THE WANADA® BULLETIN

NEWS AND INFORMATION FOR AND ABOUT FRANCHISED NEW CAR DEALERS IN THE WASHINGTON AREA

WANADA Celebrating 100 Years of Service (1917-2017)

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Headlines…

Floorplan deductibility preserved in final Senate tax bill

Congress must pass spending bill by Dec. 8, or face government shutdown

OSHA delays injury and illness e-reporting deadline to Dec. 15

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November sales up 1%; 2017 will likely see first sales drop since recession

NADA forecasts 16.7 million new vehicle sales in 2018

Welcome new member!

Staying Ahead…

Floorplan deductibility preserved in final Senate tax bill

The House and Senate versions of the tax bill must be reconciled in conference committee to meet Republicans' goal of sending a bill to President Trump before Christmas. Photo by 401kcalculator.org.

Thanks to hard work by NADA and many dealers, the final tax bill before Congress that passed the Senate late Friday night included full deductibility for floorplan interest, the same as the House bill. The House and Senate versions have very similar language, so NADA is optimistic that full deductibility will stay in the final bill that comes out of conference committee.

The version of the Tax Cuts and Jobs Act that passed the Senate Finance Committee two weeks earlier reduced the current 100 percent deduction of business interest, including floorplan interest, to 30 percent of adjusted taxable income. Limiting this type of business interest would disproportionately hurt small business auto, boat, RV and motorcycle retailers, particularly during an economic downturn. Sen. Rand Paul (R-KY) introduced an amendment, which passed, that preserves full floorplan interest deductibility.

NADA pointed out to senators that interest expense has historically been one of the top three expenses at a typical dealership. The 30 percent limit unfairly puts small business dealers with high-cost inventory at risk of paying higher taxes even when the dealership does not show a profit. The Finance Committee bill treated dealers, generally closely held small businesses, the same as large corporations that choose debt over equity for tax purposes. Franchised automobile dealers do not have access to equity markets, so floorplan financing is a necessity, not a choice.

The floorplan measure was one part of a huge, wide-ranging tax bill that ran over 700 pages and included many additions and revisions added by hand at the last minute. A few other provisions in the bill that are important to dealers are these:

- **Estate tax**: The Senate bill does not abolish the estate tax, as the House bill does. But it doubles the exemption to $11 million.
- **Pass-throughs**: The Senate bill added bigger tax cuts for pass-through businesses and C corporations, which includes many dealerships. Owners of those businesses would be able to deduct 23 percent of their income before paying taxes.
- **Expensing**: This provision, which now allows businesses to deduct the full cost of equipment and facilities, would be phased out in five years instead of immediately.
- **Health care**: This bill is not just about taxes. The Senate version, but not the House, bill repeals the individual mandate requiring all Americans to buy health insurance. Many House members would like to keep chipping away at Obamacare, but industry experts have said that premiums could soar if the individual mandate were abolished.

Congress must pass spending bill by Dec. 8, or face government shutdown

Every Congress in recent years has put off passing a budget until the last minute, and this year is no different. While one part of Congress will be focused on working out the differences between the House and Senate tax bills in conference committee, the entire Congress must work on passing a budget for next year.

President Trump has said he does not foresee a deal with Democrats on the budget. Photo By Martin Falbisoner - Own work, CC BY-SA 3.0.

The deadline is 12 midnight Friday, December 8. President Trump has said he does not foresee a deal with Democrats. But unlike with the tax bill, Democrats *must* be part of the negotiations, as a filibuster-proof 60-vote majority is needed to pass a budget bill. Trump has said he does not feel a government shutdown would hurt him politically, but Congressional Republicans are anxious to avoid one.

Democrats have signaled that several issues could be deal-breakers. They want the president to allow permanent residence for the nearly 800,000 illegal immigrants who came here as children. Funding for the Children's Health Insurance Program has already expired, and Democrats want to renew it. Republican insistence on funding a border wall or defunding Planned Parenthood would also be deal-breakers for Democrats.

A government shutdown, or even the fear of one, is always a potential cause for concern in the Washington area, especially for businesses. With many federal workers already nervous about losing their job or taking early retirement, the prospect of a shutdown does not put people in a spending mood.

OSHA delays injury and illness e-reporting deadline to Dec. 15

Light-duty truck dealerships required to electronically file 2016 employee workplace injury and illness records with the Occupational Safety and Health Administration (OHSA) now have until Dec. 15, 2017. Those required to electronically file Form 300A or the equivalent include light-duty vehicles and commercial truck dealerships with 250 or more employees at a single location.

Dealerships required to electronically file a 2016 Form 300A should use [OSHA's Injury Tracking Application]. NADA/ATD recommends waiting to file until close to Dec. 15, as the deadline could be extended again.

Light-duty dealerships with fewer than 250 employees at a single establishment must record workplace injuries and illnesses, but are *not* required to electronically submit Form 300A to OSHA. Maryland dealerships do *not* need to file using the Injury Tracking Appication because Maryland has yet to adopt the Form 300A electronic reporting mandate.

