

TAX BULLETIN

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YEAR-END PLANNING

Depreciation - Capital Asset Purchases

Capital investments have long been a useful way to reduce income taxes, and the Tax Cuts and Jobs Act (TCJA) further enhanced this technique by expanding bonus depreciation.

For qualified property purchased after September 27, 2017, and before January 1, 2023, businesses were able to deduct 100% of the cost of new and used (subject to certain conditions) qualified property in the first year that the property is placed into service. In 2023, the amount of the bonus depreciation began to decrease by 20% each year (80% bonus depreciation allowed for 2023, 60% allowed for 2024). Absent Congressional action, the deduction will be eliminated in 2027.

Special rules apply to property with a longer production period. Qualified property includes computer systems, purchased software, vehicles, machinery, equipment, office furniture, land improvements and qualified improvement property (QIP). QIP includes most interior improvements (non-structural).

Effective January 1, 2022 under the TCJA, the section 163(j) business interest expense limitation calculation no longer allows for an add back for depreciation, amortization and depletion to a company's adjusted taxable income calculation. If a dealership has their business interest expense limited when including floorplan financing interest expense in the calculation, it is not eligible to take bonus depreciation in that tax year. The full amount of the floorplan financing interest expense will be deductible.

Additionally under the TCJA, Sec. 179 expensing (deducting the entire cost) is available for computer systems, purchased software, vehicles, machinery, equipment, office furniture as well as several improvements to nonresidential real property, including QIP, roofs, HVAC, and fire and security systems. Beginning January 1, 2023, the maximum deduction is limited to the amount of income from the business activity or \$1.16 million. The allowed deduction begins phasing out when the amount of eligible property placed in service exceeds \$2.89 million. Beginning January 1, 2024, the maximum deduction and phase-out amount will be \$1,220,000 and \$3,050,000, respectively.

Credits

Electric Vehicle Charging Equipment Credit

For businesses that install new EV charging equipment after December 31, 2022, the maximum credit is the lesser of 30% of the total cost or \$100,000 per unit. However, there are new restrictions on eligibility including that the charging equipment must be installed in low-income communities or non-urban census tracts. In order to qualify for the full 30% credit, the project must pay the prevailing wage for labor and meet certain apprenticeship requirements. If it does not, the credit is limited to 6%.

The amount of the credit reduces the depreciable basis of the EV charging equipment.

New Clean Vehicle Credit

The original user of a new, qualified plug-in EV or fuel cell electric vehicle (FCV) placed in service after April 17, 2023 is potentially eligible for up to a \$7,500 credit. The vehicle must have a GVWR of less than 14,000 pounds and the battery must have a capacity of at least seven kilowatt hours. The taxpayer must acquire the vehicle for use or lease (not for resale). The amount of the credit reduces the basis of the vehicle. Vehicles must undergo final assembly in North America and meet critical mineral and battery component requirements. Vehicles that meet either the critical mineral or battery component requirements may be eligible for a \$3,750 credit while those that meet both may qualify for \$7,500. There are caps on the MSRP for eligible vehicles (\$80,000 for trucks, vans or SUVs and \$55,000 for all other passenger vehicles) and high-income taxpayers will not qualify for the credit.

Used Clean Vehicle Credit

Beginning January 1, 2023, the purchaser of a qualified used EV or FCV from a licensed dealer for \$25,000 or less may be eligible for a tax credit equal to 30% of the purchase price with a maximum of \$4,000. The vehicle must be purchased for use and not for resale. The vehicle must be at least two years old, weigh less than 14,000 pounds and have a battery capacity of at least seven kilowatt hours. High-income taxpayers will not qualify for the credit.

Seller Reporting

In order for vehicles to qualify for the new or used clean vehicle credits, sellers must meet certain reporting requirements. Sellers must furnish a report to the buyer at the time of sale and to the IRS that includes information such as dealer name, address, VIN, make, model, placed in service date and maximum credit. The reports for 2023 are due to the IRS by January 15, 2024.

Beginning January 1, 2024, dealers must register with IRS Energy Credits Online in order to be able to submit the time of sale reports. The reports are due to the IRS no later than three calendar days from the date of sale.

