

Dealer Advisory

April 6, 2020



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

We would like to pass along some important updates from NADA on the federal level. Fisher Phillips has also reviewed Governor Whitmer's executive orders and prepared two legal alerts specific to Michigan businesses. Please review the following updates.

News from NADA

FAQs on CARES Act Paycheck Protection Program

Apr. 3 -- The Small Business Administration [issued an interim final rule](#) on the implementation of the Payroll Protection Program (PPP) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

The rule clarifies the computation of payroll costs. Specifically, the following costs are not included when computing payroll costs for the initial loan application and for loan forgiveness: Federal employment taxes imposed or withheld between February 15, 2020, and June 30, 2020, including the employee's and employer's share of FICA and Railroad Retirement Act taxes; and income taxes required to be withheld from employees.

Bottom line: all the federal taxes imposed or withheld during the 12 months prior to the loan may be included in payroll costs, except for the period shown above.

NEW! [NADA released CARES Act FAQs](#) that include information on the PPP. The FAQs incorporate the new guidance on PPP loans and information on SBA Economic Injury Disaster Loans, tax provisions and changes to unemployment assistance.

Dealers can now submit PPP applications. PPP loans will be made first-come, first-served, with funds available until they're exhausted. Dealers interested in PPP funding should contact their lenders as soon as possible to secure funding before the appropriated money has been exhausted.

- [NADA's one-minute rundown on PPP](#)
- [U.S. Department of Treasury information on PPP](#)

Affiliation Rules and 500-Employee Limit

NEW! **Apr. 4** -- Late on April 3, 2020, the Small Business Administration issued an interim final rule (Affiliation IFR) addressing the application of the SBA's affiliation rules to loan applications under the Paycheck Protection Program (PPP). (The Affiliation IFR supplements the general PPP interim final rule issued on April 2, 2020.) In addition to the Affiliation IFR, the SBA issued on April 3 a summary overview of the its affiliation rules (Affiliation Overview). Together, the Affiliation IFR and Affiliation Overview provide helpful clarification of how the SBA's affiliation rules apply to dealers applying for loans under the PPP. [Keep reading here.](#)

Franchisor Identifier Codes (FIC)

UPDATED! **Apr. 4** -- NADA has published the current list of franchisor identifier codes for Small

Revised FAQs on the Emergency Employee Leave Mandate

UPDATED! Apr. 3 -- NADA has revised its [FAQs on the federal emergency employee leave mandates](#) to reflect [DOL's new temporary rule](#) and [revised guidance](#). Topics include what employees need to qualify for paid sick leave or child care leave and the records dealerships must keep. Reminder: The emergency leave mandates are effective April 1, 2020-Dec.31,2020.

Fisher Phillips Legal Alerts for Michigan

Michigan Governor Creates Broad Employment Protections During COVID-19 Crisis

NEW! Apr. 4 -- Michigan Governor Gretchen Whitmer issued an executive order aimed at protecting the jobs of those employees forced to shelter-in-place because they pose a “particular risk of infecting others with COVID-19.” However, the [April 3 Executive Order \(2020-36\)](#) creates many practical hurdles for employers. The order prevents employers from requesting proof that the employee posed such a risk, opening the door for potential confusion and abuse. In the future, the order could also serve as the basis for a number of wrongful discharge claims.

What The Order Says

Michigan employers of all sizes cannot discharge, discipline, or retaliate against their employees for staying home from work while they posed a “particular risk of infecting others.” During the time the covered employee is home, the employer must treat them as though they are on Michigan Paid Medical Leave Act.

If an employee runs out of paid leave (or has none), the employee must be provided unpaid leave for their absence for as long as they pose a “particular risk of infecting others with COVID-19.” The order explicitly prohibits employers from requiring employees to provide documentation to prove they or anyone they were in contact with were exhibiting COVID-19 symptoms to substantiate their protected leave. Because of this, employers will essentially have to trust whatever their employee says, thus opening up this type of leave for potential abuse and confusion.

[Please keep reading here.](#)

Additional information from Fisher Phillips...

Apr. 3 -- [What Employers Need To Know About Michigan's Stay-At-Home Order](#)

Apr. 4 -- [Comprehensive And Updated FAQs For Employers On The COVID-19 Coronavirus](#)

Updated model form and guidance...

- [Model Announcement to Employees About Positive Test](#)
- [Manager Talking Points Related to COVID-19](#)
- [What you Should Know about the Coronavirus and your Employment](#)

New Webinar From U.S. Wage & Hour

The U.S. Department of Labor's Wage and Hour Division has developed an on demand webinar that explains which employers are covered by the new paid sick leave and expanded family and medical leave law, which workers are eligible, and what benefits and protections the law provides.

- [FFCRA webinar](#)
- [Webinar slides in PDF](#)

Dealers are also reminded that NADA has developed a number of excellent webinars to help support its members. Please see the coronavirus webinar listings within the [MADA Coronavirus Toolkit](#). Both upcoming and archived webinars are linked.

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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