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ISSUE 3 • 2009

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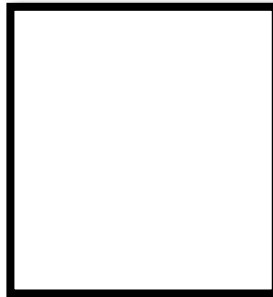
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Message from the **PRESIDENT**

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Rich Lynch
2009 AGC of Wisconsin President

Edit

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Bob Barker
AGC of Wisconsin
Executive Vice President

Message from the **EXECUTIVE VICE PRESIDENT**

Project Delivery Debate Continues

Now that Building Commission Secretary Dave Helbach has presented his recommendations for changes to Wisconsin's project delivery statutes to the Building Commission debate will continue on this subject at the Capitol. Helbach's presentation at the August 12 Building Commission meeting was greeted with bipartisan support from the Democrats and Republicans on the Commission, with support from Governor Doyle. While the Commission stopped short of passing a formal resolution, they directed Helbach to have legislation drafted by the Legislative Audit Bureau and introduced in the next legislative session. Supporters of change and opponents of change are gearing up for the debate.

There is still a lot of debate which will continue on this matter, as the legislative process involves public hearings and an administrative rules process. While this matter has been debated extensively by all involved parties, this open process is good and allows public debate on the issues.

The debate on this issue heated up when on February 20, 2008 the Building Commission directed the DOA to work with industry groups and reach consensus on changes to the statutes. This proved to be a difficult task for Helbach as no consensus was attainable.

AGC members and staff have spent numerous hours on this issue. This involved meetings with the DOA and several MCA members who are also AGC members. Obviously specialty contractors who work under the multiple prime system want to keep the current statute, and continue to work for and be paid by the DOA. It is hard to blame them for wanting the status quo. However, this call for change was handed down by the Building Commission as individual members don't like the idea of waiving statutes for individual projects, and the ensuing political lobbying and debate surrounding the waiver process. The DOA and U.W. System, as directed by the Board of Regents, support changes to the current multiple prime statutes. The DOA does not like to have multiple contracts per project, and wants a single point of responsibility on state projects. The U.W. System wants more flexibility to meet the demands of their projects and donors who make many of their projects possible. Wisconsin is only one of seven states to have a prescriptive multiple prime statute.

The MCA has spent a lot of time and money protecting the interests of their members. They have focused on issues of bid shopping, payment, prequalification, access to documents, and retention. They presented examples of bid shopping and got the ear of the DOA and Building Commission Members. Unfortunately they used two AGC Members as their poster contractors in citing how the single prime system opens subcontractors up for bid shopping. This has not helped AGC's arguments in favor of single prime contracting when it makes sense for specific projects.

AGC listened to the MCA and adopted several measures in our position which we believe are workable for our members and fair to the subcontractors. AGC's proposed protections include:

AGC members and staff have spent numerous hours on the issue of changes to Wisconsin's project delivery statutes. Here is an update of where we are in the process.

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1. When submitting their single prime bids, general contractors (GC) will provide the company names of the MEPS they intend to use in each division for HVAC, Electrical, Plumbing and Fire Protection (MEPS) work. After public opening of the GC's bids, the winning GC may change the MEPS under reasonable conditions agreed to by the DSF.
2. MEPS contractors will be allowed limited access to project data in the WisBuild system so that they can monitor project communications such as requests for information, change order status and payment request status for their job class. (details to be worked out between DSF, AGC & MEPS)
3. MEPSs bidding on state projects should be financially and otherwise qualified to perform the work on which they are bidding, including verification to DSF of the ability to provide payment and performance bonds for the project being bid. The validation and qualification process will be coordinated by the DSF. The decision whether to require the bond and include the cost will be up to the single prime bidder.
4. MEPS must have previously completed a project at least 50% as large as the proposed project.
5. The GC may hold a retainer for MEPS work at the same level that the state holds retainage on the GC (currently 5% of the first 50% of the work, unless satisfactory progress is not being made, then, up to 10% of the contract value may be retained.)
6. MEPS may apply to the general contractor for final payment. The GC will submit a pay request to DSF if the GC determines that MEPS has satisfactorily completed its work. Upon being paid by the State, the GC will make final payment to the MEPS within the time frame required by law.

