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Dealer Digest

Keeping up with online leads

Vehicle sales may be more sluggish than a tortoise during the recession. But one aspect of the industry that's moving forward at a rapid pace is the purchase of online leads. Dealerships are in something of an experimental stage right now as the pay-per-lead model of purchasing gains momentum.

At the same time, third-party lead providers are stepping up the competition. And customers are more vigorously exploring their online options. As you decide how to spend your dealership's money on Internet leads — ones you hope will lead to a fruitful sale — try the following.



Be on top of consumer trends

According to industry reports, as many as 75% of new-vehicle buyers engage the Internet during the shopping process. And more than six in 10 used-car buyers purchase a vehicle they find online.

Indeed, even in a down market, online vehicle shopping appears to be on the upswing. *Ward's e-Dealer 100* ranking report last April, for example, revealed that the number of Internet-generated leads increased significantly over the previous few months, despite the overall industry downturn.

Watch the "new kid" on the block

The ante has been upped for the future of online leads over the last several months. In July, longtime automotive resource firm

Kelley Blue Book (KBB) shook the appcart by announcing it was entering the lead-selling business and would be selling to dealers by the lead.

Because of Kelley's strong brand recognition among consumers for used car valuation and automotive research — KBB reports 12 million visits by potential car buyers *per month* — its venture into the online classified ad business is expected to impact the sale of online automotive leads in ways that remain to be seen.

The new venture, KBB's Trusted MarketplaceSM, an online classified listing service for new and used vehicles, was up and running in September. KBB has partnered with Vast.com, a vertical search platform company that culls listings from other pay-per-lead automotive sites. Visitors to KBB's site are able to select search criteria (make, model, mileage and so on) and get "best match" results, a list of cars that most closely parallel the shopper's criteria with the lowest-priced vehicles listed on top.

Pay attention to the veterans

KBB's venture is a departure from how leads have traditionally been sold, typically via a subscription model, in which Internet lead providers (giants such as AutoTrader.com and Cars.com) sell leads in bulk. But practices among the third-party lead providers are changing, too.

AutoUSA, for example, said it's been using a pay-per-lead system (its Inventory Listing Network) since April 2009. Like KBB, its service is powered by Vast.com. The service includes a pay-for-performance pricing plan in which dealers pay only for the valid leads they receive each month. And there are no long-term commitments: Dealers can

opt out of the program with a 30-day notice at any time.

Dealix, another third-party vendor (also known as an aggregator), has rolled out a new program, called Quality Pledge™, which lets dealers return leads that fail to match certain criteria. For example, if the lead you receive doesn't have a working phone number, you can return it.

Shop around

With various choices on the market — and lead providers in a flux of change and

technological improvements — there's every reason to shop around. Just make sure you're comparing apples to apples as you examine the number and quality of leads you'll get for your investment. You can find information on online lead purchasing through lead provider Web sites. And your CPA can assist you in doing a cost analysis of any service you buy.

Remember that purchasing Internet leads is only the beginning of your car-selling process. For your dealership to see a return on its investment in leads, your staff must carefully evaluate the quality of the leads and act quickly on them. ■

Prep time given

IRS suspends the examination of accounting for certain inventory costs

After years of many auto dealerships accounting for the costs associated with their inventories in ways the IRS considered improper, the agency has issued new instructions to its examiners on how to assess dealership compliance with Internal Revenue Code (IRC) Section 263A. In light of the accounting changes dealers may need to make to comply, the IRS has suspended examination on Sec. 263A issues during audits until Jan. 1, 2011.

The IRS issued the instructions to its field examiners in a Sept. 15, 2009, memorandum, "Tier III — Field Directive on the Planning and Examination of IRC Sec. 263A Issues in the Auto Dealership Industry." Included with the memo was an "audit tool kit" comprising an audit plan, a compilation of key terms and definitions, and a "methodology template" for computations.

Instructing examiners

The IRS notes that the memorandum isn't "an official pronouncement of the law." Rather, it provides direction to its field examiners on how to conduct audits of car and truck dealers in relation to compliance with the Uniform



Capitalization (UNICAP) rules of Sec. 263A. UNICAP rules generally apply to taxpayers with gross receipts exceeding \$10 million.

Specifically, from Sept. 15, 2009, through Dec. 31, 2010, examiners of dealerships are being instructed to refrain from raising Sec. 263A issues during exams. Other dealership issues, including other inventory issues, will continue to be evaluated and examined if appropriate, the memo states. If an ongoing examination of your dealership began *before* Sept. 15, 2009, it can still be subject to scrutiny for possible Sec. 263A violations, according to the IRS.

