WVADA
WEST VIRGINIA AUTOMOBILE DEALERS ASSOCIATION

January Newsletter

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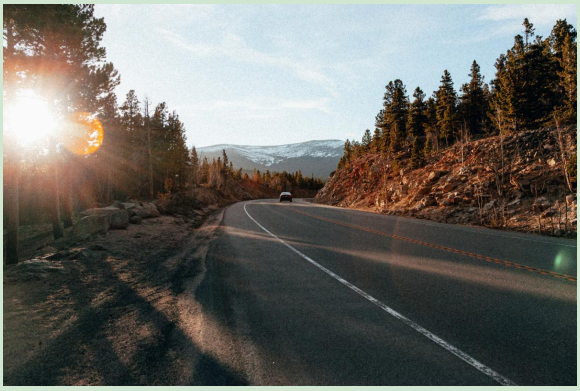


West Virginia dmv
Keeping West Virginia on the move.

CVR

PAPERWORK ISSUE FOR CVR DEALERS

The DMV is having issues with CVR dealers' paperwork. The issue at hand is that CVR dealerships are sending their deal packets to the DMV either without the **VRS generated coversheet** or having it buried in with the other deal paperwork. This is causing delays in process for DMV when it arrives. **Please make sure that this coversheet is the first page of each individual deal sent to the WV DMV**.

Just for clarification, we are **NOT** referring to your batch coversheet that lists each deal that should be in the mailed packet. We are referring to the **WV DMV Coversheet that is generated with each individual transaction in VRS**.

Thank you for your help and cooperation. Please reach out to WVADA if you have any questions.

WVADA is continuing to investigate several ways to provide our members with the best healthcare purchasing options available. We are asking for your input as members' needs will drive the options we explore. Please take a few seconds and complete this 5 question survey regarding health insurance.

If you have not already completed the survey, please click on the link below to take the survey.

We greatly appreciate your responses.

Health Insurance Survey

85th Legislative Session

The West Virginia Legislature convened for a one-day organizational session on, January 13, 2021. Following the presentation of certified election results by Secretary of State, Mac Warner, both the House and Senate elected their officers.

Senator Craig Blair (R-Berkeley) was elected by acclamation to serve as President of the Senate and Delegate Roger Hanshaw (R-Clay) was re-elected as Speaker of the House.

Republicans picked up three seats in the Senate, bringing their majority to 23-11. In the House of Delegates, Republicans collected 18 seats to expand their control over the chamber to 76 members giving both Houses a supermajority.

WVADA has met with leadership of both Houses, and we have begun working on critical

pieces of legislation for this year. **Protecting the franchise statute will continue to be the number one issue for WVADA**. In addition, WVADA will be pursuing:

- COVID liability protections for employers;
- Strengthening the right to cure statute;
- Loser Pay;
- B&O Tax Relief Bill; and
- Supporting tax reform

The legislature is currently adjourned until members reconvene February 10, 2021 for the start of the First Regular Session of the 85th Legislature.

JACKSON KELLY PLLC

SBA begins to articulate the PPP loan necessity review process

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

SBA Issues New PPP Loan Forgiveness Guidance, Documents: UPDATE

U.S. Small Business Administration

The Small Business Administration has issued the following Paycheck Protection Program (PPP) guidance and documents related to loan forgiveness.

- Interim Final Rule (IFR) on Amended Loan Forgiveness and Review Procedures (1/19/2021)
- PPP Loan Forgiveness Application Form 3508 (Revised 1/19/21)
- PPP Loan Forgiveness Application Form 3508EZ (Revised 1/19/21)
- PPP Loan Forgiveness Application Form 3508S (Revised 1/19/21)
- Disclosure of Certain Controlling Interests Form 3508D (1/19/2021)

