



# Auto Advisor

Accountants Serving the Automotive Industry

Henderson Hutcherson & McCullough, PLLC, is a Chattanooga-based certified public accounting firm specializing in automotive accounting.

Please contact Chet Logan, Donnie Hutcherson, Travis Horton or Randall Hebert with any questions or comments 423.756.7771.

Visit our website at: [www.hhmcpas.com](http://www.hhmcpas.com)

Henderson Hutcherson & McCullough, PLLC is affiliated with



a consortium of leading CPA firms serving over 1900 dealerships nationwide.

## 14th Annual CEO/CFO Forum

### NAVIGATING THE TWISTS AND TURNS OF PRIVATE EQUITY

Auto Team America will hold its 14<sup>th</sup> annual CEO/CFO forum on Friday, February 8, 2008, preceding the start of the NADA convention in San Francisco. The forum will take place from 3:00 pm – 6:00 pm at the Westin St. Francis. Immediately following the event will be a cocktail reception hosted by Comerica Bank exclusively for the forum attendees.

Our annual forum has become a showcase for innovative ideas and dynamic management techniques. This year we are pleased to once again feature Michael Bruynesteyn and his insights on the state of the industry. Our panel of experts,

moderated by Jay Ferriero, will share their perspectives on helping you learn more about how you can successfully navigate the twists and turns of private equity. We are thrilled to welcome panelists Ezra Mager, Tom Butler, Frank Walker, and William Lovejoy.

Michael Bruynesteyn is an investor at Lehman Brothers in New York, with an active interest in the auto industry. Prior to joining Lehman, he spent eight years following the automakers and suppliers as a sellside analyst for the Prudential Equity Group, where he was recognized for timely stock calls and proprietary research by *Fortune* magazine, *Institutional*

*Investor* magazine, *Bloomberg Magazine* and *The Wall Street Journal*. Michael built his foundation in the auto industry at General Motors, with assignments in Pricing, Fleet Sales, Capital Planning, Overseas Finance and Investor Relations.

Jay M. Ferriero is Capital Automotive's Vice President and Director of Acquisitions. He joined the Company after ten years at Comerica Bank - a leading financial institution serving the automotive retail industry. At Comerica, Jay was responsible for managing the multi-state regional dealer

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## PROPERLY REIMBURSING YOUR INTEREST CREDITS

As business continues to tighten for domestic franchised dealers, it is essential to explore every possible avenue for increasing profitability. Interest credits due from the manufacturer may provide a source of profit. The manufacturer will reimburse the dealership based on the

dealership's interest rate, while providing for a set period of in-transit time.

If the dealership's floor plan source is the manufacturer's finance arm, there should be no question that the correct interest rate is being utilized.

If the dealership's floor plan source is a separate financial institution, the dealership should verify with the manufacturer that the correct interest rate is being utilized in calculating interest credits.

There have been instances where the financial institution has not informed the manufacturer of the rate change and the manufacturer utilized a default rate that was substantially under the dealership's actual rate. This rate difference results in lost profits, an outcome that can be avoided by checking that the correct rate is used to calculate the interest credit.

In addition, given the recent delays in inventory in-transit

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**2008 NADA Convention & Expo**  
February 9 - 12, 2008  
Moscone Center, San Francisco, California

**Auto Team America**  
Visit us at booth #4417N  
Pick up the 2007 dealer benchmarks  
Pick up the special NADA edition of the newsletter  
with tax tips

1200 Market St., Freight Depot, Chattanooga, TN. 37402

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lending offices in Florida and Illinois. He also served as National Accounts Manager at Comerica with a focus primarily on large multi-bank credit facilities, working with many of the auto retailing industry's consolidators.

Ezra Mager is CEO of EPM Advisory, LLC, a business he founded in 2004. The firm specializes in offering investment advice about hedge funds on a world-wide basis. In the 1990s, he recognized the need for public ownership in the Automotive Dealership industry, serving as Vice Chairman of Cross-Continent Auto Retailers, Inc., the first automobile dealership group to go public in September 1996. He also served as Vice Chairman of United Auto Group and of the Don Mealey group of dealerships.

Tom Butler is currently a Managing Director with Bel Air Partners, LLC, a boutique investment banking firm which specializes in representing automobile dealers in the sale of their businesses. At Bel Air he is responsible for initiating, negotiating and closing major transactions for the firm's clients. Prior to joining Bel Air, Mr. Butler was the Senior Vice President in charge of the merger and acquisitions department for AutoNation,

Inc., the nation's largest automotive retailer.