AGC wants the process to be fair to all involved and we believe our protections adequately address the concerns

expressed by the MCA. AGC Members spent a lot of time in developing these protections, and our position on proposed changes to the current statutes. We will continue to work with the MCA on this issue with the goal being a statutory change which protects the best interests of AGC members, MCA members and Wisconsin taxpayers.

Helbach's recommendations mirrored many issues addressed by AGC in our proposal. Issues like subcontractor protections, objectivity in the contractor selection process, and a process to analyze the merits of projects regarding different methods of project delivery, if it

better suits particular projects and interests of the taxpayers.

Please call the AGC Office for a complete copy of AGC's position statement on project delivery; or a copy of Helbach's recommendations. ■



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Speedway Sand & Gravel

ALWAYS BREAKING NEW GROUND

by Mark Crawford

Getting down and dirty is no problem for Speedway Sand & Gravel—this 50-year-old family operation in Middleton is one of the top excavators in south-central Wisconsin. Speedway crews build roads, grade sites, perform demolition, excavation, earthwork, clear and grub project sites, install sewer and water pipe, and pour curbs, gutters, and sidewalks.

The company has grown steadily over the years and stayed on the leading edge of technology to ensure superior construction. Self-performing most of the site work makes it easier to control quality and meet difficult schedules. Management has invested in the proper equipment and training to make every phase of a project safe and efficient.

Speedway prides itself on taking the complex and unique jobs that other contractors can-

not handle effectively. "We have tackled some of the largest and most complicated jobs in the Madison area," says President Tom DeBeck. "During the last five years we have done some \$11-\$13-million projects. This year we broke our company record for largest-dollar project by winning a \$16.9-million project."

Various levels of layout can be completed with a robotics total station and GPS system machine control that performs earthwork in



Dane County Airport — Madison, WI

deep cuts and replaces missing stakes, thereby saving time and money. In addition, compaction equipment can place clayey soils to 90 percent and higher modified proctor density, allowing the most efficient use of on-site soils (saving more time and money). To date Speedway has installed over 350,000 cubic yards of landfill clays to +90% plus with this specialized equipment.

"Tom DeBeck has done a really good job of vertically integrating his company," says Steve Jenson, owner of the Miller-Bradford & Risberg heavy equipment dealership in Madison. "He saw potential in sewer and water rehab early on and pursued it aggressively. He has also moved into soil retention, where there's not a lot of competition."

All in the Family

Tom DeBeck has 38 years of experience in the construction industry and represents the second generation of leadership. "My father was a fireman and on his days off he rented-out dump trucks that he and other firemen drove," says DeBeck. "By 1970, he had an excavating business that did negotiated work for several home and metal building contractors and an occasional larger building earthwork project with general contractors. He eventually bought out Speedway Sand & Gravel, a competitor, and added it to his business."

After completing three years of post-secondary education toward a civil engineering degree, DeBeck quit college and joined his father's company in 1972, working his way up through management.

"I felt we had better opportunities in the bid market and tried our hand there," says DeBeck. "Although we were successful, the business was very competitive and stressful. We moved into sewer and water work in 1980. The subdivision developers already had contractors and the only openings were for logistically challenging and complex jobs on city reconstructs. Since we were already used to the logistic problems of building earthwork, where demands are constantly changing, we were a perfect fit for the street reconstruct business."



Rock Saw at Target — Location, WI

Unique Capabilities

"Our business is constantly fighting weather traffic, tight schedules, working around underground (and sometimes unknown) gas, electric, and fiber optic lines, mud, and changing underground conditions," says professional engineer and Speedway Vice President John Czerepinski.