Advance Payments of Buyer Clean Vehicle Credits to Dealers

Eligible buyers will also be able to elect to transfer the tax credit to the dealer beginning January 1, 2024. Dealers must register to be able to submit the claims for advance payment. The advance payment request will be submitted with the time of sale report. The IRS intends to pay the advance payment claims to the dealers within 72 hours of the date when the time of sale report is submitted. Buyers, not dealers, would be responsible if the IRS determines that the buyer does not qualify.

Commercial Clean Vehicle Credit

Businesses that acquire an EV or FCV may be eligible for a commercial clean vehicle credit with a maximum of \$7,500 for vehicles under 14,000 pounds or \$40,000 for all other vehicles. Plug-in electric vehicles under 14,000 pounds must have a battery capacity of at least seven kilowatt hours while those weighing 14,000 pounds or more must have a battery capacity of at least 15 kilowatt hours. The vehicles must be acquired for business use or lease (not for resale) and the vehicles must be depreciated. The credit would reduce the depreciable basis of the vehicle. There is no limit on the number of credits, but they are non-refundable.

Deduction for Business Meals Purchased from Restaurants

Business meals purchased from restaurants through December 31, 2022 were generally 100% deductible. Beginning January 1, 2023, the deduction is limited to 50% of the cost of the meal.

Potential Sunset of Certain TCJA Provisions After 2025

Significant provisions (primarily related to individuals and pass-through entities) from the Tax Cuts and Jobs Act (TCJA) are set to expire December 31, 2025. While some or all may be addressed by Congress before then, it is important to consider the possibility that no action is taken and these tax provisions do expire after 2025. A few of the more significant expiring provisions:

Gift and Estate

In 2023, the estate and gift exemptions are \$12.92 million per individual and \$25.84 million for couples. In 2024, the exemptions will increase to \$13.61 million per individual and \$27.22 million for couples. If no action is taken by Congress, the exemption is expected to be around half of these amounts in 2026.

Qualified Business Income Deduction (QBID)

The QBID provides for a 20% deduction of qualified business income from pass-through entities (subject to certain requirements). This deduction effectively lowers the top rate on pass-through income from 37% to 29.6%.

Individual Income Tax Rates and Brackets

Tax rates and brackets would revert to pre-TCJA levels in 2026. This would return the top rate to 39.6%. The change in brackets would also put many more taxpayers into that top tax bracket. For example, the top rate of 37% only applies to taxable income over \$693,750 (for joint filers) in 2023. However, in 2026, the top rate of 39.6% would apply to taxable income over \$553,600 (adjusted for inflation).

Deductions

- SALT – TCJA limited this deduction to \$10,000. This limitation would be eliminated in 2026.
- Phase-out of itemized deductions – TCJA removed the phase-out of the overall allowed itemized deduction. This would be reinstated in 2026.
- Personal exemption – TCJA eliminated this, but it would be reinstated in 2026.
- Standard deduction – TCJA significantly increased this (\$27,700 for joint filers in 2023). This would revert to the pre-TCJA amounts in 2026 (\$12,700 for joint filers).

Deductions (Continued)

- Child tax credit – TCJA doubled the amount of the child tax credit, but it would revert to pre-TCJA levels in 2026. The number of families eligible for the credit would also decrease significantly.
- Mortgage interest limitation – Interest is currently allowed on the first \$750,000 of home mortgage debt and no deduction is allowed on home equity debt. If the TCJA provisions sunset, these limitations would increase back to \$1 million for home mortgage debt and \$100,000 of home equity debt.

TAXES

Business

Following are the income tax returns required to be filed by businesses under different business organization structures:

ENTITY TYPE	FEDERAL FORM	Virginia Form
C-Corporations	Form 1120	Form 500
S-Corporations	Form 1120S	Form 502 / 502PTET
Partnerships	Form 1065	Form 502 / 502PTET
Limited Liability Companies	1120S/1065/1120	Form 502/502PTET or Form 500 depending on Federal treatment

Pass-through entities (PTE), such as partnerships, S-corporations, and limited liability companies in Virginia must file a Form 502 or Form 502PTET. Form 502PTET is used if the entity is electing to pay the pass-through entity tax.

