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A Publication of the Associated General Contractors of Wisconsin

ISSUE 2 • 2010

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# WISCONSIN Constructor®

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Official publication of the

## Associated General Contractors of Wisconsin

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**Kelly Hafeman**  
2010 AGC of Wisconsin President

## Message from the **PRESIDENT**

# Strategic Planning Outlines a Stronger AGC by 2013

The AGC Board of Directors, Staff and member representatives met for two days in May to prepare the association for the next few years. The strategic planning effort reaffirmed that AGC of Wisconsin's comprehensive services, professional staff and penetration in the construction industry are strengths that set it apart.

It didn't take a crystal ball to predict what our challenges would be in the next three years – a slow growing economy, new leadership at the State Capitol and increasing pressure for everyone to do more with less. With those challenges in mind, the strategic plan does not call for totally new initiatives in the next three years. The vision is that in 2013, AGC of Wisconsin is **stronger** in membership, reserves and influence.

- **Membership Engagement** – While developing new members remains critical for the association, engaging current members is the focus. You can count on AGC to continue to offer more regional meetings, visit your offices, and work to engage your employees.
- **Financial Strength** – The financial strength of the association has greatly improved in the last six years, when the Board set a goal for increasing the operating reserves. We must have the ability to respond quickly and forcefully to issues that have the potential to significantly impact our industry. For this reason, AGC will work to create a Special Purpose Reserve, allowing us to fully protect or advance member interests.

*In 2013, AGC of Wisconsin is stronger in membership, reserves, and influence.*

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It's not a revolutionary way to do business—it's just the right way.

- **Greater Influence** – AGC continues to maintain a lot of respect and authority with the legislature, industry organizations, and labor. However, increasing member grass roots efforts is critical to our level of influence and recognition by owner groups.

### The Emerging Workforce

Throughout the two day strategic planning effort, the issue of Minority, Disadvantaged or Women-Owned Business Enterprises (M/D/W/BE) continued to surface. While the strategic plan does not specifically address this issue, there are many ways this topic will impact us during the next three years.

Diversity in our workforce is on the horizon, if not already a reality. In order to meet projected shortfalls of workers, the construction industry must devise strategies to develop and embrace a more diverse workforce. Growth in the number of M/D/W/BE firms is also an opportunity to grow AGC membership. In 2007, AGC defined a new membership category, Emerging Contractor, designed to support emerging contractors as they seek to enter the construction industry.

The requirement for M/D/WBE participation on projects is an issue that AGC of Wisconsin is concerned about. We are not against diversity but the current system is broken. Everyone involved in the strategic planning meetings agreed that the current M/D/WBE system is not meeting its goal of generating and fostering the growth of minority businesses. There are few legitimate M/D/W/BE firms in the system for contractors to work with. Many of the firms are “pass-through organizations”, adding cost but no value to the construction project. The \$29+ million award of Jarvis Hall at U.W. Stout to a highly successful \$100 million dollar out-of-state MBE firm that was not the low bidder is an example of what is wrong with the system. AGC is very concerned about this failing system. Bob Barker has already reached out to Godwin Amagashie at the State of Wisconsin Department of Administration. AGC wants to be part of defining the solutions to the M/D/WBE system as diversity will gain prominence in our

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industry's future.

If you were one of the many members that contributed to the strategic planning process by participating in the surveys, thank you! Your feedback was critical in helping the Board and Staff plan for a stronger future for our association and industry.

Hope to see you in July at the Summer Membership Meeting! ■

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**Bob Barker**  
AGC of Wisconsin  
Executive Vice President

## Message from the **EXECUTIVE VICE PRESIDENT**

# It Takes Two (at least) to Tango

I must admit that some of my least proud moments of being the Executive Vice President of the AGC of Wisconsin happened during the debate over changing the state's project delivery statutes. This debate involved multiple meetings with DOA officials, subcontractor organizations and a legislative hearing.

The disappointment relates to the debate, and not the debate about what was best for the industry and taxpayers, but the debate about what was wrong about the industry. DOA officials and legislators commonly spoke about the need to protect subcontractors from bid shopping if and when the statutes were amended to include single prime contracting. This came up in every meeting.