Despite these ever-present challenges, Speedway's skilled workers and special equipment make the job look easy. "Being able to install sewer and water as we do earthwork really saves time and money for owners," Czerepinski continues. "Having just one contractor greatly simplifies coordination and responsibility. We are capable of doing earth retention such as sheeting, soil nailing, and soldier pile and lagging. This same equipment can install micropiles and is ideal for the tight and hard-to-get-to places."

Speedway also operates a well point system and drills for supplying and installing a suitable dewatering system. A recent acquisition is an eight-foot-diameter rock saw mounted on a backhoe that cuts through rock with no or minimal jack hammering and vibration. The tool is also quieter than the large jack hammer that would normally be used. Frozen ground can also be cut and removed.

"Another advantage of the saw over jack hammering is that the sides are smooth and vertical, so forming may not be needed if the footings, structure, or basement wall allowed single forming," adds Czerepinski. "Another use we are looking into is saw-cutting natural limestone to give a cleaner joint and make the sizes we want, rather than sort. We can also plane the tops and bottoms for a smoother surface."

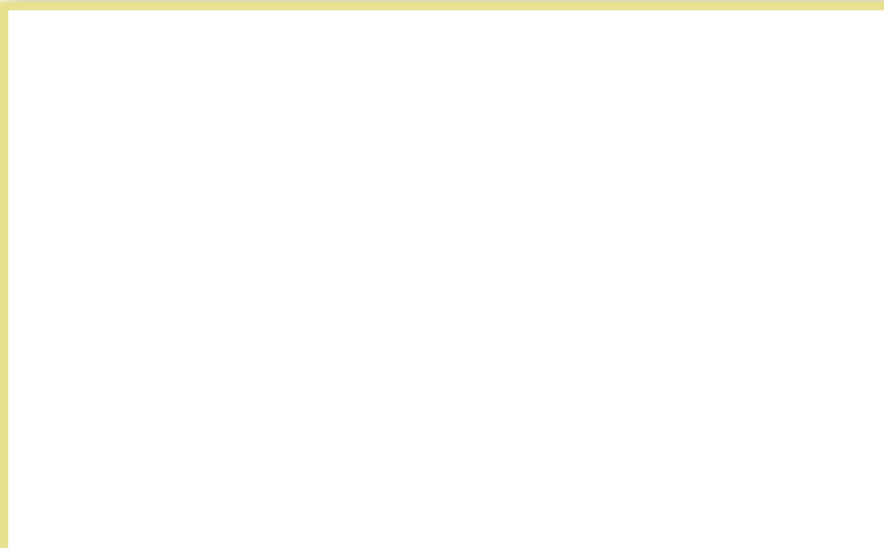
In the field, Speedway depends on



Project — Location



Project — Location



Project — Location

its experienced work crews to get the job done. To handle legislative, safety, labor, and other industry issues, Speedway relies on AGC. "We have been a member of AGC for as long as I can remember, going back to when we were a specialty contractor," says DeBeck. "In today's world, a contractor needs to keep up on new regulations and trends and AGC helps us meet that challenge. Fortunately, contractors have AGC to communicate our needs to politicians and regulators. I also commend the AGC on their efforts to promote construction education to students high-school age and younger."

Dedicated Workforce

Speedway's staff consists of seven office personnel and about 50 field employees. "We have a great core of field personnel with an average of over 15 years with our company who are willing to accept all the challenges we offer them," says DeBeck.

Safety is DeBeck's top concern. "I tell my employees a bad job or a bad year will not jeopardize Speedway's existence," he says. "Somebody getting seriously hurt or worse, however, will. I urge everyone to think ahead and take the time to plan safe ways of doing their tasks."

Speedway uses 39 trench boxes to protect no more than six crews during excavation. Supervisors visit every job at least two to three times a week. Their first duty is checking for safety and observing what may be needed for the job in the future. This repeated vigilance is also intended as a check on the foremen to be sure they are not getting too focused on the task.

"We try not to expand our workforce too fast," adds DeBeck. "New hires are placed in safe locations where they can be watched and trained until their skill levels can be determined. Then we place them where they can learn what they need and with people that can teach them. After that we give them more responsibilities and watch them grow."