During 2022, the Virginia General Assembly enacted legislation which allows a qualifying PTE to make an annual election for Taxable Years 2021 through 2025 to pay an income tax at a rate of 5.75% percent at the entity level. The law requires that the PTE be 100 percent owned by natural persons which includes entities disregarded for federal tax purposes such as grantor trusts and single member LLCs. The state tax has to be paid by December 31, 2023 in order to be a deductible business expense for Federal income tax purposes in 2023. State PTE tax paid in 2024 would be deductible in 2024.

This legislation also allows an individual to claim a credit for taxes paid to other states under laws that are substantially similar to the Virginia PTE tax. This overruled a previous notice issued by Virginia in 2021 that had disallowed a credit on a Virginia resident return for taxes paid to Maryland under its PTE tax.

LLCs with only one member who do not elect to be taxed as a corporation or S-corporation do not file separate Federal or state income tax returns. These single-member LLCs are reported directly in the owner's individual income tax return. Qualified sub-chapter S subsidiaries (QSSS or Q-Subs), that are treated as divisions for federal income taxes, are not considered separate entities in Virginia and must be included in the parent company's Virginia return.

Business (Continued)

Following are the due dates for filing returns and for making estimated tax payments. An automatic six-month extension can be granted by filing Form 7004.

ENTITY TYPE	RETURN DUE DATE	ESTIMATED PAYMENT DUE DATE
C-Corporations Calendar Year Fiscal Year	April 15, 2024 15 th day of 4 th month following year-end	Federal - 15 th day of 4 th , 6 th , 9 th , and 13 th month following the beginning of the fiscal year VA – 15 th day of 4 th , 6 th , 9 th , and 12 th month following the beginning of the fiscal year
S-Corporations Calendar Year Fiscal Year	Federal - March 15, 2024 VA - April 15, 2024 Federal - 15 th day of 3 rd month following year-end VA - 15 th day of 4 th month following year-end	Federal - N/A, except in certain cases VA – 15 th day of 4 th , 6 th , 9 th , and 12 th month following the beginning of the fiscal year
Partnerships Calendar Year Fiscal Year	Federal - March 15, 2024 VA -April 15, 2024 Federal -15 th day of 3 rd month following year-end VA -15 th day of 4 th month following year-end	Federal -N/A, except in certain cases VA – 15 th day of 4 th , 6 th , 9 th , and 12 th month following the beginning of the fiscal year
Limited Liability Companies	Follows the due date related to the tax form filed.	Follows the due date related to the tax form filed.

Net Investment Income Tax (NIIT)

Estates, trusts, and individuals are subject to a 3.8% tax on net investment income. Generally, net investment income includes gross income from interest (excluding self-charged interest from an activity in which you materially participate), dividends, annuities, royalties, and rents, unless they are derived from the ordinary course of a trade or business.

Net investment income generally includes income and gains from passive activities. A passive activity for purposes of the NIIT includes any trade or business in which a taxpayer does not materially participate.

In general, an interest in a partnership or S corporation is not property held for use in a trade or business, and therefore, gain or loss from the sale of a partnership interest or S corporation stock is included in your net investment income. However, the gain or loss resulting from the disposition of an interest in a partnership or stock of an S corporation for which a taxpayer materially participates may be reported as an adjustment or subtraction from net investment income.

The NIIT does not apply to activities considered "self-rentals." Under IRC §469-2(f)(6) rental realty income is not passive income if the property is rented for use in a trade of business in which the taxpayer materially participates.

Net Investment Income Tax (NIIT) (Continued)

The NIIT applies to estates and trusts that have undistributed net investment income and adjusted gross income (AGI) in excess of a threshold amount. The NIIT is 3.8% of the lesser of:

- The undistributed net investment income for the tax year, or
- The excess, if any, of AGI over the applicable threshold amount.

Additional Medicare Tax

Individuals are subject to a 0.90% Additional Medicare Tax on Medicare wages and self-employment income above a threshold amount. You must file Form 8959 if one or more of the following applies to you:

- Your Medicare wages and tips on any single Form W-2 (box 5) are greater than \$200,000.
- Your total Medicare wages and tips plus your self-employment income (including those of your spouses) are greater than the threshold amount.
- Your total railroad retirement (RRTA) compensation and tips (Form W-2, box 14) is greater than the threshold amount.

Employers must withhold Additional Medicare Tax on wages paid over \$200,000 for the calendar year regardless of filing status and regardless of wages or compensation paid by another employer.

