



DEALER TAX WATCH OUT

If you had called me personally to ask, "What's happening lately with IRS audits of dealers and dealerships that I need to know about?" ... Here's what I'd say:

#1. SECTION 263A ... IRS GUIDANCE ON COST CAPITALIZATION FOR AUTO DEALERSHIPS ... IT HAS ARRIVED & IT'S NOT GOOD NEWS.

Section 263A applies to all dealerships with average annual gross receipts of \$10 million or more. That attribute pretty much defines the majority of dealerships served by our readership. Accordingly, the focus of this issue of the *Dealer Tax Watch* is an analysis of recently issued Technical Advice Memorandum (TAM) 200736026.

I've also added my comments, interpretations and opinions, which you are smart enough, or should be, to take with at least a few proverbial grains of salt.

For over a year now, I've been warning you that the IRS would eventually publish something on this subject. On September 7, 2007, that guidance, in the form of TAM 200736026, finally became available to the public.

I also warned you to expect that the news would be "bad." Indeed, the news is generally bad. But, in my opinion, there really is some - make that a little - room for optimism.

In the June issue of the *DTW*, I said that I thought some of our readers would be incredulous once the IRS published its views and thinking about how Section 263A should be applied to auto dealerships. After reading the TAM, I'm certain that some of you will be in shock.

Make no mistake about it, there is going to be a lot of digging and detail work from now on if the IRS has its way and this TAM becomes the *gold standard* for IRS auditors in auto dealerships. Of course, that shouldn't happen if you believe what the TAM says in the Caveat on the last page... Section 6110(k)(3) of the Code provides that this TAM may not be used or cited as precedent.

WATCHING OUT FOR

DEALER TAX WATCH OUT	1
A PLEA FOR PRACTICAL GUIDANCE ... 20 YEARS AGO	4
THE IPIC LIFO METHOD IS NOT ADVISABLE FOR AUTOMOBILE DEALERSHIPS	6
COST CAP FOR AUTO DEALERS: TAM 200736026	
• OVERVIEW OF TAM	8
• DETAILED CONTENTS	9
• FACTS: DEALERSHIP ACTIVITIES & OPERATIONS	12
• SUMMARY OF 12 TAM ISSUES	14
• ISSUE-BY-ISSUE ... DETAIL DISCUSSIONS	17
• SELECTED REGULATION EXAMPLES	34
• PRACTICE GUIDE - CAN YOUR DEALERSHIP GET A BETTER COST CAP RESULT?	38

Oh really? I have been told by several reliable sources that some agents have basically handed a copy of the TAM to a dealer under audit and said, "Let's take it from here ...". Personally, I've read a few examining agent's reports, and, yes, they are coming up with proposed adjustments of several hundred thousand dollars for these dealerships based on spreadsheets that will make your eyes roll.

#2. BAD FACTS ... OR NO FACTS ... MAKE BAD LAW. As you read it, or read the discussion of the TAM here, you should pay careful attention to the lack of factual information presented by the dealership.

The IRS agent submitting the TAM obviously knew that he/she had a good thing here because, for that dealer, the facts were very unfavorable. Without factual information, we who are now reading the TAM at this later date, have no idea of how other, more

see **DEALER TAX WATCH OUT**, page 2

LOOKING FOR ADDITIONAL & "VALUE ADDED" SERVICES FOR DEALER CLIENTS?

Look no further... Just use the *Dealer Tax Watch* for a head start in golden consulting opportunities and activities to help dealer clients—and, in the process, to help yourself.