"Most of our construction employees are tasked-oriented and learn by hands-on experience," adds Czerepinski. "One of the greatest joys in this busi-



Arbor Drive — Location, WI

ness is being able to help them attain their highest potential. To create a foreman or supervisor, you may take your best employee, who is intelligent, task-oriented, and driven, and teach him to stop, think, plan, instruct, and direct others to do the work. You are teaching that person to be a businessman and think more about the process of what is getting done. When you give them enough leeway they come up with some new and different ways of doing projects, and then they are teaching me.”

“One of the things I am most proud of with this company is the way our employees rise to the daily challenges,” says DeBeck. They all have a ‘can-do’ attitude and want to conquer challenges as a team. And they do it without being asked. Recently an inspector who has worked with many local

crews said he liked Speedway because the employees cared.”

Selected Projects

State Street, Madison

This multiple-phase, three-year, \$4.9-million project overhauled the deteriorating streetscape along State Street and its failing infrastructure. Work included 46,000 square feet of granite exposed aggregate sidewalk, 60,000 lineal feet of electrical wiring, and over 7,000 combined feet of storm sewer, sanitary sewer, and water services.

“One of the biggest challenges on this job was maintaining full access to over 80 business and hundreds of apartments, as well as keeping the aging and failing infrastructure (water main installed in 1882, sewer installed in 1911) in service while replacing it,”

says DeBeck. “Little or no records of existing utility locations and depths were available.” There was also minimal space for equipment, materials, and crews as well as minimal horizontal and vertical separation between utilities.

Wingra Creek, Madison

Speedway regraded and restored banks along a section of Wingra Creek from Fish Hatchery Road to Park Street for the City of Madison. The project consisted of replacing storm sewer pipes, installing stormwater treatment devices and catch basins, dredging a portion of the creek bed, and making some street modifications to accommodate the storm sewer replacement.

“Restoring shoreline is an example of how we continue to diversify into different kinds of work,” says Czerepinski. “We also created fish habitat



East Washington Avenue — Madison, WI

with trees and constructed steps for fishermen along the banks.”

East Washington Avenue

This important gateway to the City of Madison has been undergoing a multiphase reconstruction for several years. “We recycled all the existing pavement, curb, and sidewalk on-site and used for a sub-base for the new road,” says DeBeck. “This was a good thing for the environment because we needed less virgin material and reduced the number of trucks coming and going from the site. An urban track-type crusher was used to crush concrete. The crusher is designed to minimize noise and dust, plus be mobile. We literally crushed in front of homes without complaints.”

Speedway is currently working on the East Washington Avenue/Highway 30 interchange, including all the

underground work, grading, and water/sanitary/storm sewer infrastructure. Construction will be completed in October.

“This is a complex, multi-stage project,” says Curt Neuhauser, Project Manager for the Wisconsin Department of Transportation, Southwest Region. “Ramps have to stay open. They’ve stayed on schedule with the aggressive timeline. Speedway has also done a great job of coordinating all the subs and dealing with the interests of the town of Madison, City of Madison, businesses, and neighborhood associations. They have worked very diligently to minimize the impacts to businesses.”

Dane County Regional Airport

Speedway has been a prime contractor for several airport projects, including a new taxiway last summer.

Crews are currently finishing a \$3.1-million air carrier ramp expansion and a portion of a glycol recovery system. The expansion includes storm sewers, utilities, grading, asphalt, and lighting.

“It is very challenging to work next to aircraft and aircraft personnel,” says Mike Kirchner, Director of Engineering for the Dane County Regional Airport. “Speedway has to keep emergency roads open and the aprons swept and clean. They also have to deal with security requirements. The quality of their workmanship has always been superior.”

Looking Toward the Future

Speedway has managed to stay busy and competitive during this down economy—in fact, it just recently pulled in its highest-paying job ever. What’s the secret?

“We stay local, bid cheaper and



Dane County Regional Airport — Madison, WI



smarter, work harder, and take a wide variety of jobs, both large and small," says DeBeck. "We have great confidence in what we can do."

