pass its version with its offset provisions, putting the ball back in the House’s court.

As now constituted, the IRS requires businesses to submit a 1099 form to the Internal Revenue Service for all purchases over \$600.

EVs pose a challenge for fixed operations

The federal government’s push to electrify the nation’s vehicle fleet may have a significant impact on fixed operations at franchise dealerships. The reason is that these vehicles will require significantly less maintenance than those powered by internal combustion engines.

According to Ford, the battery electric drivetrain in the Focus Electric significantly reduces the number of moving mechanical components compared with a conventional internal combustion-engine vehicle. In addition, Focus Electric drivers will spend far less time and money on maintenance.



Ford Focus Electric

Ford says in its promotion materials for the Focus Electric that there are 25 items that usually require inspection, maintenance or replacement during the 10-year, 150,000-mile life of a conventional car that the driver of a Ford Focus Electric will never have to worry about. These include: air filter, alternator, battery, clutch, fuel filter, fuel injectors/fuel pump, motor mounts,

motor oil, muffler, oil filter, O2 sensors, power steering fluid, radiator, radiator hose, lower, radiator hose, upper, serpentine belt, spark plugs, spark plug wires, starter, thermostat, timing belt, transmission adjustment (automatics), transmission filter (automatics), transmission fluid or oil, and water pump. Over the life of the vehicle that can amount to more than \$1,200 in saved maintenance costs, Ford says.

The federal government hopes to have as many as one million electric vehicles on the road by 2015, utilizing various incentives to encourage consumers to buy them.

Solar powered heat pump promises significant heating/cooling savings for dealerships

A new system that promises to significantly reduce dealership heating and cooling costs is now available in the DC area. Offered by TRIEA systems, it utilizes solar energy to drive a heat pump that both heats and cools, using less energy than is required of the conventional systems it replaces. The system can be retrofitted to existing buildings, can heat and cool multiple zones and operate in cool and heat mode simultaneously.

The company says the system investment cost is eligible for a 30% federal energy tax credit and will pay for itself in three years.

More information on the product is available at www.trieasystems.com. WANADA implies no endorsement for this product.

Thought the week ...

The most certain way to prevail over enemies is to befriend them.

--A. Lincoln