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Key Tax Planning Considerations

November 29, 2022



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Introductions

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Agenda

- Industry trends
- Legislative trends
- EV updates
- Year end checklist
- Retail seamless checklist



Industry Trends

- Employment unusually strong if we're in a recession already
- Many businesses hanging onto employees, worried about finding them if the economy changes swiftly
- May have up to 8M backlog of units sold, could take years to get back to pre-pandemic levels
- New cars
 - SAAR for 3Q 13.5M units compared to 2021 15.6. Volume down 13.2% from previous 9/mo 2021 to 10.1M units
 - Correction or Lull? Profitability down, production doesn't look great, but real question is demand



Industry Trends

- Used cars
 - Rates having impact, but new car shortages partially counteracting
 - Gasoline prices likely to remain elevated as US producers ship to Europe
- Buy here pay here
 - Current Expected Credit Loss (CECL) implementation
 - Rising charge offs (1.65% compared to 1.28% for 2021)
 - Longer loan terms (Credit Acceptance Corp example)
 - Average 47/mo \$15,445 loan in 2013 compared to 59/mo. \$27,197 loan in 2022 (3Q)!
 - Sale of paper slowing between banks (race to “pristine collateral”)



Legislative Trends – FTC UDAP Rule

- UDAP (Unfair, Deceptive, or Abusive Practices)
 - NADA filed formal comments on Sept 12
 - Stated the rule is based on:
 - Flawed assumptions
 - Inadequate research
 - Lack of input from key stakeholders
 - No apparent coordination with federal and state agencies that impose similar mandates
 - Absence of any consumer testing of the proposed mandates
 - No attempt to conduct a meaningful analysis of the likely costs and benefits of the proposed rule to consumers and small business automobile dealers



Legislative Trends – FTC UDAP Rule

The duties and restrictions in the [proposed rule](#) generally include –

1. A prohibition against **misrepresentations**
2. A requirement that dealers **disclose**:
 1. A vehicle’s “offering price”
 2. An “Add-on List” on each website, online service, or mobile application
 3. That the purchase of “Add-ons” is not mandatory
 4. The total amount a consumer will pay to purchase or lease a vehicle when the dealer makes any representation about monthly payment amounts
 5. The amount of any consideration provided by the consumer
 6. Whenever comparing payment options and discussing a lower monthly payment, that a lower monthly payment will increase the total amount the customer will pay to purchase or lease a vehicle (if such statement is true)
3. A prohibition against **charging** for any “add-on product or service” that would provide no benefit to the consumer (with certain types of products identified)
4. A requirement that dealers **make certain disclosures and conform to other requirements**, including obtaining a newly defined and redundant form of express and informed consent, regarding such optional “add-ons”
5. A requirement that dealers **retain** for 24 months an extensive set of records that include, among many other items, all advertisements, sales scripts, training materials, and marketing materials regarding the price, financing, or lease of a motor vehicle; all “add-on” lists and all documents describing such products and services; calculations of loan-to-value ratios in contracts including GAP agreements; and copies of all written consumer complaints related to a wide variety of topics



Misc. Legislation Updates

- IRS Vacates notice 2016-66 in its entirety on March 21, 2022, through CIC services LLC v IRS (IRS did not appeal)
 - Speak with your tax advisor to discuss form 8886 filing requirements
 - International tax forms and state filing of form 8886 may still be required
- NADA hopeful “Supply Chain Disruptions Relief Act” H.R. 7382/S. 4105 (LIFO relief) will find a bill to be attached to in the “lame duck session” between the election and year end
 - Currently written to be retroactive and not require an amended return



EV Updates Under IRA (Inflation Reduction Act)

- Electric Vehicle Credit
 - Expanded definition (now “clean energy”)
 - Purchase price limitations (\$55k MRSP for cars, all others \$80k)
 - AGI limits (\$300k MFJ, \$150k Single)
 - Final assembled in North America
 - More limitations down the road
 - Now applies to used vehicles (subject to price and AGI limits)
 - Auto Dealers can claim customers clean vehicle tax credits



EV Updates Under IRA

- Electric Vehicle Credit
 - The good
 - Extended to Dec 31, 2032
 - Eliminates manufacturer caps
 - “Clean” vs “electric” definition – Hydrogen, plug in hybrid, etc now qualify
 - Used “clean vehicles” eligible for up to \$4,000 credit (30% of sales price)
 - Dealers can claim the credit starting in 2024 (however...)

EV Updates Under IRA

- The bad
 - Dealership compliance – Starting in 2024, dealers will report to IRS and buyer vehicle information (another 1099 reporting requirement)
 - Income limitation – AGI 150k for Single, 300k MFJ
 - “Final Assembly” in North America
 - Battery components and critical minerals requirements
 - Of the 72 models eligible for credit today, only 11 will qualify upon Biden signing
- Import manufacturers requesting breaks on sourcing/manufacturer requirements for vehicle tax credit



“Refueling Station” Credit Update Under IRA

- Alternative motor vehicle credit back (but in new form)
 - Base credit of 6% (was 4%)
 - 30% up to \$100k credit so long as certain wage and construction requirements are met (up from 30k in 2021 extended to 2022)
 - Expanded to include two- and three-wheel vehicles
 - More hurdles to jump through than previous credit
 - Census tracts, “certified GCs”, apprenticeships and wage requirements



Year End Checklist

- Schedule clean-up
- Inventory
 - LIFO
 - Write downs
- Year end reserves-book vs tax
- Year end accruals/employee bonuses
 - Payment of accruals
- Prepays
 - Recurring items



Year End Checklist

- Fixed assets
 - Capitalization vs. expensing
- Tax depreciation
 - Recap of 2022 rules
- 163j – EBITDA vs EBIT switch in 2022
 - Harder to qualify for bonus
- Non-deductible items
 - Meals
 - Entertainment



CLA Retail “Seamless” Checklist

- Used to ensure staff through Principals have discussed service capabilities CLA offers
 - Employee benefit plans
 - Cost segregation studies
 - WOTC/ERC/PPP
 - Federal excise tax consulting and reverse FED audits
 - Telecom studies
 - BizOps – Improve financial operations and decision-making ability without the need to hire additional staff
 - Short-term or long-term finance & accounting solutions



CLA Retail Seamless Checklist

- Low-income community tax credits
- LIFO services (IPIC vs. alternative method)
- Used vehicle write downs
- CLA Wealth Advisory for investments
- Buy/Sell consulting, valuation, due diligence, and succession planning
- Brokerage services
- Talent Solutions
 - Attract, retain, grow your people
 - HR consulting/outsourcing, HR systems/payroll and search
- IT Services, penetration testing, PCI compliance, etc.





THANK YOU!

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