Building on that confidence, Speedway continues to move into new markets. DeBeck recently added a curb-and-gutter machine and concrete crew. Earth retention, dewatering, pipe ramming, pipe bursting, and GPS layout and machine control are all new capabilities for the company. "I also intend to shortly have the equipment for geothermal well and horizontal piping installation," he says.

DeBeck is a strong believer in staying on top of technological advances. "Other contractors have good equipment and good people, just like we do," he says. "New technology is about the only way to gain an edge. If you are not growing you are falling

behind—that means taking on more sophisticated work and investing in new technology."

Despite all the new machinery and our society's increasing dependence on the latest telecommunication devices and computer programs, DeBeck still believes our biggest technological advance happened with the Romans. "They developed groundbreaking ways to transport clean water, handle sewage disposal, and build hard-surface roadways," he says. "Today America's infrastructure is falling apart. Our job is to fix it, upgrade it, or replace it so we can maintain our quality of life—and Speedway has the technology and the skilled workforce to do it." ■

Speedway Sand & Gravel has been a member of the AGC of Wisconsin since ____.

"Today, America's infrastructure is falling apart. Our job is to fix it, upgrade it, or replace it so we can maintain our quality of life."

Ostrenga Excavating

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Cutline

Ostrenga Excavating has been a Specialty Contractor member of the AGC of Wisconsin since _____.

DEAR BARRY,

Q

On July 1st, 2009 Wisconsin became the first state to mandate that all construction projects that exceed \$5 million begin their A/E design process with BIM and 3D Software. This process will permeate the construction process from beginning to end and will eventually include facility operations and management. What do we need to work under these new conditions? What do we need for software? What do we need for hardware? — SIGNED: 'NEEDING TO CATCH-UP'

A

Dear 'needing to catch-up:'

This technology has been around for a number of years and has been growing in popularity as projects are successfully completed. Projects that use the 3-D modeling for coordination of all the MEP trades in conjunction with the structural aspects of the project have shown to be very favorable projects for everyone from owners to contractors. This technology when used shows collisions and conflicts well in advance of the actual construction when things are more difficult to move and resolve. This process forces all the parties to sit down and pre-plan using many of the Best Practices that have been developed by the Specialty Contractors committee. You are able to use the model to schedule work on the project understanding the different layers and how some things need to be done so that other tasks don't interfere. Most of the projects that have been completed to date and that are currently being built are really only using the 3-D model process and not the true BIM (Building Information Modeling). To get to the true BIM application that the State will be looking for in the future you will need manufacturers to draw components that will have active information attached. For example a steel door frame that when hovered over on the computer screen will pop-up and tell you the size, color, manufacturer, material type everything about that part. Another example would be a piece of mechanical equipment that

will give you running status when set-up as well as all the technical information about the equipment. All this information can be provided to the end user to help manage their building sitting at a desk in front of a computer. In the end the owner will have a living breathing blue print of their facility.

Software that will need to be looked at and purchased would be at least the following: Navis

Works, Revit, and 2008 Autocad MEP. Navis Works enables a user to view many different types of software in the 3-D world. Autocad MEP is the actual design tool used to create and edit various structural and mechanical applications of the structure. Revit is a design tool that is used by a lot of the architects and engineers and drawings have to be converted to view them in CAD. From these base software needs you will find a number of companies that have specialized software for a number of different applications.

Hardware requirements may vary depending on any specialty software packages that may be purchased. However the following will be a good base to get started.

- Processor: Intel Pentium 4, 3.0 GHz or Greater or equivalent AMD Athlon Processor
- Operating System: Microsoft Windows XP SP1 or later
- Memory: 2 GB RAM or Greater
- Hard Drive: Application requires 1 GB of free Hard Drive space for Installation and data Storage
- Monitor: 22"-24" Widescreen or Dual Screen
- Display Resolution: 1680 x 1050 or higher
- Certified Graphics Card: 512 MB, Open GL-capable workstation class graphics card or higher
- Sound Card: Specification is irrelevant but useful for multimedia tutorials
- Backup Device: CD-RW/DVD-RW drive or other suitable storage device
- Connectivity: USB Ports
- Peripherals: Fully Microsoft compatible keyboard and mouse

All of the above is available at your local computer vendor.

