WVADA
WEST VIRGINIA AUTOMOBILE DEALERS ASSOCIATION

December Newsletter

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TIME AND ALLY FINANCIAL HONOR GRAFTON DEALER

J.R. Toothman Wins National Recognition for Community Service
and Industry Accomplishments at NADA Show
(New York, NY, October 20, 2020) – The nomination of J.R. Toothman, president of Toothman Ford in Grafton, West Virginia, for the 2021 TIME Dealer of the Year award was announced today by TIME.

Toothman is one of a select group of 41 dealer nominees from across the country who will be honored at the 104 th annual National Automobile Dealers Association (NADA) Show in New Orleans on January 23, 2021. The announcement of this year's annual award was made by Susanna Schrobsdorff, senior vice president partnerships, executive editor, TIME, and Doug Timmerman, president of Auto Finance for Ally Financial. The TIME Dealer of the Year award is one of the automobile industry's most prestigious and highly coveted honors. Recipients are among the nation's most successful auto dealers who also demonstrate a long-standing commitment to community service. Toothman, 48, was chosen to represent the West Virginia Automobile Dealers Association in the national competition – one of only 41 auto dealers nominated for the 52 nd annual award from more than 16,000 nationwide.

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NEWS RELEASE

SBA and Treasury Announce Simpler PPP Forgiveness for Loans of $50,000 or Less

U.S. Small Business Administration

WASHINGTON—The U.S. Small Business Administration, in consultation with the Treasury Department, today released a simpler loan forgiveness application for Paycheck Protection Program (PPP) loans of $50,000 or less. This action streamlines the PPP forgiveness process to provide financial and administrative relief to America's smallest businesses while also ensuring sound stewardship of taxpayer dollars.

"The PPP has provided 5.2 million loans worth $525 billion to American small businesses, providing critical economic relief and supporting more than 51 million jobs," said Secretary Steven T. Mnuchin. "Today's action streamlines the forgiveness process for PPP borrowers with loans of $50,000 or less and thousands of PPP lenders who worked around the clock to process loans quickly," he continued. "We are committed to making the PPP forgiveness process as simple as possible while also protecting against fraud and misuse of funds. We continue to favor additional legislation to further simplify the forgiveness process."

"Nothing will stop the Trump Administration from supporting great American businesses and our great American workers. The Paycheck Protection Program has been an overwhelming success and served as a historic lifeline to America's hurting small businesses and tens of millions of workers. The new form introduced today demonstrates our relentless commitment to using every tool in our toolbelt to help small businesses and the banks that have participated in this program," said Administrator Jovita Carranza. "We are continuing to ensure that small businesses are supported as they recover."

SBA and Treasury have also eased the burden on PPP lenders, allowing lenders to process forgiveness applications more swiftly.

SBA began approving PPP forgiveness applications and remitting forgiveness payments to PPP lenders for PPP borrowers on October 2, 2020. SBA will continue to process all PPP forgiveness applications in an expeditious manner.

Click here to view the simpler loan forgiveness application.
Click here to view the instructions for completing the simpler loan forgiveness application.
Click here to view the Interim Final Rule on the simpler forgiveness process for loans of $50,000 or less.

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About the U.S. Small Business Administration
The U.S. Small Business Administration makes the American dream of business ownership a reality. As the only go-to resource and voice for small businesses backed by the strength of the federal government, the SBA empowers entrepreneurs and small business owners with the resources and support they need to start, grow or expand their businesses, or recover from a declared disaster. It delivers services through an extensive network of SBA field offices and partnerships with public and private organizations. To learn more, visit www.sba.gov.

SBA begins to articulate the PPP loan necessity review process

December 10, 2020
By: Mark A. Mangano, Jackson Kelly PLLC

On December 9, 2020, the Small Business Administration (SBA) issued an update to its Paycheck Protection Program Frequently Asked Questions (FAQs)[1] to address why some Paycheck Protection Program (PPP) borrowers are receiving a Loan Necessity Questionnaire[2] (Questionnaire). For over a month, draft questionnaires have been circulating and used by the SBA without official publication or explanation. he SBA has now published updated Questionnaires.
Since early in the PPP, the SBA made it clear it would review loans to borrowers and their affiliates receiving loans with an original principal balance of $2 million or more. The SBA would pay particular attention to the required good faith certification that "current economic uncertainty makes this loan request necessary to support the ongoing operations of the Applicant" (Certification).

Click Here to Continue Reading Questionnaire

Simpler PPP Forgiveness Application Process for Loans of $50,000 or Less

The Small Business Administration and the Treasury Department have announced a simpler forgiveness application (Form 3508S and Instructions) for Paycheck Protection Program (PPP) loans of $50,000 or less. Loan forgiveness effectively turns a PPP loan into a grant.