Frank Walker is a partner at Beers & Cutler and leads the firm's Transaction Advisory Services practice, focusing on middle-market mergers & acquisitions, large financing events, post-deal advisory and integration as well as turn-around advice. Frank has over 15 years of public accounting and private industry experience including extensive experience in analyzing and advising on complex business transactions; including, preparing a company for sale or acquisition, business process outsourcing, corporate restructuring and financing for both growth and turnaround situations.

William J. Lovejoy is a Principal of Lehman Brothers Merchant Banking and a managing director of Lehman Brothers. Bill formerly worked as a Principal at Bain Capital and as a managing director of DB Capital Partners, the private equity arm of Deutsche Bank.

Attendees of the forum will include CEOs/CFOs of dealership groups, dealers and general managers, controllers and office managers and related industry associates involved in dealership business management.

To register for the CEO/CFO Forum, call Kim Cooley at HHM at 423.756.7771.

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time, especially with Daimler Chrysler, it is the responsibility of the dealership to apply for the additional credit due from the manufacturer. This is an easy submission that must be initiated by the dealership's office staff, which should be assigned the task of verifying that all credits are properly calculated and received by the dealership. Checking the interest credits calculation provides an excellent example of how an efficient office can assist the dealership in maximizing its profit potential.

For further information, please contact your AutoTeam America member today.



## KENTUCKY VS. DAVIS MUNICIPAL BOND INTEREST CASE

In May of 2007, the U.S. Supreme Court agreed to hear a case involving the constitutionality of a state's imposition of income tax on out-of-state municipal bond interest income while exempting from taxation the interest income earned on bonds issued by that state. The constitutionality of the matter is steeped in the Commerce Clause of the U.S. Constitution, and the outcome of the case will have far reaching implications considering the significant number of states with similar municipal bond taxation systems.

Kentucky vs. Davis began its journey to the U.S. Supreme Court in April of 2003, when the Davises filed a complaint alleging that the State of Kentucky's decision to tax the interest income earned on out-of-state bonds while exempting from taxation the interest income derived from bonds issued by the Commonwealth of Kentucky or its subdivisions violated the Commerce Clause of the U.S. The Davises, who were residents of Jefferson County, Kentucky, and who paid Kentucky income tax on the interest income they earned on out-of-state municipal bonds, believed they had sufficient standing to bring the case.

### Case Background

After appeal by the Davises, the Court of Appeals held that Kentucky's tax on the income derived from bonds issued outside Kentucky violated the Commerce Clause of the U.S. Constitution and sent the case back to the lower court. The Kentucky Supreme Court declined to review the Court of Appeals' ruling, and the Department applied to the U.S. Supreme Court for a ruling, which was granted in May 2007.

### Practical Implications of the U.S. Supreme Court Decision

If the U.S. Supreme Court decides in favor of the Davises and against Kentucky, thereby finding Kentucky's municipal bond taxation systems unconstitutional, the Court's decision will have far reaching implications beyond the Kentucky borders. At least 37 states have bond taxation systems similar to Kentucky's.

A Supreme Court ruling in favor of the taxpayers will generate comparable litigation in the various other states with current municipal bond taxation systems similar to Kentucky's. It is feasible that states will elect to extend exemption to all municipal bond income from state taxation. If this occurs, taxpayers residing in these states that previously paid state income tax on out-of-state municipal bond interest may have the ability to file for a refund of those taxes paid.

### Claims for Refund

States have provisions for filing claims for refund similar to that of the IRS. A protective claim for refund can be filed in order to safeguard a taxpayer's right to claim refunds for taxes paid on out-of-state municipal bond interest income. The claim must identify and describe the contingencies affecting the claim, be sufficiently clear and definite to alert the state as to the potential nature of the claim, and identify the specific year or years for which the refund is sought.

For more information, please contact your local ATA representative, HHM, at 423.756.7771.

## QUICK CHECK

Start out 2008 on the right foot. Randomly audit your Information Security Program for any risks of exposing confidential customer information.

Check the copier and fax areas, printers, trash cans, and desks. What types of customer information do you see?

Contact your local Auto Team America firm for assistance in implementing or auditing your dealership's Information Security Program.