I hope this has given you some base knowledge and the information to get started. Wisconsin is the first to require this technology but you can be assured they will not be the last.



Barry Cade

Have a Best Practices question for Barry?
E-mail: BarryCade@agcwi.org

Construction Risk Associates

"Your Partner in Construction Risk" is the philosophy of Frank Keres, of Construction Risk Associates. With the cost of risk being the third highest element of construction, risk management is a critical aspect of operations to anyone involved in construction: Owner's, Contractor's, Subcontractors, etc. Construction Risk Associates, Inc (CRA) works with these entities in helping them develop and improve their risk management program.

CRA works with contractors to learn what they need to accomplish and then works with them in getting it done. CRA works with the contractor's insurance brokers and carriers to help them implement the goal of making the contractor's program better. Yet, Frank believes that a contractor must take control of their own risk program.

CRA is typically hired to act as outsourced risk manager. Some of the typical tasks are to review existing insurance programs, provide guidance on coverage, broker and carrier selection, safety program overviews, advise on claims and claims strategies. Daily CRA works on contract reviews and coverage questions. 20% of work hours are spent in the field looking at various safety practices. CRA has a national client base: from Atlanta to Hawaii. CRA has offices in Brookfield, Wisconsin and Lake Bluff, Illinois.

Frank has a diverse background that he believes makes CRA unique to the risk management field. After graduating from Notre Dame, he went to law school and practiced law for several years. He then went on to work for a large general contractor in Chicago and was one of the first Risk Managers in the construction business. Frank worked at Aon helping to develop their national construction division. From there, Frank was the Risk Manager at Safway Scaffolds.

Frank enjoys working with the various types of contracts. Often he sees companies accepting risks that they do not have insurance coverage for in the form of overbroad indemnity or insurance requirements that are impossible to achieve.

One area of expertise Frank has is in the claims area. Insurance carriers often ask him about claims scenarios or coverage applications. CRA serves as a resource for entities, even those outside of construction, for claims work on individual claims or their claims process.

Frank has been called "one of the most venerated experts in the country" by a national risk educational organization. He is often invited to make presentations throughout the country at national and local associations events, including the AGC of Wisconsin. He is one of the most popular and highly rated speakers at the IRMI Conference (Intl. Risk Manage-

ment Institute). Frank has also written articles for a wide variety of publications, including the Construction Risk Management Newsletter.

In recognition of his work, Frank was presented the "Words of Wisdom" Award at the 2008 IRMI conference. This is one of the highest honors in the construction risk management arena. During the presentation, his "practical, in the trenches knowledge" was highlighted.

Yet, some of his favorite presentations are those that he makes on behalf of the AGC of Wisconsin. He has presented at AGC of Wisconsin's Safety & Education Day and for several years has taught Crisis Management for Leadership AGC. Besides giving the two day class for AGC on contracts, he has made several other presentations on behalf of the AGC.

Membership in the AGC has provided Frank not only with business knowledge and contacts, but he has developed friendships with many members even if they are not clients.

Frank is known to be direct and open. He will tell you what he believes you need and explain his reasoning. This reasoning is based on years of practical experience in the construction industry. Objective and realistic suggestions are better than theories that are hard to effectuate. CRA wants to share its experience with you and partner with you in your risk management program. ■

need photo and logo

Construction Risk Associates has been an Associate Member of the AGC of Wisconsin since _____.

FINANCIAL MANAGEMENT

Playing Small Ball with Tax Planning – Base Hits to Success

Brian Walsh

Baker Tilly Virchow Krause & Company

This article explores some of the hot tax issues facing the construction industry today.