For more information on OSHA’s injury and illness recordkeeping and reporting mdnates, visit NADA's injury and illness recordkeeping page or email NADA Regulatory Affairs at regulatoryaffairs@nada.org.

‘A dark cloud’ hangs over CFPB; lawsuit over leadership continues

The question of who will lead the Consumer Financial Protection Bureau (CFPB) is not yet resolved. Mick Mulvaney, head of the Office of Management and Budget, has been named acting director by President Trump. But former director Richard Cordray appointed chief of staff Leandra English to replace him as acting director.

Acting CFPB director Mick Mulvaney has a very busy work life these days. Photo by Gage Skidmore.

Trump and Cordray each had a different law to back up their position. CFPB General Counsel Mary McLeod confirmed that Trump has the authority to appoint Mulvaney as executive director. But Sen. Elizabeth Warren (D-MA), who helped create the Consumer Financial Protection Agency, said the intent of the law was to make the agency independent of the president and to allow the director to name the acting director who would succeed him or her. Cordray’s choice, English, has sued President Trump and Mulvaney, seeking a court determination that she is the acting director.

The federal judge denied English’s motion for a temporary restraining order against Mulvaney. But the lawsuit continues and will likely end up to the DC Circuit Court of Apppeals or even the Supreme Court, according to Alan Kaplinsky, a longtime CFPB observer at law firm Ballard Spahr.

“A dark cloud looms heavily over the CFPB right now,” Kaplinsky said.

Mulvaney quickly issued a 30-day hiring freeze and a moratorium on new regulations. In the time he is there, he is sure to take a more business-friendly approach than Cordray did. The same can be said of any permanent director Trump would nominate to replace Cordray.

Mulvaney has said he will work three days a week at OMB and three days at the CFPB. Some observers have questioned whether working in those two jobs creates a conflict, with one regulatory and the other political. Either way, part of the OMB director's job is to negotiate a budget with Congress on behalf of the administration – an activity that will be more than a full-time job this week (see previous article).

November sales up 1%; 2017 will likely see first sales drop since recession

Compact SUVs, like the Toyota RAV4, are selling well.

November sales rose 1 percent from a year ago, sealing this year's likely fate as the first to see a sales decline since the Great Recession. (Year-to-date sales are down 1.5 percent.) That's no surprise, after a record seven years of increased sales. This year is still forecast to be the third year running with sales above 17 million. NADA's year-end forecast is for 17.1 million.

The main factors driving down November sales were a continued drop in passenger car sales and lower fleet sales. Of course, lower fleet sales mean more attention to retail. And some consumers are buying nearly new, off-lease vehicles instead of new. But the low sales levels of the Great Recession still seem like a long way off, and some major automakers remain optimistic.

"U.S. economic growth has stepped up and we expect the momentum will carry over to 2018," said GM Chief Economist Mustafa Mohatarem. "Employment continues to grow at a solid pace, wage growth will accelerate and consumer confidence just hit a 17-year high, so industry sales should remain strong."

SUV sales continue to grow, especially small SUVs and crossovers. Light trucks, including SUVs, will account for nearly 64 percent of new light-vehicle sales in 2017, said NADA senior economist Patrick Manzi. Small SUV prices rose 3 percent, according to Kelley Blue Book. Partly because of the increase in SUV sales, average transaction prices reached a record $35,870 last month. But incentives remain high, at $3,692, up 4.6 percent from November 2016, according to ALG.

The lower sales are part of a trend, some analysts say. New-vehicle sales are moving toward a new normal of 15.5 million to 16 million a year, according to Barclays analyst Brian Johnson, as reported in *USA Today*. But NADA sees higher than that next year (see next article).

NADA forecasts 16.7 million new vehicle sales in 2018

NADA forecasts new vehicle sales of 16.7 million next year, down from a predicted 17.1 million this year. Chairman Mark Scarpelli announced the forecast live on CNBC's "Squawk Box" and later reiterated that the forecast indicates a stable, healthy market for new vehicles.

"We are looking at a stable market where demand – particularly for light trucks, SUVs and crossovers – continues to be very healthy," Scarpelli said. The light truck market share is expected to top 65 percent in 2018, added NADA senior economist Patrick Manzi.

Manzi said the overall economic outlook for 2018 remains strong with projected gross domestic product (GDP) growth at 2.6 percent, average jobs growth around 180,000 per month, and the price for regular-grade gasoline at $2.50 per gallon.

In some good news for dealers, retail sales are expected to increase to 15.3 million next year, up from 15.1 million in 2017.

Manzi said the influx of off-lease vehicles will likely put pressure on new-vehicle sales. "However, the mix of these late-model vehicles will favor light trucks more than past years and should be more in line with present consumer demand."

Welcome new member !

A new Kindred-Line member was approved at the last WANADA Board of Directors meeting:

Bob Porter Company, Woodbine, MD
(general contractor, dealership construction and renovations)
Usual representative: Gerry Ryan, Dealer – Business Development

WANADA welcomes Bob Porter Company to its Kindred-Line membership, and urges its active involvement in dealer community affairs.

Staying Ahead…

I predict future happiness for Americans, if they can prevent the government from wasting the labors of the people under the pretense of taking care of them.

--Thomas Jefferson