Sorry to say that we continue to hear about bid shopping going on in the indus-

try, and it appears to be getting worse and more blatant based on the reports.

While we certainly don't condone bid shopping by general contractors, part of the blame has to be placed on subcontractors who continue to participate in the process. A great way to make it stop is for subcontractors to NOT participate in bid shopping. The attitude of "We need the work and if we don't we won't get the job," will only continue us down this path of unethical behavior. Subs who participate are also acting unethically.

To their credit, presidents of some of our general contractor members report that they have instructed their employees to NOT participate in bid shopping, despite pressures to get work. What we need is for all general contractors and subcontractors to follow their lead.

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Let's stop the bid shopping dance and make this industry the model of **Skill, Integrity and Responsibility!**

**It's all about ME!**

The contracting community is ripe for divide and conquer strategies because of the self-serving nature of different associations and individual contractors. It is no wonder that organized labor generally succeeds in their political and legislative efforts. While organized labor is not always "organized" the unions generally stick together.

This is far from the case among different contractor associations. We have to give credit to the AGC of Greater Milwaukee, Wisconsin Builders Association (WBA) and ABC of Wisconsin. AGC of Wisconsin and AGC of Greater Milwaukee work closely on industry issues. We also work closely with the WBA and ABC and while we don't agree on everything, at least these organizations are looking out for WHAT'S BEST FOR THE INDUSTRY and we don't "sell each other out" for the sake of individual interests.

There are many industry organizations that only look out for ME and throw others under the bus with their self-serving interests. As long as this continues we will be a divided industry. ■

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AWARDS

All AGC of Wisconsin members are invited to submit for the 2010 Build Wisconsin Awards. This prestigious award program celebrates excellence in Wisconsin's construction industry.

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# IT'S A DIRTY JOB, AND **CAPITOL** **UNDERGROUND** DOES IT

by Mark Crawford

For more than three decades Capitol Underground has installed water and sewer lines for residential subdivisions, commercial business parks, sewage district interceptor sewers and municipal public works reconstruction projects. The result is a long history of successful projects and satisfied developers and municipalities throughout the Madison area.

"We perform both public and private work, mostly within a 60-mile radius of Dane County," says Dennis Olson, a Professional Engineer and Vice President of Capitol Underground. Projects include sanitary sewer, water main, storm sewer systems, lift stations, booster stations, road reconstruction, force mains, and waste water treatment site and building piping, both for public works and heavy/highway projects.

Capitol Underground President Gordy Morauske and a partner founded the company in

A yellow front loader is shown in profile, lifting a large, light-colored concrete pipe. The pipe is held horizontally by the loader's forks. The loader is on a dirt surface, and in the background, there are stacks of materials and a fence. The sky is overcast.

**MMSD Pflaum Road Interceptor**  
— Madison, WI

1976, initially installing sewer and water laterals on municipal projects and later expanding into a full-service public works contractor in the 1990s.

"Gordy grew up in the construction business with his father, who was a sewer and water contractor in the Monona/Madison area from the early 1950s to 1970s," comments Olson. "I graduated with an engineering degree from UW-Platteville and did public works projects until I joined Capitol Underground in 1995." Olson bought out the partner's ownership share and the company continued to expand its project base until the downturn in 2006.

### **Residential**

Over the past 30 years, Capitol Underground has completed several hundred water and sewer installations for residential subdivisions, transforming lands into finished subdivisions with care and precision. "We have worked with numerous real estate developers in Dane County and other surrounding counties," says Olson. "Typically these projects vary greatly in size, ranging from 450 units to 10 units or less. Prior to the slow-down in the housing market, subdivision work was about 60 to 70 percent repeat business."

"We have worked with Capitol Underground on multiple residential land development projects over the years," states Don Esposito, Vice President of Land Development for Veridian Homes in Madison. "They are always very professional, very consistent. We establish a schedule and a budget up front and they always meet them. The sites are clean and orderly. They always respond quickly when any warranty work is required. Overall I am most impressed by their commitment to customer service—it's never just another pipe job or road job to these guys—they understand they are working for our customers."