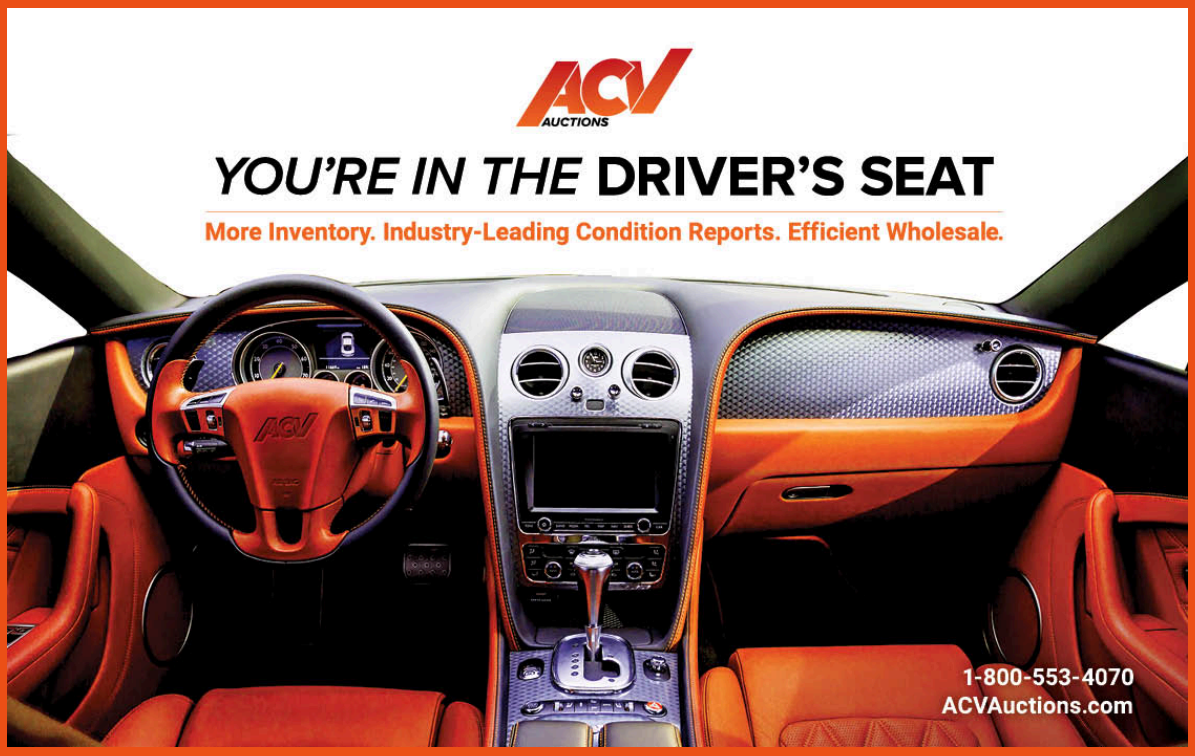
SBA clarified on Jan. 23, 2021, that Form 3508D need only be submitted by a PPP borrower that received a loan before Dec. 27, 2020, and was directly or indirectly controlled by certain government officials or their spouses (president, vice president, member of Congress or executive department head) when the loan was made. Any such borrower that applied for forgiveness before Dec. 27, 2020, must file Form 3508D by Jan. 26, 2021. Any such borrower that has applied for or will apply for forgiveness on or after Dec. 27, 2020, must file Form 3508D within 30 days of doing so.

Dealer PPP borrowers who have yet to apply for loan forgiveness should carefully review the new loan forgiveness IFR, as it replaces all prior IFRs addressing loan forgiveness (see above). It is laid out in question-and-answer format and, among other things, lists new forgivable expense items added by the

Economic Aid to Hard-Hit Small Businesses, Nonprofits and Venues Act (Economic Aid Act).

Dealer PPP borrowers that have yet to apply for loan forgiveness should use the appropriate revised forgiveness application to do so (see above). Reminder: to avoid having to make loan payments, PPP borrowers must file for forgiveness no later than 10 months after the end of their covered periods.

See SBA's Website for other PPP loan information, including specifics on the reopened program which, in accordance with the Economic Aid Act, extends until March 31, 2021. Existing and prospective dealer PPP loan borrowers should consult legal counsel, accountants and lenders regarding program specifics.



