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A Periodic Update of Essential Tax Information

DEALER TAX WATCH

Volume 18, Number 2 Publisher: Willard J. De Filipps, C.P.A. Year-End 2011

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. 2011 ... THE YEAR IN REVIEW. It's been another interesting year for those of us who follow IRS developments and guidance on auto dealership tax issues. It seems fair to say that this year there have not been any major pronouncements or guidance issued by the IRS on dealership tax issues.

Sec. 263A ... RIP. The most pressing issue for many years was, of course, the question of how dealerships should apply the Section 263A inventory capitalization rules to their year-end inventories. In late 2010, the IRS issued the "silver bullet" and allowed dealers to benefit from very favorable safe harbor interpretations.

Accordingly, the spring and summer of 2011 occupied many CPAs preparing Forms 3115 by which dealerships elected to protect themselves from further challenge on many issues that would have been very troublesome if the IRS had not allowed them some slack.

I expect that there are still many dealerships that did not file Forms 3115 for 2010 to make these changes. In some cases, this was deliberate because it is their intention to wait to elect the safe harbors effective for calendar year 2011.

When it issued Revenue Procedure 2010-44 last year, the IRS allowed dealerships a "two-year window," meaning that dealerships could make the change for either 2010 or 2011 with relative safety and impunity. However, after the second year (i.e., starting in 2012), it will become difficult for some dealers to make the change under the IRS procedures for automatic changes in methods.

The next headache. There is, however, another major controversial tax issue which - like the 263A issue - has been brewing for years. I'm referring, of course, to the proper tax treatment by dealerships for payments received from the manufacturers under their various and sundry facility improvement and image upgrade programs. And, unfortunately, there is currently no specific "guidance" from the IRS on the tax issues related to this development.

This issue affects almost all dealers in one way or another, or it will affect them sooner or later. As you

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