### **Municipal Public Works**

Most of Capitol Underground's work today is hard bid on municipal/state projects in Dane County and neighboring counties.

"Four years ago we were doing 85 percent private subdivision work and 15



**MMSD West Interceptor** — Middleton, WI

percent hard-bid municipal public works," says Olson. "Today we are doing 90 percent hard-bid municipal work and only 10 percent private work. Because of the economy, we had to adapt quickly to the hard-bid municipal market, which involves a lot of reconstruction work and very little wide-open work, to survive the loss of revenue in the private market."

Big municipal projects (especially those that impact private residences) require excellent communication skills. "Our philosophy has always been to keep the public informed of the general scope and schedule for the proposed work," says Olson. "Prior to the start of construction, we host meetings with the local residents/business owners to provide information on the project and answer any questions that arise. These meetings are

very beneficial in providing the key information the public is looking for."

During a recent large water-and-sewer project for the City of Madison, a resident in the area had a back-up in his sewer line one night and Capitol Underground was there within an hour, troubleshooting the problem. "They opened the lateral in the street and tried to find the plug," says Lauri S. Ziegler-Henderson, a construction inspector for the City of Madison's engineering department. "They stayed until they found the plug, which was on private property and not related to their work. Whenever there was a problem, all I had to do was make one call to Gordy Morauske. He'd come and take care of the problem himself, talk to the property owners, and explain what the next course of action was going



**MMSD West Interceptor** — Middleton, WI



**MMSD 36" Forcemain Repair** — Monona, WI



**MMSD 36" Forcemain Repair** — Monona, WI

to be. The entire neighborhood appreciated Capitol Underground's crews and subcontractors."

### **A Workforce Dedicated to Quality**

"The key to our success has been our personnel," says President Gordy Morauske. "From top to bottom, our employees are committed to executing our work in an efficient, organized manner and maintaining a level of excellence second to none—that's why we're proud of our accomplishments."

Capitol Underground employs 4-6 people in the office and 30-65 union personnel in the field, depending on the work load and economy. The company's engineers, project managers, and senior field supervisors spend a large amount of time reviewing the design with the consulting engineers, preplanning the construction sequence, meeting with the neighborhood residents and updating them with flyers on the project.

"I've worked with Dennis since 1994 on a variety of projects," says Dan Day, principal engineer with D'Onofrio Kottke and Associates, a consulting engineering firm. "They are highly professional and very organized. Unexpected things always arise on a construction project and Capitol Underground crews always know what to do—they are very proactive in taking care of the problem. This is an indication of their experience and commitment to quality."

Morauske and Olson have over 80 years of combined experience in public works construction and engineering. "We spend a lot of time consulting with engineers on problem-solving the projects before they are bid or negotiated," adds Olson. "For example, we recently worked with a design engineer and soils engineer to devise a construction method that would allow for the use of a less-expensive pipe product on a interceptor sewer project—this exercise saved the owner about \$150,000."

This pre-construction problem-solving often deals with troublesome soil conditions. The most challenging aspect of installing pipe is the constantly changing soil and groundwater conditions. "Because we are typically working in a glaciated area, the soils seem to change

every 50 feet," says Olson. "It takes a lot of preplanning to do the installation in a productive and safe manner."

Safety is a key component in Capitol Underground's corporate culture. The company is recognized by its workers compensation provider as a "preferred contractor" with an Experience Modification Rate (EMR) that has remained 30 percent below the benchmark rate since 1998. AGC safety staff is instrumental in training all employees in CPR, confined space, trenching and excavating and general site safety on an annual basis.

"Safety is the number-one concern on the job site and we utilize AGC Toolbox Talks for a daily reminder," says Morauske. "AGC also performs site inspections, providing a report and follow-up recommendations, which is very helpful."

All employees are trained to recognize safety concerns and empowered to address them, even to the extent of stopping the job until the correct safety equipment is on-site.

