Profit DRIVERS

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PROFITABLE IDEAS FOR AUTOMOBILE DEALERS

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National Alliance of Auto Dealer Advisors

How Many Employees Do You Have?

Edited by Vawter, Gammon, Norris & Co., P.C.

Beginning 2015, dealerships employing at least a certain number of employees (generally 50 full-time employees or a combination of full-time and part-time employees that is equivalent to 50 full-time employees) will be subject to the Employer Shared Responsibility provisions of the Internal Revenue Code (added to the Code by the Affordable Care Act). As defined by the statute, a full-time employee is an individual employed on average at least 30 hours of service per week. An employer that meets the 50 full-time employee threshold is referred to as an applicable large employer.

Under the Employer Shared Responsibility provisions, if you do not offer affordable health coverage that provides a minimum level of coverage to your full-time employees (and their dependents), you may be subject to an Employer Shared Responsibility payment if at least one of your full-time employees receives a premium tax credit for purchasing individual coverage on one of the new Affordable Insurance Exchanges, also called a Health Insurance Marketplace.

The Employer Shared Responsibility provisions generally are not effective until January 1, 2015, meaning that no Employer Shared Responsibility payments will be assessed for 2014. Employers will use

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How Many Employers Do You Have?
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information about the number of employees they employ and their hours of service during 2014 to determine whether they employ enough employees to be an applicable large employer for 2015.

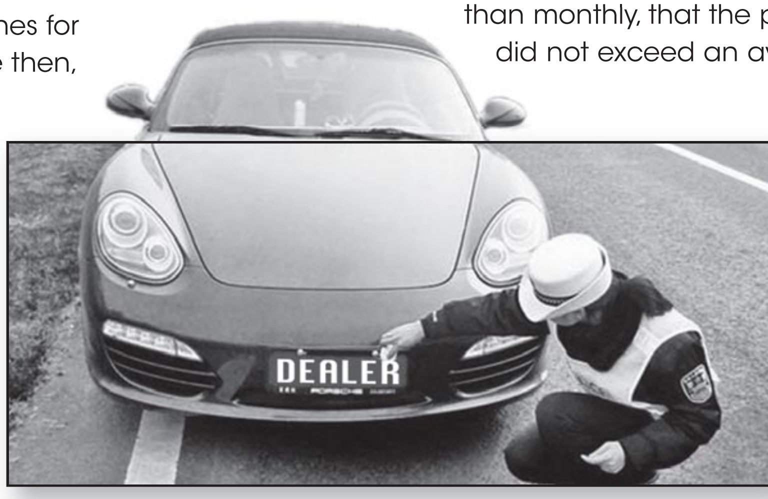
Earlier this year Treasury and the IRS issued final regulations on the Employer Shared Responsibility provisions. Treasury and the IRS also have issued proposed regulations on the related Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered under Employer-Sponsored Plans.

These provisions are too extensive to review here, but we are available to discuss these issues with you. Call one of our dealership professionals today.

Revisiting the IRS Guidelines for the Taxation of Demos

Hard to believe it has been more than a decade since the IRS issued Revenue Procedure 2001-56. This article serves as a refresher for dealers on the scope of the guidelines in order to ensure their continued compliance.

The IRS issued the guidelines for the taxation of demos. Since then, many auto dealer clients have significantly reduced their demo fleet due to increased liability exposure to the dealership and the costs associated with providing this benefit. Further, more dealer clients feel as if they have been targeted by police due to their use of dealer plates. A dealer may allocate limited demos. The employees that receive this benefit must have their taxable income adjusted to reflect the proper value.



Three methods for determining the value of demonstrator vehicles provided to employees are these: the full exclusion method, partial exclusion method and full inclusion method.