Importantly, dealer-borrowers eligible to use Form 3508S are not subject to a reduction in forgiveness based on a reduction in the number of full-time employees or a reduction in employee salaries and wages. However, they must still make required certifications and document that PPP loan proceeds were spent on appropriate payroll and nonpayroll costs. Note: a dealer-borrower with a PPP loan of $50,000 or less may not use SBA Form 3508S if, together with its affiliates, it received PPP loans totaling in excess of $2 million. For more information on affiliation issues, see NADA's affiliation guide and related FAQs.

Before applying for PPP loan forgiveness using Form 3508S, dealers should consult with their PPP lender and their CPA. Questions regarding the SBA/Treasury announcement can be directed to regulatoryaffairs@NADA.org.

IRS Clarification of Nondeductibility of PPP-Funded Expenses Draws Congressional

Opposition

Yesterday the IRS issued guidance on the deductibility of expenses paid with Paycheck Protection Program (PPP) loan proceeds. These two new documents confirm the IRS's position that expenses paid with PPP loan proceeds will be nondeductible by businesses when the loan is likely to be forgiven.

In a prompt response yesterday, Senate Finance Committee Chairman Chuck Grassley (R-Iowa) and Ranking Democrat Ron Wyden (D-Ore.) issued a joint statement advising that they are working to pass legislation by the end of the year to clarify that forgiven PPP loan expenses will be fully deductible. NADA continues to urge Congress to reverse the IRS interpretation and restore full deductibility of forgiven expenses funded with PPP loans. ATAEs and dealers raised this issue during the virtual Washington Conference meetings with members of Congress in September, and NADA has been urging congressional leadership and staff to resolve this issue favorably during the lame duck session.

For more information about the IRS clarification, please see the following new documents.

- Proc. 2020-51 clarifies that businesses that do not file for forgiveness or are denied forgiveness will be permitted to deduct PPP funded expenses through a safe harbor procedure.
- Rul. 2020-21 clarifies that disallowed expense deductions due to PPP loans occur in tax year 2020, regardless of whether forgiveness is granted in 2020 or 2021.

Dealerships with PPP loans are encouraged to discuss these new developments with their tax advisor.
Additional information on the PPP is available on NADA's Coronavirus Hub.

NADA Releases Guide on Consumer Leasing Requirements

NADA is pleased to announce the release today of a comprehensive Driven guide on the federal disclosure requirements and limitations applicable to consumer leasing transactions. Federal Consumer Leasing Act Requirements, prepared for NADA by Hudson Cook consumer leasing expert Thomas Buiteweg, is a companion guide to NADA's 2018 Guide to Federal Truth In Lending Requirements. The new member publication explains in detail the federal disclosures that must be presented to lessees; limitations that apply to charges for early termination, excess wear and mileage, late payments and doc fees applicable to a lessee's exercise of a purchase option; the disclosure of prior credit or lease balances; many other technical requirements; and the consequences for noncompliance.

Mike Alford
Chairman, Regulatory Affairs Committee

NADA Announces the Schedule of Dealer Franchise Meetings

NADA has announced the schedule of dealer franchise meetings taking place at February's virtual NADA Show. Just as with in-person shows, the 2021 franchise

meetings will offer dealers and dealership managers the chance to learn the latest updates and changes happening with their franchises directly from OEM senior leadership.

A complete NADA Show 2021 education schedule was also just announced; view the full schedule here of more than 60 education sessions.

NADA Petitions Treasury for LIFO Relief

Many franchised new-car and -truck dealerships using the last-in, first-out (LIFO) accounting method are experiencing a severe decrease in new-vehicle inventory that could cause them to incur significant tax liability as a result of "LIFO Recapture." NADA sent a letter to the Treasury Department requesting that it exercise its authority under the Internal Revenue Code to allow such dealers to elect to replace their new-vehicle inventories over a three-year period. Treasury may exercise this authority when a "major foreign trade disruption" has occurred that makes the replacement of inventory during the tax year difficult or impossible and other conditions are met.

The letter explains that a series of government actions to contain the spread of the coronavirus caused a major foreign trade disruption to occur.

While NADA will advocate in earnest for this extraordinary form of relief, dealers should not assume that Treasury will grant it. In order to help dealers identify potential approaches to managing the tax consequences of LIFO recapture, dealer accounting firm Crowe presented a webinar on this topic. If you were unable to attend the webinar on December 8th, you can login to NADA and access the recording in the webinar archives.