"The AGC is a tremendous asset for us," says Olson. "They assist with any OSHA-related issues and provide great legal counsel on contractual and HR issues. AGC keeps us up to date on state and industry-wide legislative concerns and we have taken advantage of Leadership AGC to train several employees and plan on sending others within the next year or two."

## Recent Projects

### Discovery Springs, Middleton

This \$3-million, 100-acre commercial office development under the direction of D'Onofrio Kottke & Associates involved the installation of public utilities and the construction of 3,100 feet of 48-foot-wide roadway. Half the project was constructed over extremely soft clays that were up to 80 feet deep. The unstable ground created constructability difficulties that required a number of adjustments and modifications to the construction methods.

"We worked daily with the soils engineer and consulting engineer to come up with new methods to stabilize the pipe," says Olson. This included special fabric-wrapped stone bedding and cover material, "locked-joint" pipe, and the installa-



**Smith's Crossing Subdivision** — Sun Prairie, WI



**SCHWA Subdivision** — Sun Prairie, WI



**MMSD West Interceptor** — Middleton, WI



**Hidden Oaks Lift Station** — Middleton, WI



**Hidden Oaks Lift Station** — Middleton, WI

tion of temporary concrete weights to prevent the pipe from “floating.” A dewatering well system was also needed to lower the groundwater below the pipe grade.

“Capitol Underground still completed the project on time, even though these were the most difficult site conditions I’ve ever been involved with,” says D’Onofrio Kottke & Associates engineer Bill Suick. “I’ve never seen a contractor adapt so well to changing soil conditions.”

### **West Interceptor Extension Replacement, Madison**

This \$1.8-million project for the Madison Metropolitan Sewerage District involved the replacement of 990 feet of 42-inch fiberglass-reinforced plastic pipe (FRP), 2,250 feet of 36-inch FRP and 800 feet of smaller diameter sanitary sewer. The project crossed Lakeview Park, a stream, apartment parking lots and municipal streets. “Soft clays required that the bedding stone be completely wrapped in geosynthetic fabric while maintaining a very strict requirement for the trench width so the soils weighing on the pipe did not exceed the design loads,” says Olson. “This required very careful use of the trench boxes and temporary shoring.”

“Capitol Underground did great work on this project,” says Bruce A. Borelli, Director of Engineering for the Madison Metropolitan Sewerage District. “They always pay attention to details, perform their work in a timely manner and routinely exceed expectations. We consider them a valuable asset and trusted partner when we perform any underground work.”

### **Shore Drive Reconstruction, Madison**

This project for the Madison Metropolitan Sewerage District and the City of Madison involved a full reconstruction of over 5,000 feet of roadway, in addition to new utility infrastructure including 36-inch interceptor sewer, 36-inch force main, 8- to 15-inch local sewers, 8-inch water main, new sewer and water laterals, and 12- to 36-inch storm sewer.

“We held a neighborhood meeting prior to construction and kept the owners and neighbors updated with weekly meetings and revised schedules,” says Olson. “The project went so smoothly

that we threw an 'end of construction' party for the neighbors and owners to express our appreciation for the cooperation from everyone involved."

### **Fox Avenue-Spooner Street Reconstruction, Madison**

All of the public infrastructure and laterals were replaced for this full road reconstruction project, located in an older, established neighborhood with mature trees and smaller lots. A great deal of time was invested in keeping the residents informed of the schedule of work and managing all of the subcontractors to keep the project on schedule.

"Capitol Underground did a tremendous job with the property owners," says John Fahrney, a construction engineer with the City of Madison. "I didn't hear many complaints, which meant Capitol Underground was very responsive to their needs."

### **Preparing for the Future**

Capitol Underground is currently bidding new types of work to expand its market area. "Infrastructure continues to age so there will be an increasing demand for public works for many years to come," says Olson, who predicts slow but steady growth controlled by funding or budget demands. The company continues to keep up with the current technology to be more competitive and cost-efficient.

