



May 19, 2020

Greetings from VADA,

The pandemic continues, but so does our resolve. Keep up the good work, and let us know how we can help.

In this Tuesday message, read an *Automotive News* article featuring the community service efforts of Carter Myers Automotive, led by VADA Executive Committee member Liza Borches. Check out another from the *Richmond Times-Dispatch* on Virginia transportation revenues after Secretary of Finance Aubrey Layne spoke yesterday to the Virginia House of Delegates Appropriations Committee. See the new Paycheck Protection Program (PPP) Loan Forgiveness Application, which the U.S. Small Business Administration (SBA) released Friday (May 15). Also, view letters VADA wrote U.S. Senators Mark Warner and Tim Kaine about recent federal guidance.

***Automotive News* features community service of Carter Myers Automotive.**

For Virginia's franchised auto dealers, service to community isn't limited to providing jobs to employees or cars and trucks to consumers. Especially in trying times, local dealers understand the importance of helping others outside the showroom or service department.

That's an underlying theme of an [article](#) *Automotive News* released Sunday (May 17) about how dealers are assisting others during the pandemic. The publication notes the actions of dealer groups around the country but starts with our very own Carter Myers Automotive (CMA), led by its CEO and VADA Executive Committee member Liza Borches.

The article notes CMA, "which has 15 stores serving five markets, has a temporary help line that offers grocery, pharmacy and essential-errand deliveries to community members." One woman received a grocery delivery from the dealer group's CEO. Why do all this? "We have people, we have cars and we have time," Liza told *Automotive News*.

That's the spirit! Thank you, Liza, and thanks to the many in this great association, who are driving Virginia forward.

Transportation revenues tumble, but auto industry seen as leader.

State tax revenue from motor vehicle sales fell almost \$37 million in April, compared with the same month a year ago. That 41% drop could hurt Virginia's plans to improve its transportation system, the *Richmond Times-Dispatch* [reports](#).

Vehicle sales taxes are not the only source of Virginia transportation revenue, and are joined by gasoline taxes and license fees. But car and truck sales are the most reliable sources of transportation funding, and have taken a hit since March in response to the COVID-19 public health crisis. Among other figures reported:

- Total state revenues fell by \$700 million in April compared to April 2019.
- That 26.2% decline came almost exclusively from a \$760 million decline in estimated and final state income tax payments that Gov. Ralph Northam delayed for a month in response to the shutdown of many non-essential businesses to slow the spread of the coronavirus.
- Virginia is likely to lose up to \$1 billion in revenues through the end of the fiscal year on June 30.

"Public confidence is going to be the key to the economic turnaround, not only in the nation, but in the commonwealth," Secretary of Finance Aubrey Layne told the House Appropriations Committee on Monday (May 19).

Recognizing our industry's critical impact on state tax revenue, VADA President & CEO Don Hall was also quoted in the article, stressing the importance of franchised new car and truck dealers as an economic driver. Once the crisis subsides, he said, "Everybody is hoping and praying there will be a lot of pent-up demand."

SBA releases PPP Loan Forgiveness Application, corresponding instructions.

On Friday (May 15), SBA, in working with Treasury, released the [PPP Loan Forgiveness Application with instructions](#) on how to apply. "SBA will also soon issue regulations and guidance to further assist borrowers as they complete their applications, and to provide lenders with guidance on their responsibilities," the agency [announced](#).

SBA says the application and instructions consist – quoted directly – of the following to reduce compliance burdens and simplify the process for borrowers, including:

- Options for borrowers to calculate payroll costs using an "alternative payroll covered period" that aligns with borrowers' regular payroll cycles.
- Flexibility to include eligible payroll and non-payroll expenses paid or incurred during the eight-week period after receiving their PPP loan.
- Step-by-step instructions on how to perform the calculations required by the [Coronavirus Aid, Relief, and Economic Security (CARES)] Act to confirm eligibility for loan forgiveness.
- Borrower-friendly implementation of statutory exemptions from loan forgiveness reduction based on rehiring by June 30.
- Addition of a new exemption from the loan forgiveness reduction for borrowers who have made a good-faith, written offer to rehire workers that was declined.

As NADA [points out](#), dealer-borrowers will generally not file the PPP Loan Forgiveness Application until after June 30, 2020. That said, and aware more guidance is on the way, start looking at the application and instructions with your controller, outside accountant, and counsel. We will provide you more information as it becomes available. Also, you may wish to reference:

- [This worksheet](#), as you consider payroll costs and other permissible uses over the PPP's 8-week forgiveness period.
 - [NADA Preliminary Guidance on PPP Loans: Use of Proceeds and Forgiveness](#) (updated April 23)
 - [NADA FAQs the CARES Act and Dealerships](#) (updated May 14)
 - [PPP Loan Certification of Need: NADA Analysis of Clarifying Guidance from SBA and Treasury](#) (updated May 15).
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VADA writes Senators Warner and Kaine, requesting their help with Treasury guidance.

In response to the CARES Act and PPP, the Treasury in May issued guidance that gives VADA concern. We sent letters to U.S. Senators for Virginia [Mark Warner](#) and [Tim Kaine](#), expressing our views and asking they take action. Our concerns are twofold:

- First, SBA issued [FAQs Questions 31 and 37](#), which address whether businesses owned by large companies — *e.g.*, public companies or those owned by private equity — with adequate sources of liquidity to continue operations qualify for a PPP loan. It is our view this frustrates the purpose of the CARES Act and leaves some auto dealers wondering if they are going to be audited or penalized for loan applications made in good faith.

Note: We are pleased SBA issued guidance in the form of [FAQs Question 46](#) that "Any borrower that, together with its affiliates, received PPP loans with an original principal amount of less than \$2 million will be deemed

to have made the required certification concerning the necessity of the loan request in good faith.” And it appears from SBA guidance this \$2 million threshold applies to individual franchise dealerships rather than whole dealer groups. However, while most VADA member dealerships received PPP loans less than \$2 million, some received more. For any dealership borrower, whether the business had ample liquidity or access to capital before or during the pandemic should not be a determinant of whether it certified for a PPP loan in good faith.

- Second, the IRS issued [Notice 2020-32](#), which prevents dealers from deducting forgiven PPP expenses for federal income tax purposes, thus drastically modifying the risk/reward analysis dealerships must undergo when considering use of a PPP loan.

In the letters, we ask Treasury to:

1. Revise its guidance to contemplate that PPP loan decisions were made with employee retention and payment in mind, regardless of whether a dealership was adequately capitalized or could have weathered the COVID-19 storm without the funds, and
2. Withdraw Notice 2020-32.

More than ever, it is a pleasure to serve the new car and truck dealers of Virginia.

Sincerely,

A handwritten signature in black ink that reads "Donald L. Hall". The signature is written in a cursive, slightly slanted style.

Donald L. Hall
President and CEO