



## **BULLETIN #56/2020 MAY 1, 2020**

### **\_CORONAVIRUS UPDATE #42**

**MSADA SUBMITS COMMENTS TO GOV.'S RE-OPENING COMMISSION**

**FEDERAL COVID-19 LEGAL UPDATES; CONGRESS REACTS TO IRS RULING**

**NADA DEALERSHIP LIFELINE WEBINARS FOR NEXT WEEK**

**BLUM SHAPIRO WEBINAR, MAY 6: "MAKING SENSE OF UNEMPLOYMENT FOR EMPLOYERS DURING COVID-19"**

**LINK AVAILABLE FOR TODAY'S WEBINAR: "YOU HAVE YOUR PPP LOAN...NOW WHAT"**

**NADA DEALERSHIP LIFELINE WEBINARS SCHEDULE**

**MASSACHUSETTS COVID-19 DAILY TRACKER**

*[This bulletin supplements our previous bulletins #11 and #16 through #55 on this subject matter. These bulletins are intended to be cumulative so we can avoid repeating the same information.]*

#### **MSADA Submits Comments to Re-Opening Advisory Commission**

This week Governor Charlie Baker extended his closure order on non-essential businesses from May 4 until at least May 18. At the same time, he created a 17-member advisory commission on re-opening the economy, led by Lieutenant Governor Karyn Polito and Housing and Economic Development Secretary Mike Kennealy, and it includes public health officials, municipal government officials, and business heads.

The commission is charged with advising the administration on strategies to re-open the economy in phases based on health and safety metrics. It will meet with key stakeholders and solicit input from a variety of constituencies over the next three weeks to develop a report by May 18 that will include Department of Public Health-approved workplace safety standards, industry frameworks, and customer protocols and guidelines, including enforcement mechanisms and coordination with municipal leaders. This report is due on May 18, but the administration has made clear that public health data and guidance from health care experts will dictate the timeline of the re-opening process.

The creation of a commission appears to create a pathway to re-opening shuttered businesses, including dealership showrooms.

As requested, your Association submitted comments to the commission. In those comments we suggested parameters under which our dealership showrooms can be safely



comments we suggested parameters under which our dealership showrooms can be safely opened under accepted COVID-19 risk mitigation measures that ensure the health and safety of employees and consumers, such as:

- Maintain strict social distancing practices to facilitate a minimum six feet of separation between workers and customers and adopt policies and practices that ensure minimum contact between the public and the employees, including limiting capacity to a percentage of that allowed by building code such as 40%-50%.
- Follow all COVID-19 risk mitigation policies and any precautionary measures and guidance that shall be promulgated by the Commonwealth.
- Adopt COVID-19 risk mitigation policies, including whenever possible adopting contactless payment systems and following CDC sanitation recommendations, including disinfecting surfaces routinely and at frequent intervals; and prohibiting any and all self-serve food and beverage.
- All parts, service, sales, online sales, and vehicle delivery services must continue to be performed in accordance with COVID-19 risk mitigation measures that reduce the risk of community disease spread.
- Handling all paperwork presented to, and received from the customer, with latex gloves. Following the exchange of documents, it is recommended that employees dispose of the gloves in proper refuse containers and employees wash their hands for at least 20 seconds.
- Prior to signing any documents, provide pens to the customer in sealed plastic baggies and direct the customer to retain the pen so as to minimize the risk of cross contamination.
- Permitting customers to perform test drives alone without dealership personnel because of the inability to perform proper six-foot social distancing standards as recommended by the CDC.
- Wiping down all surfaces of a vehicle in which the customer or dealership personnel have touched, regardless if a person's hands were gloved and protected.
- Throughout the day, frequently cleaning and disinfecting all employee and public areas of the store.
- Make numerous containers of hand sanitizer available for staff and public use.
- Following the close of each business day, thoroughly clean and sanitize the dealership in accordance with CDC's Environmental Cleaning and Disinfection Recommendations.

We will continue to engage with the commission as this process plays out over the next two weeks.

### **Federal COVID-19 Legal Updates**

Federal agencies released several updates regarding Coronavirus-related programs, such as:

- **Fed Adopts NADA-Recommended Change to Main Street Lending Program.** Yesterday the Federal Reserve Board (FRB) [announced](#) favorable changes to its Main Street Lending Program (MSLP). These changes now provide small- and medium-sized businesses additional liquidity to respond to the pandemic. After NADA [comments to the FRB](#), it adopted NADA's recommended changes. The Main



Street Lending Program has now been expanded and will benefit many more dealerships. NADA encourages dealers to review the FRB's [revised term sheets](#) for its various MSLP lending facilities as well as its [FAQs](#) that explain the program in greater detail. Also, see NADA's [updated one-pager on the Main Street Lending Program](#).