"We have also adapted our equipment and methods of construction to change with the economy and the type of work we are doing," says Olson. "The wide-open subdivision work allowed for the use of large equipment (100,000-pound backhoes), but now that we are doing more reconstruction-type work we are using smaller equipment about half that size."

Capitol Underground has always relied on good pricing, hard-working employees, quality subcontractors, and close working relationships (and friendships) with engineers and owners to build a thriving business and a loyal, long-term customer base—and that won't change, even in a down economy.

Olson notes that business is "ridiculously competitive," with several projects essentially bid at cost by other companies. An influx of out-of-area



**MMSD West Interceptor** — Middleton, WI



**MMSD West Interceptor** — Middleton, WI

contractors has also started bidding in Capitol Underground's territory, which doesn't help the local economy or unemployment.

"Good guys don't always finish first, but they are standing at the end," states Olson. "We don't compromise our work ethics to chase the dollar. We are always committed—to our employees as well as

our customers—to deliver the best possible project we can, at a fair price and back it up with customer service that is second to none." ■

*Capitol Underground, Inc. has been a member of the AGC of Wisconsin since 1996.*

### VerHalen, Inc.

Edward VerHalen established VerHalen, Inc. in 1911 in Milwaukee, WI. Since 1980, the Calawerts family has continued to carry on the tradition of excellence established by the VerHalens and proudly serves the state of Wisconsin and the Upper Peninsula of Michigan.

VerHalen began selling and installing window roll-screens manufactured by the Rolscreen Company in 1927. Today that company is known as Pella Windows and Doors. VerHalen started installing acoustical ceilings in the 1930's, but took the next step forward when it hired an acoustical engineer and began to provide acoustical solutions in 1936. This move was VerHalen's first step to demonstrate its true understanding of

acoustics and how sound control can affect an environment and employee or student comfort and productivity.

VerHalen has always been on the forefront of the acoustical industry and has met, and in some cases driven, the demand for innovative acoustical solutions through the installation of wood ceilings, curved metal, hanging clouds and acoustical wall panels. VerHalen's estimating and project management teams, along with experienced installers, have performed numerous traditional, specialty and custom installations demonstrating their knowledge, innovative thinking and craftsmanship.

This expertise has led many general contractors and end users to consult with

VerHalen to determine the most appropriate solutions for their space. VerHalen's clients take comfort in knowing that the appropriate solution will be recommended, the job will be installed properly, completed on time and within budget.

Along with designing and installing acoustical solutions, VerHalen is an environmental steward being the only Armstrong World Industries Certified Ceiling Tile Recycling Contractor in the State of Wisconsin. Through this program, VerHalen removes old ceiling tile and recycles these materials to be included in the creation of new tile reducing our consumption of virgin materials. VerHalen's recycling program and LEED Accredited Professionals on staff are great partners on LEED or sustainable projects.

Under the direction of Mike Calawerts, VerHalen Commercial Interiors has expanded its offering of acoustical and specialty ceilings to include operable and modular walls and steel stud and drywall allowing VerHalen to provide a complete interior project.

In addition to our contract services, VerHalen offers commercial interior design services, space planning, office furniture and system solutions and is an independent Pella Windows and Doors retailer with locations in Madison, Brookfield, Appleton and Green Bay.

Much of VerHalen's success can be attributed to our relationship with the Associated General Contractors. In addition to legal and contract support, the AGC has been a tremendous resource for carpenter training and safety programs. ■



Lawrence University's Warch Campus Center



UW-Fox Valley Performance Hall—custom, wood, acoustical wall panels.



*VerHalen, Inc. has been a Specialty Contractor member of the AGC of Wisconsin since 2001.*

# DEAR BARRY,

**Q**

*I read your column with great interest last month on how a general contractor can protect itself and the project from unstable and financially weak subcontractors. As a subcontractor in this challenging economy, how can I protect myself from building owners or general contractors that also may be in financial trouble creating a risky situation for subcontractors and suppliers?*

**A**

Much like a general contractor, a subcontractor must do his homework. Of course the best method to avoid any risk at all is to only work with GC's and owners that you are familiar with and have developed a strong, trusting relationship over a period of time. In a weak economy that we are currently experiencing, it is not always possible to work with groups that we are familiar with and in order to keep your employees working on the job, the only option may be to go after whatever projects are available. To improve your odds of getting paid for work completed, consider the following:

- **Assess Potential for Payment Problems**

1. Is this a first time client?
2. Is this an out-of-state contractor/owner?
3. Is this a last minute or rush job?
4. Are there unreasonable expectations or demands?

