

Thursday, September 23, 2010

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Legislative & Regulatory News

Take NAEDA's survey to share your thoughts about Tier 4 compliance

Please share what concerns you most about this final phase of Tier 4 regulations to lower diesel emissions from off-road equipment. Take the Tier 4 Survey.

Study green lights EPA to OK 15 percent ethanol blend for older cars

 $\underline{the hill.com/opinion/op-ed/119867-new-study-green-lights-epa-to-ok-15-percent-ethanol-blend-for-older-cars}$

Small business bill goes forward in Senate

www.nacsonline.com/NACS/News/Daily/Pages/ND0916101.aspx

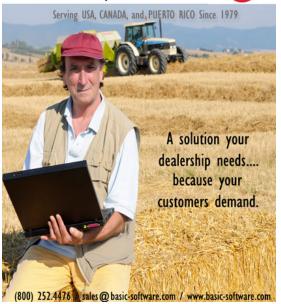
Senate defeats plan to strip filing requirement from health law

The U.S. Senate has defeated an effort to strip a controversial tax-reporting provision from the sweeping health care law Congress passed earlier this year. In a 46-52 vote, lawmakers killed an amendment sponsored by Sen. Mike Johanns (R-Neb.) that would have saved businesses and nonprofit groups from having to report an array of small and medium-sized purchases to the Internal Revenue Service. homenews/senate/118637-senate-defeats-effort-to-strip-1099-requirement-from-health-law

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Industry & Manufacturing News

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Fiat shareholders approve plan to split companies

news.yahoo.com/s/afp/20100916/bs_afp/italyautocompanystructurefiat_20100916122655

\$26.2 million Rush acquisition makes Leslie Doggett Deere's largest U.S. dealer rttnews.com/Content/BreakingNews.aspx?Id=1416854

CEO Blog

More than a handshake September 2010

It amazes me when dealers tell me they didn't read a contract or agreement before signing it. Typically, they will say something like, "I've never read XYZ Corp.'s contract before and we've been doing business for years, so why start now? I trust them." Or, I might hear the old standby, "We've always done business with just a handshake because I'm a person of my word." These responses are all well and good and I'm all over the integrity thing, but unfortunately the business environment of today calls for a lot more than a handshake or a quick signature on a legally binding document!

During the past several months, NAEDA and the affiliate associations collectively have worked closely with our legal counsel to review and improve several dealer contracts/agreements. Of course this process also requires the cooperation and involvement of the manufacturers to make it successful. In the final analysis of such efforts, our goal is to create a fair. commercially balanced agreement that lays out the responsibilities of each party. As you might expect, each party has a different business model and a different set of circumstances which weigh heavily on the discussions. We ultimately reach a compromise and all parties are generally better off than when the process started

The point I am making is this. If the contract was fair and balanced to begin with, there would be no need for the process. However, the contract draft you get is usually unbalanced because the XYZ legal team drafted the contract to protect XYZ Corp. from all conceivable risks. This is not meant to be a negative comment on XYZ's attorneys ... it's their job to do just that. It's what they are paid by XYZ to do!

So, with that thought in mind, doesn't it make sense that you and your CFO, business partners or someone you trust, should read the document and know what you're signing? If you don't understand it (and many contracts are difficult to understand because of the legalese length and inter-relationship with other contracts) find someone who can. Many dealers seek help from their affiliate association. If enough dealers call, the association contacts NAEDA, we then review the contract and then most likely send it to our legal counsel for their input. They are the experts and can assist all dealers (versus each dealer having to hire their own attorney). We have literally spent tens of thousands of dollars recently from our Industry Relations fund on just such matters for the benefit of all dealers. Of course, you also have the option to call your own attorney

The bottom line is, there is simply too much at stake to not conduct your due diligence read and understand a contract and get a balanced contract that fairly allocates the risks and benefits. Otherwise, you could lose your entire business and, in many instances, other assets because of a personal guarantee. You must pay attention to what you are being asked to do and to what XYZ Corp. could do if you don't. As I said earlier, integrity and trust are great attributes. In fact, we could use more of both today. But, if you don't understand what you are signing -- or you sign an agreement that is unbalanced and commercially unreasonable without challenging it -- then shame on you!

Recently a dealer called me who was being



NAEDA & Association News

Recurring legal issues dealers should know

Over the years, NAEDA's legal counsel -- the law firm Seigfreid, Bingham, Levy, Selzer & Gee (SBLSG) -- has seen recurring legal issues (that could positively or negatively affect equipment dealers) you should definitely know about. Recurring Legal Issues Dealers Should Know >>

North Dakota dealer employee helped by EDF after tornado

In 2005 NAEDA and its affiliated associations created the EDF Disaster Relief Fund (EDF) to provide cash assistance to dealership employees affected by natural disasters. Since then, the fund has distributed nearly \$170,000 in grants to dealers and their employees. Recently, a North Dakota dealership employee was helped.





