

# Dealer Advisory

May 6, 2020



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A regularly updated "**Coronavirus Toolkit**" is available within the MADA website. [Click here.](#)

## SBA Guidance on Employees Who Refuse to Be Rehired

The Small Business Administration has clarified that 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.

While this has not yet been finalized, SBA and Treasury intend to issue an interim final rule regarding the following.

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*Wording from the [SBA and Treasury's FAQ](#) document:*

**#40) Will a borrower's PPP loan forgiveness amount (pursuant to section 1106 of the CARES Act and SBA's implementing rules and guidance) be reduced if the borrower laid off an employee, offered to rehire the same employee, but the employee declined the offer?**

**Answer:** No. As an exercise of the Administrator's and the Secretary's authority under Section 1106(d)(6) of the CARES Act to prescribe regulations granting de minimis exemptions from the Act's limits on loan forgiveness, SBA and Treasury intend to issue an interim final rule excluding laid-off employees whom the borrower offered to rehire (for the same salary/wages and same number of hours) from the CARES Act's loan forgiveness reduction calculation. The interim final rule will specify that, to qualify for this exception, the borrower must have made a good faith, written offer of rehire, and the employee's rejection of that offer must be documented by the borrower. Employees and employers should be aware that employees who reject offers of reemployment may forfeit eligibility for continued unemployment compensation.

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*Additional guidance on this topic...*

NADA has updated its [CARES ACT FAQs](#) to provide additional guidance. See NADA question #40) What if my employee levels change throughout the year? For example, what if I need to fire an employee for cause or an employee quits?

The *Journal of Accountability* also has a good article on [SBA's PPP Guidance on Laid-Off Employees Who Refuse to Be Rehired](#).

Dealers may also wish to review [Fisher Phillips' FAQs on SBA loans](#). They have numerous FAQs on SBA loan forgiveness and rehiring employees.

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## More on PPP Topics

**Senate, House Committee Chairs Ask Treasury to Reverse Controversial PPP Tax Guidance**  
The Senate Finance Committee Chairman Chuck Grassley, Sen. Ron Wyden and House Ways and

Means Chairman Richie Neal sent a [letter to Treasury Secretary Steven Mnuchin](#) asking for the reversal of guidance that disallowed deductions on expenses covered by PPP forgiveness. The letter is in response to a recent IRS announcement that expenses paid for by forgiven PPP loans will not be deductible. Reversal of this decision would offer significant tax relief to dealers participating in the PPP.

### **IRS Clarifies Employee Retention Tax Credit Eligibility**

The IRS has clarified that businesses who return PPP funds by May 7, 2020 are still eligible for Employer Retention Tax Credit ([see question 80 of the IRS FAQs](#)).

### **Treasury Updates FAQs for borrowers and lenders**

Yesterday, the Treasury updated its [FAQs for borrowers and lenders](#). New question 43 relates to an extension on the PPP repayment date.

## **Updated Guidance & Information**

### **Governor Extends EO Enabling Remote Transactions**

Executive Order 2020-74 temporarily suspends requirements for in-person notarizations, and allows transactions that require a notary to be completed via two-way, real-time audiovisual technology. The order also extends the validity of notary commissions until June 30, 2020. It further permits the use of electronic signatures, except in rare circumstances (*see below note*) when a physical signature is required.

- [Press Release](#)
- [Executive Order 2020-74](#)

**IMPORTANT NOTE:** as we have reminded dealers previously, the Department of State still requires a physically signed, “wet signature” on the Federal Odometer Disclosure. ([see email from MDOS](#))

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### **CAR Webinar Thursday: COVID-19's Impact on Dealerships**



The Center for Automotive Research (CAR) will host a webinar this **Thursday, May 7, 1pm-2pm ET**. Panelists include Patrick Manzi, NADA's chief economist, and Anthony R. Pordon, EVP of corporate development at Penske Automotive Group; they'll discuss customer expectations, virtual and remote operations, and more. [Register here](#).

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### **COVID-19 Economic Update and Financial Planning Opportunities**



The spread of COVID-19 has introduced economic factors that could impact your financial plan. Wondering how to navigate this? Plante Moran is offering a webinar on May 12 at 10:00 am to learn more. ([register here](#))

As COVID-19 continues to disrupt our daily lives and our economy, we're learning more about the steps we can take to mitigate the damage to financial portfolios. Plante Moran Financial Advisors Chief Investment Officer Jim Baird will provide an update on capital markets and the economy. He'll be joined by a panel of wealth management experts to address opportunities in financial planning.

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### **Updates from Fisher Phillips**

Fisher Phillips has updated its [Post-Pandemic Back-To-Business FAQs For Employers](#) to include

additional guidance on taking employee temperatures:

- If we are not required to do so, should we take our employees' temperatures?
- What else should we keep in mind if we decide to take our employees' temperatures?

Also see the related legal alert, [6 Factors Employers Must Consider When Taking Employees' Temperatures](#).

## Preparing to Reopen: Cleaning and Disinfecting

When restrictions are lifted on showrooms - and even now while repair facility and limited contact work is allowed - it will be critical for dealers to follow federal and state guidance. We remind dealers of the following guidance for proper cleaning and disinfection of your workplace.

### **CDC/EPA Guidance for Cleaning and Disinfecting Spaces**

As America cautiously reopens, the Environmental Protection Agency and the Centers for Disease Control jointly issued cleaning and disinfecting guidance, intended for all Americans, whether you own a business, run a school, or want to ensure the cleanliness and safety of your home. This plan is part of the larger United States Government plan and focuses on cleaning and disinfecting public spaces, workplaces, businesses, schools, and can also be applied to your home.

- [EPA & CDC infographic](#)
- [Guidance, with detail](#)

### **NADA Guidance for Dealership Health & Safety During a Pandemic**

Dealerships are operating under a variety of federal, state, and local edicts restricting both business operations and public activities. Sales and service customers are being innovatively accommodated to help ensure that their transportation needs are being met. Importantly, these efforts require that special attention be paid to practices aimed at providing safe and healthy workplaces and transactions for employees and for customers.

- [NADA Guide: Safely Operating your Dealership During a Pandemic](#)
- [NADA FAQ: Dealership Health and Safety Concerns During A Pandemic](#)

### **Reminder: TW Sneeze Guards**

Todd Wenzel Automotive in Grand Rapids developed an acrylic barrier to support the health and safety of their employees during the COVID-19 crisis. The barrier can be placed on sales, service, parts and cashier desks to help minimize the spread of germs during customer and employee communications. The dealership is offering these TW Sneeze Guards to other dealers who may be interested. Please see [this handout](#) for information.

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Please feel free to contact DADA at (248) 643-0250 or MADA at (800) 292-1923 if you have any questions.

*This advisory has been prepared in conjunction with  
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