Acting in the wake of 263A noncompliance

The respite comes after the IRS issued Technical Advice Memorandum (TAM) 200736026, which caused a great deal of confusion among dealerships, CPAs and IRS field examiners.

Based on its interpretation of Sec. 263A UNICAP rules, the TAM limited the use of the simplified retail method for calculating capitalized costs. It also called for the capitalization of additional expenses in some cases.

The IRS says the TAM contains “an interpretation and legal positions not raised before.” And compliance risk exists due to the uncertainty about:

- ❑ How to apply a nonprecedential guidance document (the TAM),
- ❑ Inconsistent treatment by examiners, and
- ❑ An industry of 20,000-plus “that is virtually completely noncompliant” with the TAM.

According to the Sept. 15 directive, the IRS has classified auto dealership Sec. 263A issues as “Tier III” because of “a high level of taxpayer noncompliance.” Tier III issues

include “the highest compliance risk for a particular industry,” according to the IRS.

Recapping UNICAP

In the late 1980s, the tax code was modified to require retailers (including auto dealerships) to capitalize the cost of carrying inventory that previously may have simply been deducted as a current period expense. The majority of dealerships began using a variation of the simplified retail method allowed by UNICAP rules for Sec. 263A to calculate capitalized costs. This involves both calculating an absorption ratio for the storage, handling and purchasing costs and applying the combined ratio to the ending inventory cost.

UNICAP rules require taxpayers to capitalize direct and indirect costs that they incur in the production of real or tangible personal property that are allocable to that property. According to TAM 200736026, certain service department work, such as the installation of air conditioning to make a vehicle more salable, falls under those rules, and related costs should be capitalized.

UNICAP rules also require capitalization of storage costs related to property for resale, or “off-site” sales. According to the TAM, certain dealership sales, such as leased vehicles and most vehicles sold at wholesale, are off-site sales, and the costs related to storage of these vehicles at the dealership should be capitalized.

Unveiling the audit plan

The audit plan for Sec. 263A comprises 12 steps:

1. Determine off-site storage portion of dual-function storage facility.
2. Determine off-site portion of dual-function storage facility costs.
3. Determine off-site storage facilities.

4. Identify production costs.
5. Identify handling costs.
6. Identify purchasing costs.
7. Determine total mixed-service costs.
8. Apportion mixed-service costs between purchasing and storage and handling.
9. Calculate storage and handling ratio.
10. Calculate purchase ratio.
11. Calculate simplified resale combined absorption ratio.
12. Calculate amount of additional Sec. 263A costs required to be capitalized.

The audit tool kit's compilation of key terms and definitions explains the terms used in

each of the 12 audit plan steps. And the methodology template covers the computation scenarios for the 12 steps.

Getting ready

Although the suspension is currently in effect, the IRS encourages auto dealerships to *voluntarily* comply with the Sec. 263A requirements before Jan. 1, 2011. To find out more details about the reprieve, preparing for compliance in 2011 and how to handle matters if your examination is already in progress, contact your CPA. He or she will make sure that you're ready for examiner scrutiny and have established and followed a proper, detailed step-by-step methodology for capitalization of costs under Sec. 263A. ■

Meeting FLSA overtime requirements

7 factors to keep in mind

With an eye on the bottom line, many dealerships are cutting corners to keep employee-related expenses down. If you've made staff cutbacks over the last two years, remaining staff may need to work longer hours even as your management team struggles to control overtime costs.

This can get tricky because you need to make sure that, while making decisions about overtime, you comply with the Fair Labor Standards Act (FLSA), which has been around for about 75 years. The last major changes took effect in 2004. Here are seven factors to keep in mind:

1. A salary threshold applies. Employees earning less than \$23,660 annually, or \$455 per week, automatically qualify for overtime pay.

2. Many positions are ineligible for overtime pay. Highly compensated employees earning \$100,000 a year or more, who customarily perform any of the exempt duties or responsibilities of an executive, administrative or professional employee, can't earn overtime pay.

3. Nonexempt status applies to all laborers. The above exemption (known as the "white collar" exemption) doesn't apply to manual laborers (also called "blue collar workers") who perform jobs involving repetitive actions, physical skill and substantial physical energy.



Nonmanagement employees in production, maintenance, construction and similar occupations are entitled to receive minimum wage and overtime pay. They aren't exempt no matter how highly paid they might be. Your dealership's service technicians, for instance, may fall into this category.