FILING STATUS	THRESHOLD AMOUNT
Married filing jointly	\$250,000
Married filing separate	\$125,000
Single	\$200,000
Head of household	\$200,000
Qualifying widow(er) with dependent child	\$200,000

2023 TAX RATES AND TAX BRACKETS

C-Corporations

Beginning in 2018, C-Corporations are subject to a federal flat tax rate of 21%. The corporate alternative minimum tax has also been eliminated. Corporations in Virginia pay a flat 6% on taxable income.

Pass-Through Entities

S-Corporations and partnerships are pass-through entities and are taxed at the individual partner or shareholder level. Owners of pass-through entities subject to Virginia tax at the individual level pay the following depending on which bracket their taxable income falls into. If the Virginia pass-through entities elect to pay the PTE tax at the entity level, a credit will pass through to the owners to claim on their individual Virginia return.

SINGLE TAXPAYERS FILING AN INDIVIDUAL RETURN – FEDERAL RATES – 2023

TAXABLE INCOME OVER	BUT NOT ABOVE	TAX	PLUS	ON THE AMOUNT OVER
\$0	\$11,000	\$0	10.00%	\$0
11,001	44,725	1,100.00	12.00%	11,000
44,726	95,375	5,147.00	22.00%	44,725
95,376	182,100	16,290.00	24.00%	95,375
182,101	231,250	37,104.00	32.00%	182,100
231,251	578,125	52,832.00	35.00%	231,250
578,126	And Above	174,238.25	37.00%	578,125

ALL TAXPAYERS FILING AN INDIVIDUAL RETURN – VIRGINIA RATES – 2023

TAXABLE INCOME OVER	BUT NOT ABOVE	TAX	PLUS	ON THE AMOUNT OVER
\$0	\$3,000	\$0	2.00%	\$0
3,001	5,000	60.00	3.00%	3,000
5,001	17,000	120.00	5.00%	5,000
17,001	And Above	720.00	5.75%	17,000

MARRIED INDIVIDUALS FILING JOINT – FEDERAL RATES – 2023

TAXABLE INCOME OVER	BUT NOT ABOVE	TAX	PLUS	ON THE AMOUNT OVER
\$0	\$22,000	\$0	10.00%	\$0
22,001	89,450	2,200.00	12.00%	22,000
89,451	190,750	10,294.00	22.00%	89,450
190,751	364,200	32,580.00	24.00%	190,750
364,201	462,500	74,208.00	32.00%	364,200
462,501	693,750	105,664.00	35.00%	462,500
693,751	And Above	186,601.50	37.00%	693,750

2024 PROJECTED FEDERAL TAX RATES**SINGLE TAXPAYERS FILING AN INDIVIDUAL RETURN – FEDERAL RATES – 2024**

TAXABLE INCOME OVER	BUT NOT ABOVE	TAX	PLUS	ON THE AMOUNT OVER
\$0	\$11,600	\$0	10.00%	\$0
11,601	47,150	1,160.00	12.00%	11,600
47,151	100,525	5,426.00	22.00%	47,150
100,526	191,950	17,168.50	24.00%	100,525
191,951	243,725	39,110.50	32.00%	191,950
243,726	609,350	55,678.50	35.00%	243,725
609,351	And Above	183,647.25	37.00%	609,350

MARRIED INDIVIDUALS FILING JOINT – FEDERAL RATES – 2024

TAXABLE INCOME OVER	BUT NOT ABOVE	TAX	PLUS	ON THE AMOUNT OVER
\$0	\$23,200	\$0	10.00%	\$0
23,201	94,300	2,320.00	12.00%	23,200
94,301	201,050	10,852.00	22.00%	94,300
201,051	383,900	34,337.00	24.00%	201,050
383,901	487,450	78,221.00	32.00%	383,900
487,451	731,200	111,357.00	35.00%	487,450
731,201	And Above	196,669.50	37.00%	731,200