Some Interesting Tax Provision of the Consolidated Appropriations Act of 2021

JACKSON KELLY PLLC

December 29, 2020

By: Robert G. Tweel
There were some long awaited tax changes contained in the Consolidated Appropriations Act of 2021 (the "CAA"), but there were also some interesting additions.

For example, the CAA clarified that taxpayers can deduct expenses paid with PPP Loan proceeds overturning the IRS guidance on this issue. This benefit is substantial for taxpayers and effectively increases the PPP Loan proceeds by the amount of the tax benefit obtained from deducting these expenses. While we are on the PPP Loans, the Act has authorized a new round of PPP Loans. The basic requirements are the same with two significant changes: First, the business must have less than 300 employees (500 on original PPP), and second, the business must demonstrate that gross receipts for 1 calendar quarter of 2020 were not less than a 25 percent reduction from the gross receipts of the business during the same quarter in 2019.

The CAA extends the payback period for certain deferred payroll taxes through December 31, 2021, expands and extends the employee retention credit through July 1, 2021, and

extends the credit for paid family and Medical leave provisions through 2025.

The CAA also included the following benefits:

Business Meals - Under the CAA, the 50% limit for deductibility of business meals won't apply to expenses for food or beverages provided by a restaurant that are paid or incurred after Dec. 31, 2020, and before Jan. 1, 2023.

Corporate Charitable Deduction - The CAA expanded the limitation on corporate deductions for qualified disaster relief contributions from 25% to 100% of taxable income for 2020 for Corporations.

Individual Charitable Deduction - The CAA extends the removal of the 50% limitation on individual charitable contributions to public charities through 2021. This change will permit individuals to deduct cash contributions to public charities up to 100% of their taxable income.

Rollover of FSA Accounts - The CAA extends the grace period for extend the grace period for plan years ending in 2020 and 2021 to 12 months after the end of such plan year for unused benefits and contributions to health flexible spending and dependent care flexible spending arrangements. The CAA also extended several expiring provisions such as permanently setting medical expense threshold at 7.5% and extended the $5.0b funding for New Markets Tax Credits.

There are many other provisions to the CAA specific to certain industries, but this is a brief overview of some of the key changes.

U.S. Department of Labor Issues Worker Classification Rules

On Jan. 7 the Department of Labor published a final rule that helps clarify how to distinguish an "employee" from an "independent contractor" for purposes of the Fair Labor Standards Act (FLSA). The FLSA is the law that governs an employer's minimum wage and overtime obligations, among other things. The rule, which takes effect on March 8 contains:

- A multifactor test for determining when workers are employees vs. independent contractors;
- a clarification that when applying the test, no one factor is conclusive and that the actual practices between workers and employers are more relevant than what is stated contractually or is theoretically possible; and
- six fact-specific examples applying the multifactor test.

The multifactor test is designed to determine whether a worker is economically dependent on a business and is its employee, or whether the worker is self-employed. The test identifies and explains two "core factors" and lists three other factors that are probative to worker classification determinations. The two core factors are:

- The nature and degree of control over the work; and
- a worker's opportunity for profit or loss based on initiative and/or investment.

The three other probative factors are:

- The amount of skill required for the work;
- the degree of permanence of the working relationship between a worker and a business; and
- whether the work is part of an integrated unit of production.

The final rule largely reflects the comments and suggestions NADA made to DOL during the rulemaking. Caution: the final rule applies to dealerships with respect to their federal FLSA compliance. It does not necessarily apply to other federal or state laws governing the relationship between dealerships and workers, including federal and state tax laws.

Dealers should work with their attorneys and HR professionals to carefully evaluate those relationships where it is not readily apparent whether workers are employees vs. independent contractors.