- **Contract Issues**

1. Is the language one sided?
2. Make sure essential terms are written into the agreement
3. Is there reasonable dispute resolution in the agreement?
4. Are payment terms reasonable; pay when paid?

- **Research Owner/General Contractor Ability to Pay**

1. Check with bank on project funding and obtain a contractor reference
2. Is the general contractor bonding the project?
3. Check with associations for references

4. Verify with other subcontractors/suppliers the quality and reliability of the general contractor
5. Obtain the Dun & Bradstreet DUN numbers

- **Know Lien Rights and Don't Be Afraid to Use Them**

1. Preliminary notice at start of project
2. Notice of intention to file lien
3. Commencement of action

- **Performance Issues**

1. Quality of work
2. Stay on schedule
3. Follow payment process
4. Follow contract

By diligently following the bullet points listed above, the subcontractor should be armed with enough information to help him make the correct decision. If any concerns surface regarding funding or payment issues, contract language, negative references from trade associations or if there is very little information available on the owner and / or general contractor this would be a good indicator that the subcontractor should pursue other interests.

**Don't be afraid to ask questions. The more information that can be obtained, the better chance you have to make the right choice.**



*Barry Cade*

Have a Best Practices question for Barry?

E-mail: [BarryCade@agcwi.org](mailto:BarryCade@agcwi.org)

### Wipfli CPAs and Consultants

Wipfli LLP, CPAs and Consultants, was founded in Wausau in 1930 by Clarence J. Wipfli. Since then, Wipfli has become one of the largest CPA and consulting firms in the United States and a trusted business advisor to more than 20,000 clients in a variety of industries, including construction and real estate. Today, over 800 Wipfli professionals in offices across Wisconsin and Minnesota help individuals and businesses of all sizes—from small, family-owned companies to large, international businesses.

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Wipfli's CRE experts provide solutions to help address issues, maintain compliance, achieve results, and be competitive. We address the needs of our clients with a full suite of accounting, audit, tax, financing, people and information services. In addition, Wipfli prides itself on its' industry network. Our established network is the result of decades spent cultivating business and industry relationships.

Professionals in Wipfli's CRE practice work hard to provide proactive, timely, and innovative solutions to challenges faced by contractors. For example, Wisconsin sales tax laws changed July 1, 2009, requiring transportation and material purchasing entities be structured differently than in the past. Wipfli has expertise to help con-

tractors with entity structuring to ensure they continue receiving Wisconsin sales tax benefits.

Additionally, the HIRE Act allows contractors to hire "new" employees, while not having to pay the employer's share of the Social Security payroll tax. This applies to most new hires who haven't been employed for 40 hours over the past 60 days. Wipfli's experts have been helping contractors take advantage of this opportunity related to seasonal hiring.

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Wipfli is proud to have been associated with AGC since 1990. Over the years, our associates have been involved in helping the association and its members through service on the Associate Board of Directors, involvement on various committees, and in providing educational presentations. In turn, Wipfli's involvement in AGC has allowed us to stay abreast of the latest developments, issues, and trends in the construction industry, helping us better serve our construction clients.

For more information about Wipfli, please visit [www.wipfli.com](http://www.wipfli.com) or contact Tom Ebbers at [tebbbers@wipfli.com](mailto:tebbbers@wipfli.com) or 608.661.2639. ■



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**Brian R. Walsh**  
Baker Tilly Virchow Krause & Co., LLP

*You should be thinking about tax strategies to maximize after-tax cash flows.*

## FINANCIAL MANAGEMENT

# Domestic Production Activities Deduction: A Tax Benefit for Some Contractors

If you are a contractor that will be generating a profit this year, congratulations are in order after what has been a challenging time for most. You should also be thinking about tax strategies to maximize after-tax cash flows. One particular tax benefit to keep in mind is the Domestic Productions Activities Deduction.