Federated Insurance Claim of the Month

It's Our Business to Protect Yours

FEDERATED INSURANCE®

Could it happen to you?

A mechanic test drove a customer's vehicle to diagnose a problem. While listening for the problem, the

mechanic got distracted and rear-ended another vehicle, seriously injuring the occupants.

POTENTIAL CLAIM: $3.5 million

That claim might seem unrealistically high, but we have seen court judgments in cases like this rising at an unprecedented rate. Juries have been examining the facts and using high settlements to punish businesses for what they view as negligent or irresponsible behavior. In this claim, the dealership had not run a motor vehicle record (MVR) report on the mechanic prior to allowing him to conduct the test drive. If it had, the report would have revealed multiple accidents, speeding violations, and a DUI in the past three years. Here are some risk management tips for helping avoid crashes — and the high costs that could come with it:

- Establish test-drive locations that have lower traffic volumes.
- Create a policy that prohibits distracted driving while employees are driving for business purposes.
- Where permitted by applicable law, order MVRs on all employees who might drive for business purposes.
- Where permitted by and in accordance with applicable law, implement pre-employment and post-accident drug-testing policies.

Federated Mutual Insurance Company is recommended by 20 state and national auto dealer associations and buying groups for customized insurance programs and value-added risk management services, such as mySHIELD[SM], the Risk Management Resource Center, and the Federated Employment Practices Network®. Visit federatedinsurance.com or contact your local marketing representative for resources you can use to create or enhance your own risk management program.

This article is for general information and recommendations for risk prevention only and should not be considered an offer of insurance or legal or other expert advice. The recommendations herein may help reduce, but are not guaranteed to eliminate, any or all risk of loss. Coverage will be determined by the facts of the claim and the terms of your policy, if approved for issue. The information herein may be subject to, and is not a substitute for, any laws or regulations that may apply. All products and services not available in all states. Qualified counsel should be sought with questions specific to your circumstances and applicable laws. © 2020 Federated Mutual Insurance Company.

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By paying close attention to our customers, we have earned our place as an industry leader. We offer loaner fleet solutions, customized marketing programs and free technology, like the ARMS® Dealership Application,* to meet your needs.

Contact Brett Webster at 304 720-6899 to learn more about how Enterprise can pick you – and your customers up.

PROUD SERVICE PARTNER OF WVATDA.

Enterprise Rent-A-Car

We'll pick you up.

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DMV Update

TITLE WORK - 10 PER PACKET

The DMV will be accepting title work from dealers and you are able to drop off the title work at the regional offices. **You are only allowed to have 10 titles in a packet.** You can have as many packets as needed, but each packet may only contain **10 titles.** Due to COVID, the DMV is still behind on work; the normal turn around time for titles to be processed is about 72 hours, but now may take a little longer. We thank you for patience as we work through this.

In The Community

Congratulations to Moses Auto Mall of Huntington being honored as the BEST In The Tri-State for New Car and New Truck Dealer for 2020!

MOSES AutoMall HUNTINGTON

Bill Cole Automall Bluefield announced their Bill Cole Cares winner Leah Walker!

Leah is the first winner of the Bill Cole Cares campaign in which a deserving member of our community is ***gifted a free vehicle*** that includes the Bill Cole Advantage 10 Year/100K mile warranty.

Congratulations Leah from everyone at Bill Cole Automall Bluefield and WVADA!

View the video [here]

HARRY GREEN 7 ACRES

Bruce Moore's celebration of 46 years at Harry Green Chevrolet. His family celebrated the weekend at Nemocolin and of course as always Hal Green had to photobomb every picture.

Thank you Bruce and Patty for your dedication to the dealership! Bruce is retiring at the end of this year.

Save the Date

Thursday, April 15, 2021

VIP Charity Gala 2021

6:00 PM – 8:00 PM
Charleston Coliseum & Convention Center
Charleston, WV

The Greenbrier Resort

WVADA 87th ANNUAL FAMILY CONVENTION

SAVE THE DATE

June 13 - 16

OPEN REGISTRATION NOW - JUNE 1, 2021

REGISTER BY APRIL 30TH TO RECEIVE A 10% DISCOUNT

Sunday: Evening -Welcome Reception & Casino Night

Monday: Day - Golf Scramble OR Scavenger Hunt

Evening - Block Party

Tuesday: Day - Sporting Clay Tournament OR Bowling

Evening - Chairman Dinner/Reception

For more information visit our website at www.wvcar.com

Forms for WVADA 2021 Convention:

- WVADA Registration Form
- Greenbrier Room Reservation Fom
- Sponsorship Form
- Exhibitor Registration Form

Visit WVADA's COVID-19 Resource Page