· **Treasury, Fed Release Additional Paycheck Protection Program Guidance.** The Paycheck Protection Program allows loans of as much as \$10 million per borrower for payrolls, hiring back employees, and approved expenses. The Treasury Department and Federal Reserve Board have released more information on the PPP:

- (1) [Interim Final Rule on Corporate Groups and Non-Bank and Non-Insured Depository Institution Lenders](#)
- (2) [Federal Reserve Expands Access to its Paycheck Protection Program Liquidity Facility \(PPPLF\) to Additional Lenders, and Expands the Collateral that can be Pledged](#)

· **IRS: Expenses Covered under PPP Loans are Not Tax-Deductible.** The IRS released guidance stating that expenses forgiven as part of a PPP loan are not tax deductible. This works to prevent a “double tax benefit.” The IRS cited [section 256 of the tax code](#), which states that deductions cannot be taken if they are tied to a certain class of tax-exempt income.

### **Congress Reacts to IRS Ruling on PPP Loan Forgiveness**

Late today, Massachusetts Congressman Richard Neal (D-Springfield), who chairs the powerful House Ways and Means Committee, said through a spokesperson that he will push legislation to ensure that businesses don't get taxed on forgiven federal loans they've received due to the Coronavirus pandemic.

Cong. Neal plans "to fix this in the next legislation" Congress puts together to bolster the economy, his spokesperson, Erin Hatch, said in an email.

Neal's plan is in response to [IRS guidelines issued Thursday](#) that would prevent companies from taking tax deductions for business expenses that they normally claim — wages, rent, certain interest and utilities — if the spending comes from loans under the Paycheck Protection Program. But because those costs are tied to getting a PPP loan forgiven, the IRS rule effectively makes the forgiven loan taxable income.

That counters lawmakers' intent for the program and loan forgiveness, said Senate Finance Committee Chairman Chuck Grassley (R-Iowa), in a statement.

“I'm disappointed by the IRS' determination that these business expenses are not deductible, especially since this issue was discussed during the development of the Paycheck Protection Program,” he said. “The intent was to maximize small businesses' ability to maintain liquidity, retain their employees and recover from this health crisis as quickly as possible.”

But Grassley had no announcement yet on any next steps he'd take, his spokesperson, Michael Zona, said in an email.

The IRS rule cited numerous court cases, as well as a tax code section, to support its



position that disallowing such deductions “prevents a double tax benefit.”

### **NADA Dealership Lifeline Webinars Next Week**

NADA is working around the clock to make sure dealers have the information they need to combat COVID-19 disruptions. There’s no such thing as too many good ideas, so register ASAP.

- **Tuesday, May 5, 1pm-2pm ET:** [\*Digital Marketing Framework for Navigating Uncertain Times\*](#). Daniel Kim, CEO of Orbee Auto, and Mario Clementoni, NADA 20 Group consultant, will guide dealerships with digital marketing strategy to turn marketing efforts into car sales. The session will cover how to measure market, store and purchase demand, and specific actions dealerships can take to coordinate their digital marketing strategy.
- **Friday, May 8, 1pm-2pm ET:** [\*Accelerating Automotive Trends that Google is Seeing in Times of COVID-19\*](#). Lissette Gole, Google's head of Automotive Retail, will do a deep dive on today’s faster industry cycle and how dealers can take stay on top of new trends.

### **Webinar: “Making Sense of Unemployment for Employers during COVID-19” – May 6, 11 a.m. ET**

The COVID-19 pandemic has brought about changes to every part of business. One area that has been hit particularly hard has been human resources. From facing staffing issues to understanding new unemployment benefits offered, the challenges for HR professionals seem to grow by the day.

On Wednesday, May 6, at 11:00 a.m., MSADA associate member Blum Shapiro will conduct a webinar *Making Sense of Unemployment for Employers during COVID-19* to give dealers and their HR personnel a better understanding of:

- How Federal & State Unemployment Insurance Programs Work
- The CARES ACT and Enhanced Unemployment Benefits Under COVID-19
- How to Avoid Layoffs With Reduced Hours AKA “Workshare” Programs
- Challenges and Solutions Around Bringing Employees Back to Work
- Managing Unemployment Claims During COVID-19
- FAQs

Please submit your questions regarding this topic in the registration form. Blum Shapiro will organize your submissions and address your questions and concerns during the webinar. To register, [click here](#).

### **Link to Today’s Webinar: “You Have Your PPP Loan...Now What?”**

Today MSADA associate member Albin, Randall & Bennett conducted an excellent webinar entitled, “You Have Your PPP Loan...Now What?” If you missed this presentation, or wish to watch it again, please click [here](#).

### **Daily Massachusetts COVID-19 Tracker**

For the latest COVID-19 data released today by the Commonwealth of Massachusetts,



click [here](#).

### **MSADA - YOUR DEALER ANSWER PLACE**

If you have any questions regarding this bulletin, please contact Robert O'Koniewski, Esq., MSADA Executive Vice President, by e-mail at [rokoniewski@msada.org](mailto:rokoniewski@msada.org), or Peter Brennan, Esq., MSADA staff attorney, by e-mail at [pbrennan@msada.org](mailto:pbrennan@msada.org), or either by phone at (617) 451-1051.