The Domestic Production Activities Deduction, or the Section 199 deduction, is a special deduction available to many taxpayers who perform qualifying activities in the United States. The deduction has a complicated set of rules, but many U.S. contractors generating taxable income may qualify for the deduction,

and the benefits could be significant.

Section 199 of the Internal Revenue Code was signed into law on October 22, 2004, as part of the American Jobs Creation Act of 2004, to provide a permanent benefit available to taxpayers in a wide variety of industries. Final regulations were issued in May of 2006, and a few interim notices and technical corrections have been issued, providing welcome guidance to many businesses that are dealing with the tax and financial reporting implications of Section 199.

The deduction allows businesses with "qualified production activities" to take a tax deduction for a specified percentage

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of their U.S. taxable income. The percentage was six percent for tax years 2007 through 2009, and beginning in 2010, it is nine percent. A taxpayer must have both taxable income and income from qualified activities to benefit from the deduction. There is also a limitation related to wages that a taxpayer pays employees for qualified activities. With the deduction now fully phased-in (nine percent), taxpayers with profits are expecting substantial tax benefits in 2010 and beyond.

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Any corporation, partnership, individual, or other business entity may claim the Domestic Production Activities Deduction if they conducted eligible qualified production activities. Qualifying taxpayers or activities include:

- Manufacturing companies based in the U.S. that are selling, leasing, or licensing items that have been manufactured, produced, grown, or extracted in the U.S.
- Construction of real property performed in the U.S., including building and renovation of residential and commercial properties
- Engineering and architectural services performed in the U.S. that relate to the construction of real property in the U.S.
- Sale, exchange, or other disposition of electricity, natural gas, or potable water produced in the U.S.
- Software development in the U.S., including the development of video games

Domestic Production Gross Receipts do not include gross receipts derived from the sale of land.

### How the deduction is generally calculated

Qualified production activities income is equal to domestic production gross receipts, reduced by:

- The costs of goods sold that are allocable to such receipts
- Other direct costs allocable to such receipts, and
- Other indirect expenses, losses, or deductions, which are properly allocable to such activities

In essence, the calculation requires a taxpayer's U.S. taxable income to be split between Section 199 eligible activities and all other activities. The tax deduction comes from multiplying the Section 199 net income by the percentage discussed above (i.e., nine percent for 2010), and this amount becomes an extra tax deduction. The deduction is limited by a taxpayer's

overall taxable income and by the wages the taxpayers pays for qualifying activities.

For some taxpayers, complying with Section 199 is straight-forward. However, some taxpayers are struggling to balance compliance with summarizing the results, which can be somewhat burdensome to manage. If you want to claim the deduction for this tax year, now is the time to speak with a tax professional who can help you with the complex analyses required to determine the appropriate calculation that will comply with IRS guidelines. ■

*Brian R. Walsh is a Senior Tax Manager in the construction and real estate group with the Madison office of Baker Tilly Virchow Krause & Co., LLP. He has over 20 years of experience as a tax expert serving a variety of business related entities including contractors and hospitality companies. Mr. Walsh can be reached by email at [brian.walsh@bakertilly.com](mailto:brian.walsh@bakertilly.com) or by phone at 608-240-2696.*



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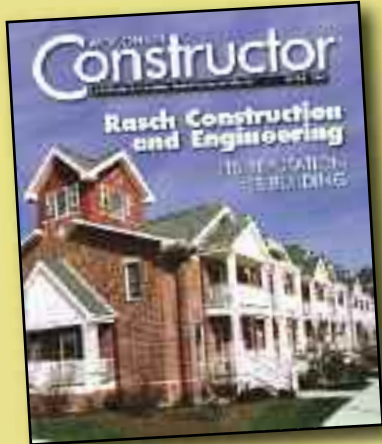
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