PAYROLL WITHHOLDING RATES AND LIMITS

	2023	2024
Social Security		
<u>Taxable Wage Base</u>		
FICA Limit	\$160,200	\$168,600
Medicare Limit	No Limit	No Limit
<u>Employee Withholding</u>	7.65%	7.65%
FICA – 6.20% Rate	\$9,932	\$10,453
Medicare – 1.45% Rate	No Limit	No Limit
Additional Medicare – 0.9%	Wages > \$200,000	Wages > \$200,000
<u>Employer Liability (per employee)</u>	7.65%	7.65%
FICA – 6.20%	\$9,932	\$10,453
Medicare 1.45%	No Limit	No Limit
<u>Self-Employment Tax Rate</u>	15.30%	15.30%
Maximum FICA tax for self-employed	\$19,865	\$20,906
Maximum Earnings – Social Security Recipients		
Under full retirement age ¹	\$21,240	\$22,320
Turn full retirement age this year ²	\$56,520***	\$59,520***
After reaching full retirement age attained	No Limit	No Limit
FUTA Taxable Wage Base Gross Tax Rate 6.00% Min. FUTA Credit 5.40% Net FUTA Rate 0.60%	\$7,000	\$7,000
Federal Tax Withholding from Supplemental Wages		
Payments < \$1,000,000 Payments > \$1,000,000	22.00% or Method 2 ³ 37.00%	22.00% or Method 2 ³ 37.00%

¹ For each \$2 earned above this amount, \$1 benefit is lost

² For each \$3 earned above this amount, \$1 benefit is lost

³ Method 2 – Supplemental wages (wages paid to an employee in addition to any ordinary wages which are not regularly occurring such as bonuses, prizes, awards, back pay, overtime, commissions and severance pay) plus regular wages for the most recent payroll. The income tax withholding is then computed as if the total were a single payment; subject the tax already withheld from all regular wages and withhold the remaining from supplemental wages.

***Limit applies only to earnings for months prior to reaching full retirement age (age 66 and 4 months for those born in 1956 and 66 and 6 months for those born in 1957)

BACKUP WITHHOLDING RATES AND LIMITS

Most payments reported on Forms 1099-MISC/1099-NEC and W2G (interest, dividends, and royalties and to independent contractors for commissions, fees or other work performed as an independent contractor) are subject to withholding at 24% if the recipient has not provided a correct taxpayer identification number, has failed to report or has underreported interest and dividend income on a federal income tax return, or has failed to certify that backup withholding does not apply. This withholding must be reported on Form 945 as a monthly or semi-weekly schedule depositor, depending on your lookback period.

There are exceptions based on accumulation of withholding. If you accumulate a total withholding tax liability of less than \$2,500 for the year, no deposits are required, and the liability can be paid with Form 945. If you accumulate \$100,000 in withholding on any day during a deposit period, it must be deposited by the next banking day, regardless of your depositor status.

SALES AND USE TAXES

VIRGINIA

The Motor Vehicle Sales and Use Tax is levied at 4.15% based on the vehicle's gross sales price or \$75, whichever is greater. Motor vehicles that will be titled or registered in another state are exempt.

Tire Recycling Fee

Individuals who sell or install tires must pay a tire recycling fee of 50 cents on each new tire sold in Virginia. The recycling fee may be passed on to the retail customer if separately stated.

The tire recycling fee does NOT apply on:

- Tires on any device moved exclusively by human power;
- Tires on any device used exclusively upon stationary rails or tracks; or
- Tires on any device used exclusively for farming purposes, except a farm truck

MINIMUM WAGE AND OVERTIME LAW

The federal minimum wage provisions are contained in the Fair Labor Standards Act (FLSA). Effective July 24, 2009, the federal minimum wage for covered, nonexempt employees is \$7.25 per hour. Employers must comply with both the federal and state minimum wage laws. There are some narrowly focused exemptions related to the employee's duties and are typically applied on an individual workweek basis, such as those who receive tips, workers under the age of 20, full-time students, and student learners (students at least 16 years old who are enrolled in vocational education). The FLSA applies to employees of enterprises that have annual gross volume of sales or business done of at least \$500,000. Where a state law requires a higher minimum wage, that higher standard applies.

The federal overtime provisions are also contained in the FLSA. Unless exempt, employees covered by the Act must receive overtime pay for hours worked over 40 in a workweek at a rate not less than 1.5 times of their regular rates of pay. There is no limit in the Act on the number of hours employees aged 16 and older may work in a workweek. The Act does not require overtime pay for work on weekends, holidays, or regular days of rest, unless overtime is worked on such days. There are limited exceptions to the overtime provisions. For example, commissioned sales employees of retail or service establishments are exempt from overtime if more than half of the employee's earnings come from commissions and the employee averages at least one and one-half times the minimum wage for each hour worked. Drivers, drivers' helpers, loaders and mechanics are exempt from the overtime pay provisions.