Full Exclusion Method - Under this method, the dealer is required to have a qualified written policy limiting the use of the vehicle. This means that only the full-time salesperson (no family members or friends) may use the vehicle, no personal vacation trips allowed, no storage of personal possessions in the vehicle and mileage outside of normal business hours is limited. Furthermore, the dealer must reasonably believe the salesperson is in compliance with such policy and must determine, no less often than monthly, that the personal use of the vehicle did not exceed an average of ten miles per day each calendar month. This method requires mileage record keeping. Also, if the personal use exceeds the average of ten miles per day, use of the Full Exclusion Method is not allowed. Monthly records are required to be maintained for each vehicle.

Partial Exclusion Method - Under this method, the dealer is required to have a qualified written policy limiting the use of the vehicle. This means that only the full-time salesperson (no family or friends) may use the vehicle, no personal vacation trips allowed and no storage of personal possessions in the vehicle. The mileage outside of normal business hours is not limited. Further, the dealer must reasonably believe the salesperson is in compliance with such policy and, lastly, must include in gross income, no less often than monthly, an amount specified in the inclusion table provided by the IRS. Key features to this method, aside from its simplicity, is that the inclusion amount is substantially less than the amount under the annual lease value table and no mileage record keeping is required.

The IRS offers the Annual Average Look Back Method to simplify the calculation of the value of the demonstrator vehicle. This calculation must be done in January of each year and applied no later than February of that year. This formula determines the value of the demonstration automobile based on the average sales price of all vehicles sold in the prior year. If you have new and used demonstrator vehicles, the calculation should be made for each category. For example, under this scenario, a vehicle value between $15,000 and $29,000 would generate $2,190, or $6 per day, to be included in a salesperson's income per year.

Full Inclusion Method - Under this method, the dealer is required to include in non or part-time salespeople's gross income (no less than monthly) the daily inclusion amount specified in the annual lease table using the value of the demonstrator vehicle. Under the full inclusion method, the only documentation to be maintained is the backup for the average look back calculation and the evidence that the amount is included the employee's income no less than monthly. The IRS does not require an employee that is taxed under the full inclusion method to sign a demonstrator agreement.

If you have any questions regarding the IRS guidelines for demo vehicles, please contact one of our dealership professionals today.

Alert—IRS Concludes that Facility Image Upgrade Program Payments are Includable in Gross Income

In a Technical Advice Memorandum (TAM) dated May 9, 2014, the IRS has concluded that facility image upgrade program payments are includable in gross income. The IRS described three detailed fact patterns in which dealers received payments and concluded that in all three situations, the amounts were includable in gross income. Situation two was clearly articulating the facts and circumstances present in the General Motors "Essential Brand Elements" Program.

The TAM acknowledges that certain dealers are not including the payments in their gross income. They cited three tax accounting treatments that they deemed inappropriate: recording the payments as non-shareholder contributions of capital, reducing the basis in the constructed assets and reducing the basis in the new vehicle inventory.

The IRS did acknowledge that dealers may be required to return some or all of the money if the improvements do not meet the conditions of the manufacturer. This fact did not affect their conclusion that the payments were includable income. The TAM states that the dealership is responsible for contracting the construction provider; and the dealership, not the manufacturer, owns the property that is constructed or improved. The IRS sites the John B. White case as support for its position. In "White," an auto manufacturer made payments for leasehold improvements to induce the dealer to move to another location, and the tax court upheld that the payments were includable in income.

The three situations identified appear to cover substantially all of the reimbursement programs that we have experienced with clients. If a dealer reviews his/her particular circumstances and concludes that the payments are includable in income, he/she must make sure to take advantage of all available elections to expense bonus depreciation and direct expensing options. Dealers who are involved in substantial renovations should engage a qualified cost segregation company to assist them in gaining the appropriate depreciation and expense deductions. We can recommend a number of such companies to consider.

If you have any questions about auto dealership management, please contact one of our professionals today.

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Profit Drivers has been created to serve your needs. We are available to answer any questions you have regarding your business or personal affairs. If there are topics you would like to see covered in ***Profit Drivers***, please let us know.