4. Other employees may be exempt.

Workers don't have to be highly compensated to be exempt; they simply must earn at least \$455 per week in salary and meet the criteria for being an executive, administrative or professional employee. To qualify as exempt, executives need not "regularly exercise discretionary powers" as they once did. But, the administrative exemption still requires the individual to "exercise discretion and independent judgment with respect to matters of significance."

Also, there's no longer a special exemption for "sole charge" executives — those solely in charge of an independent establishment or a physically separated branch establishment. Similarly, the requirement that executive, administrative, professional and computer employees devote no more than 20% of their time to nonexempt work no longer exists.

5. "On-callers" may have double the chance for overtime. To better satisfy customers, more and more dealerships are establishing 24/7 after-hour and emergency service hotlines. This means that some employees must remain "on call" for specified days.

The trap here is that these "on-callers" have two ways to secure overtime pay. First, they may be eligible for any hours they actually work on customer inquiries. Second, each hour that

workers are on call may qualify for overtime pay, regardless of whether the employees actually work.

If you recently implemented a 24/7 service hotline, be sure to carefully track the labor hours associated with it.

6. Even if overtime isn't approved, you must pay it. Some dealers believe that, if they don't approve overtime, they don't have to pay it.

These dealerships often issue policies stating that a supervisor must approve overtime for it to be valid. But the FLSA trumps any overtime rules a business may issue. So even if overtime isn't approved, the employer must still pay it.

7. If you feel employees are abusing overtime, you can handle transgressions without violating the FLSA. Dealerships should have a corrective action policy to handle instances of unauthorized overtime. Potential consequences could include reductions to merit increases or loss of promotions, as long as such actions don't interfere with collective bargaining agreements or employment contracts. Continued abuse could result in termination. ■

Hot spots

When making decisions about overtime, keep in mind that common overtime claims involve employers that:

- ❑ Mistakenly treat employees as "exempt" from FLSA overtime requirements,
- ❑ Fail to identify, record or compensate "off the clock" hours spent by employees performing compensable, job-related activities,
- ❑ Fail to include "wage augments," such as longevity pay or certain types of bonuses, when calculating an employee's overtime rate, or
- ❑ Fail to identify if state or federal overtime laws provide the higher rate of pay and then pay accordingly.

DEALER DIGEST

Text messages regulated by CAN-SPAM, TCPA rules

Your dealership should be as careful sending unwanted text messages to customers and potential customers as it is when making e-mail or phone call



solicitations. Like unsolicited e-mails, unwanted text messages fall under the Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act, says the Federal Communications Commission (FCC). The act bans *commercial* messages — defined as those with the primary purpose of advertising or promoting a commercial product or service, such as selling a new car or spreading the word about an oil change special.

The ban excludes “transactional or relationship” messages that facilitate a transaction previously agreed upon by the consumer. Notifying your customer about a car pick-up would be OK, for example.

According to the FCC, text messages also fall under the Telephone Consumer Protection Act (TCPA). So, you can’t send a text solicitation to a phone number on your company-specific do-not-call (DNC) list or the national DNC list. There are some exceptions, however. You also can’t send any text message to a cellular phone number using an automated dialer system unless you have the customer’s “prior express consent.” ■

AIAG publishes guidelines

The Automotive Industry Action Group (AIAG) has released a new guideline for the electronic reporting of vehicle delivery, providing irrefutable, real-time information of the condition of a vehicle when it’s presented to the destination dealer.

The Electronic Proof of Delivery Guideline provides dealers, carriers and manufacturers a common template, with a standardized structure and protocol. Previously, proof of delivery was paper-based and created issues with interoperability and lack of real-time visibility. ■

Getting an edge with a Roth IRA

If you’ve ever considered converting a traditional IRA to a Roth IRA to take advantage of its tax-free distributions, consider making the change in 2010. Why? As of Jan. 1, 2010, the income restriction on conversions (\$100,000 of adjusted gross income) has been lifted. Converting a traditional IRA to a Roth IRA allows you to turn tax-deferred future growth into tax-free growth. However, you’ll have to pay income tax on the conversion, as if you’d withdrawn the converted funds. But no penalties will apply, and if you convert in 2010, you can defer the income in equal installments to 2011 and 2012.

A Roth IRA may suit your estate plan: You don’t need to make any distributions during your lifetime, so you can build up a sizable legacy for heirs. After your death, your beneficiaries can withdraw the money tax free over their lifetime. ■