Virginia Minimum Wage and Overtime Law

With few exceptions, most employees must be paid at the Virginia State Minimum Wage Rate. Full-time high school or college students who work part-time may be paid at 85% of the State Minimum Wage Rate. Exceptions are specific to tipped employees and some student workers. Most employees must be paid 1.5 times their usual hourly rate for all work over 40 hours per week. Exceptions are related to tipped employees, some student workers, and other exempt occupations.

Exemptions from the Overtime Law are limited to certain individuals; however, executives, administrative, professional employees, outside salespersons, independent contractors, and others are exempted.

On January 1, 2023, the minimum wage rate was increased to \$12.00.

About CBM

Councilor, Buchanan & Mitchell's automotive dealerships practice has been the industry's trusted partner in achieving financial excellence for more than 100 years. Our accounting, audit and tax professionals have developed a reputation as industry leaders, boasting unmatched expertise, personalized service and a deep understanding of the challenges and opportunities facing your business. We specialize in working with auto, heavy-duty and light truck, motorcycle and RV dealerships, and their owners throughout the Washington, DC and Mid-Atlantic regions, and up and down the East Coast, delivering the same knowledge as a larger service provider but with a personal connection. We are always available to answer questions and provide clients with a consistent team of professionals to make it easy for you to establish a long-term working relationship.

CBM remains immersed in the automotive world, staying current with tax and compliance requirements and cutting-edge financial strategies. Our clients, many of whom have worked with us for years or even decades, have come to expect innovative solutions tailored to their specific needs. Regardless of whether you lead a single dealership business or are part of a larger automotive group, CBM is fully committed to your success and long-term prosperity.

Our Team



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John Comunale, CPA is an executive vice president, partner and director of automotive dealership services at Councilor, Buchanan & Mitchell. He has more than 30 years in public accounting, serving numerous businesses in the Washington, DC metropolitan area, and Mid-Atlantic region. John provides businesses and their owners with audit, accounting, tax and consulting services. He has handled large and complex dealer groups, providing them with consolidated financial reporting and taxation, and multi-state tax services. He has worked on dealership engagements that represent most manufacturers.

John has also shared his expertise with auto dealer executives and accounting practitioners by presenting for groups including the Washington Area New Automobile Dealers Association and CPAacademy, a national provider of certified professional education.



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Keith A. Lauenberger, CPA, is a partner and a director of automotive dealership services at Councilor, Buchanan & Mitchell. He has 20 years of public accounting experience providing services to the automotive and real estate industries, as well as technology companies. He has experience working with businesses of all size including family and closely held businesses.

Keith provides large and complex dealer groups with a range of services including audit and assurance expertise, consolidated financial reporting, consolidated federal tax, and multi-state tax services. He has worked on dealership engagements that represent most manufacturers. In that capacity, he is involved in all phases of the engagement management including planning, preparation, reviewing and consulting.



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Daniel Keefer, CPA, CVA is a partner at Councilor, Buchanan & Mitchell with nearly 20 years of public accounting experience especially in support of the automotive dealerships industry. He provides accounting, individual and business taxation, and compliance expertise, to clients, their owners and executives. He also leads audit and review engagements and has a wide range of expertise working with closely held corporations and high net worth individuals.

Dan stays current with new regulations in the automotive industry and shares his research and expertise through client communications. He is a certified valuation analyst and provides trusts and estate planning to maximize the future financial success of business owners.



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Steve Snee, CPA is a senior manager at Councilor, Buchanan & Mitchell with more than 17 years of professional accounting experience. His expertise is concentrated largely within CBM's automotive group where he manages accounting services including attestation, business and individual tax, and consulting for dealerships, their owners, related entities and other individuals.

Steve has delivered accounting solutions to dealerships for more than 10 years, serving managerial, financial, attest and tax functions for a variety of industry clients. Prior to joining CBM in October 2020, he worked at a national firm, where he delivered services to the Baltimore office's dealership clients and related entities.

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