During a summer storm in North Dakota, a tornado ripped through a rural area and demolished a farmstead owned by the dealership employee. The farm has been in the family since 1886. As seen in these before and after photos, the tornado, which lasted about three minutes, laid waste to everything in its path.

Fortunately, no one was injured, but losses after insurance for this one employee totaled more than \$200,000. As a result, the employee received a grant from the Equipment Dealers Foundation (EDF) Disaster Relief Fund, which is supported by contributions from equipment dealers throughout North America. And, according to the recipient of the grant, your money will make a difference in restoring what's left of his farm.

"Thank you doesn't seem to be enough," said the grant recipient. "I have said it one-thousand times the last month or so. I don't know how we would have coped without so much help from friends, relatives, complete strangers – and now the EDF grant. Now the process of rebuilding will begin. Thanks again."

About EDF

The EDF fund helps offset some financial demands faced by those affected by the disasters. Grants may be used for food, living expenses, temporary accommodations, home repair, permanent home construction, and other approved needs. Your money makes a difference.

To contribute, visit EDF.

Dealers can benefit from GIE+EXPO High Performance Parts Department

www.gie-expo.com/emails/2010/attendee/hppad_eblast_3.html

KPA: Employer health care reform update - IRS ruling on FSA

The IRS has issued guidance on statutory changes concerning the use of certain flexible spending arrangements, also known as flexible spending accounts (FSAs), to pay for over-the-counter medicines and drugs. The Affordable Care Act (ACA) established a new uniform standard that applies to FSAs and health reimbursement arrangements, (HRAs). The standard is effective Jan. 1, 2011. Under the [...] blog.kpaonline.com/2010/09/employer-healthcare-reform-update-irs-ruling-on-fsa/



Canadian News

Budget measure to cut red tape and boost venture capital for Canadian firms

By eliminating unnecessary paperwork associated with section 116's reporting requirements for many transactions exempt from Canadian tax, the government's budget measure makes it easier for Canadian businesses to attract foreign capital needed to capitalize on innovations and introduce new services and technologies. Department of Finance - Canada >>

Canada's Parliament resumes; the ten issues MPs must face

Canada's federal politicians have returned to the House of Commons for what promises to be a politically volatile session. National Post >> \times

World Economic Forum ranks Canadian banks soundest in world

Canada's banks and other financial institutions are sound and well-capitalized, and were less highly leveraged than their international peers heading into the financial crisis, according to the World Economic Forum.

<u>Department of Finance - Canada</u> >>

Canada's trade deficit widens to record

Canada's trade deficit with the world widened to (CAN)\$2.7 billion in July from (CAN)\$1.8 billion the previous month. Statistics Canada reports imports increased by 2 percent as exports decreased by 0.7 percent. CBC.News>>

Canada added jobs in August

The Canadian labor market rebounded in August 2010 as 35,800 jobs were added - all full-time. The August job report suggests the economy has recouped all jobs lost in the 2008-09 recession at a faster pace than previous recoveries. National Post >>

cancelled for violating his contract. He was adamant that it was not his "intent" to violate the contract. Unfortunately, he didn't understand what was in the contract and did not have the management controls in place to stay in compliance with the contract, and it cost him his business.

Think this can't happen to you? Think again. Your best defense is to understand the contract BEFORE you sign it. DO NOT sign it until you DO! I may be preaching to the choir, but I'll keep putting the message out there until it breaks through. And don't take my word for it ... talk to "ex" dealers who didn't read and understand a contract and then maybe you'll be convinced. We want you to succeed, but you have to do your part. READ and UNDERSTAND the contract – and that's the way I see it!

Paul Kindinger is president/CEO of the North American Equipment Dealers Association. The association, in coordination with affiliated state, provincial and regional associations, provides educational, legal, legislative, and financial services to approximately 5,500 retail agricultural, construction, large property/ rural lifestyle, and outdoor power equipment dealers in the United States and Canada.

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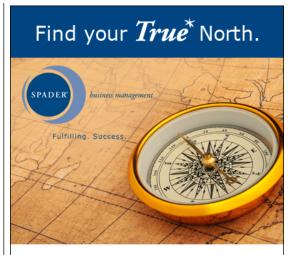
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The North American Equipment Dealers Association provides educational, legal, legislative, and financial services to approximately 5,500 retail agricultural, construction, large property/rural lifestyle, and outdoor power equipment dealers in the United States and Canada.

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Tip of the Month



Get Sued - The 5 Most Common Mistakes Employers Make

Free KPA webinars Sept. 30 - California HR Compliance Update

Oct. 7 - How to Fire Without Triggering a Firestorm

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