Deadline for Winter 2021 Dealer Attitude Survey Only One Week Away

The deadline for dealers to complete the Winter 2021 Dealer Attitude Survey is only one week away. Dealers should have received an email from chairman@nadasurvey.com with instructions for how to complete the survey, which is open until Thursday, Jan. 28. The survey results convey a timely and comprehensive assessment of dealer sentiment to auto manufacturers. This survey we have included special questions related to the future of retail, based on what we learned from dealers about their experience during COVID the last survey. The goal of the anonymous survey is to encourage automakers to regularly engage in constructive and beneficial discussions with their franchised dealers, to improve business practices. Please visit nadasurvey.com should you have questions or need assistance.
Source: NADA

Capital Automotive

F&I STRENGTH ASSESSMENT

Success doesn't just happen; it takes practice, dedication, and hard work. And behind every successful team, there's a knowledgeable coach who keeps them focused on the game plan and provides the training and support they need to win. When you partner with Capital Automotive, that's exactly what you get—the right tools to increase profits year after year with the flexibility to adapt to your unique market, and a winning coach to support your success.

Take a few moments to assess the strength of your program.

FLEXIBILITY		
I can customize products to increase sales	❑ Yes	❑ No
My provider is easy to work with	❑ Yes	❑ No
I have a formal plan to increase PVR	❑ Yes	❑ No
I have a fully integrated menu, reporting capabilities, and compliance tools	❑ Yes	❑ No
PARTNERSHIP		
My PVR is routinely in the top 5 of my 20 group	❑ Yes	❑ No
My F&I Manager and provider coordinate on live customer deals	❑ Yes	❑ No
My F&I provider delivers candidates for my F&I department	❑ Yes	❑ No
Measurable performance standards are in place	❑ Yes	❑ No
TRANSPARENCY		
I see consistent investment returns on reinsurance	❑ Yes	❑ No
I see underwriting profits from all of my products	❑ Yes	❑ No
I understand my reinsurance fee structure	❑ Yes	❑ No
I can use various reinsurance structures with my provider	❑ Yes	❑ No
I can direct cash flow to meet my needs	❑ Yes	❑ No

How does your program measure up? Capital Automotive consistently delivers it all!

If you'd like to see what the right game plan backed by a winning coach can do for your dealership, contact us at **inquiry@capital.email** or **855.919.8877.**

We'll design the game plan you need to get your team in shape and take your F&I game to the next level.

Federated Insurance Claim of the Month

It's Our Business to Protect Yours

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Could it happen to you?

A customer alleged a number of high-value items were missing from the trunk of his car, which had been in a dealership's possession overnight for service. There were no signs of damage to indicate forced entry.

CLAIM AMOUNT: $27,000

While the dealer might claim the customer's complaint is untrue, there is no way to prove it. Here are some steps to help reduce the risk of such thefts and potential fraudulent theft claims.

- Check in each vehicle brought in for service, noting condition and existing damage.
- Ask customers to remove personal belongings from the vehicle before taking it in for service.
- When you can, keep customers' vehicles in view of surveillance cameras.
- Where permitted by applicable by law, notify customers that the dealership is not responsible for missing items.

While $27,000 is a significant amount of money, you may also consider the danger to your reputation. If word gets around that property is not safe in the dealership's care, that dealership could lose customers. Create and enforce policies that help protect the property customers entrust to you while helping protect your business against potential fraud.

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℠, 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. © 2021 Federated Mutual Insurance Company.

In The Community

ASTORG AUTO OF CHARLESTON

Astorg Auto of Charleston would like to congratulate Marshall Capps and Adam Clendenin on 10 years and 1 year of service with Mercedes-Benz respectively.

It is colleagues like you and your commitment to excellence that make us who we are.

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2021 VIRTUAL NADA SHOW

WE'RE BRINGING THE SHOW TO YOU
TUESDAY-THURSDAY, FEBRUARY 9-11

NADA wants to make it easy for Show attendees to search for special deals and product discounts at **NADA Show 2021**. Connecting with current providers or exploring new vendors at NADA Expo means the opportunity to shop the newest product innovations and solutions for dealership customers.

To make this Expo experience as smooth as possible, Show specials are identified in the Exhibitors list of this year's Show, so that you can easily find all the discounts and special products your dealership needs. Just look for the green price tag icon next to each company to view their specials and start planning your Expo savings!

Learn more about this year's virtual Expo and see the **full list of exhibiting companies** at this year's Show.

Register today to secure your spot and then join us virtually, ***Feb. 9-11***, for the Automotive Industry Event of the Year!

Register for NADA Show 2021

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