

Coronavirus Crisis Series: The Coronavirus Crisis: CARES Act Impact on Dealers

Webcast: May 7, 2020

11 a.m. – Noon EDT

Join our panel of experts including dealership attorney Ron Smith of Stoll Keenon Ogden PLLC and HBK CPA's for an in depth discussion on issues impacting dealers. Just a few of the tricky topics we will address.

- The latest FAQ on PPP loan forgiveness
- How to calculate forgiveness
- Will I be penalized for employees not returning due to high unemployment pay?
- Should I have applied for the loan?

To react to current events, topic is subject to change.

WHO SHOULD ATTEND

Dealers, Senior Management, CFOs, Controls

HOW TO ATTEND

You may register for the webcast by clicking the link below.

<https://register.gotowebinar.com/register/1491705632974294287>

For more information, contact Ronald C. Smith, Stoll Keenon Ogden PLLC, ron.smith@skofirm.com, (317-822-6787).

IRS Grants NADA Request for Clarification of Eligibility for Employee Retention Tax Credit

Among the tax benefits available to businesses in the CARES Act is a fully refundable tax credit for eligible employers of up to \$5,000 per employee for qualified wages paid to employees from March 13, 2020, to December 31, 2020. However, this credit—known as the employee retention tax credit (ERTC)—is not available to businesses that *received* a Paycheck Protection Program (PPP) loan. The IRS recently issued guidance on the ERTC that could have been read as stating that the ERTC is unavailable to a business which received a PPP loan even if that business later repaid the loan in full by the safe harbor date of May 7 after the Treasury Department and the Small Business Administration clarified the nature of the certification that businesses must make to qualify for the loans.

NADA responded to the guidance by (i) explaining to the IRS that such businesses did not receive any benefits from the PPP and that Congress did not intend to preclude them from being eligible for a credit that is designed to keep employees on the payroll and (ii) asking the IRS to clarify that they remain eligible for the credit notwithstanding the fact that they

technically “received” a PPP loan before they returned it. The IRS agreed by issuing frequently asked question (FAQ) 80 to its [FAQs on the ERTC](#), which states in part:

“An employer that applied for a PPP loan, received payment, and repays the loan by May 7, 2020 [in accordance with a limited safe harbor established by SBA] will be treated as though the employer had not received a covered loan under the PPP for purposes of the Employee Retention Credit. Therefore, the employer will be eligible for the credit if the employer is otherwise an Eligible Employer.”

This common-sense interpretation of what it means to *receive* a PPP loan will further promote the retention of employees in furtherance of the purpose the CARES Act. Dealers who may be eligible for the ERTC should consult the [IRS FAQs](#) for additional information. Mike Alford, Chairman, Regulatory Affairs Committee

SBA Guidance on Employees Who Refuse to Be Rehired

Businesses with a Paycheck Protection Program (PPP) loan can exclude laid-off employees from loan forgiveness reduction calculations, **if the employees turn down a written offer to be rehired**. The guidance also warns that employees who reject offers of reemployment may find themselves ineligible to continue receiving unemployment benefits. See NADA's updated [CARES ACT FAQs](#) (question 40) and the Small Business Administration's [PPP Guidance on Laid-Off Employees Who Refuse to Be Rehired](#).