Ozzie Guillen, the colorful manager of the Chicago White Sox, is famous for playing what is referred to as “small ball”. His strategy is to score by way of solid base running coupled with a bunch of base hits. What does “small ball” have to do with tax planning? The same principles apply. Consistently developing base hit type strategies with a home run tossed in every now and then is what leads to consistent tax savings. This article will explore some of the hot tax issues facing the construction industry today. Some represent solid base hits. Others can be home runs depending on the situation.

Long Term Contract Accounting:

The Internal Revenue Code (IRC) generally requires that the percentage

of completion method (PCM) of accounting be used by contractors for tax purposes. A few very important exceptions apply. These are potential home runs because contractors typically pay the most tax when forced to use the PCM. The exceptions are driven by the type of construction activities performed and the size of the contractor.

One of the exemptions from the PCM is for small contractors. A small contractor is one that meets two requirements. First, at the time the contract was entered into, it must be estimated that the contract will be completed within a 2-year period beginning on the commencement date of the contract. Second, the contractor's average annual gross receipts for the three taxable years preceding the year in which a contract was entered must



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not exceed \$10 million. If a contractor's gross receipts are shrinking, a contractor that may have been using the PCM may now be eligible for a more tax favorable exempt method of accounting for newer long-term contracts.

Home builders are also eligible to use an exempt method. The IRC defines a home construction contract as any construction contract where 80% or more of the estimated contract costs are reasonably expected to be attributable to the construction of (i)

dwelling units contained in buildings containing four or fewer dwelling units and (ii) improvements to real property directly related to such dwelling units and located on the site of such dwelling units. Proposed regulations were recently issued that expand the types of contracts eligible for the home construction contract exemption. The regulations if finalized would permit a greater number of players in the home construction industry to be exempt from the PCM. Potential home run winners include land developers, condominium developers, and associated subcontractors.

For contractors that must use the PCM, a potential planning idea regarding retainage payable could prove very valuable. This will reduce income taxes in the current year. The outcome will be driven by what is known as the "all events" test and the language of the contract between a general contractor and a subcontractor. Another planning idea for contractors using PCM involves looking at uninstalled materials on-site. Traditional accounting for retainage payable and on-site uninstalled materials can result in higher taxes because of the mechanics of the PCM. Steps can be taken to avoid this outcome.

A taxpayer using the PCM may also elect to use the "10% method" for all long-term contracts. Under the 10-percent method, a taxpayer does not include in gross income any amount related to allocable contract costs until the taxable year in which the taxpayer has incurred at least 10 percent of the estimated total allocable contract costs. Similarly, a taxpayer must treat costs incurred before the 10-percent year as pre-contracting-year costs. The net effect, similar to strategies involving retainage payable and uninstalled materials, is most often a deferral of tax into future years.

Contractors on the completed contract method (CCM) of accounting for long-term contracts also have some potential year-end base hit strategies. Avoid prematurely closing out profitable open jobs before year-end. Under the CCM, all revenue and expenses are reported in the period that the contract is completed and accepted. Avoiding an early close-out of profitable jobs provides a deferral of taxes. Contractors on the CCM might also choose to accelerate completion of loss jobs.

Maximizing Deductions:

Classic base hit tax strategies include taking steps to optimize your deductions. This can be as simple as a cash method taxpayer paying for materials before the end of the year. Accrual basis taxpayers might also take steps to deduct various prepaid expenses. An accrual basis taxpayer can deduct amounts for prepaid expenses that do not extend beyond the earlier of twelve months or the end of the taxable year following the year in which payment was made. These provisions will allow taxpayers to expense most prepaid amounts including insurance and licenses. A change in accounting method is generally required if a taxpayer has not been deducting these prepaid expenses in prior years.

Another notable deduction is the domestic production activities deduction. The deduction in 2009 is equal to 6% of the lesser of qualified production activities income or the taxable income of the taxpayer. The deduction is also limited to 50% of the eligible W-2 wages of the taxpayer for the taxable year. Construction activities connected with the construction of real property located in the United States are qualified production activities. This means most general contractors and subcontractors can benefit from this deduction.

Many taxpayers are likely familiar with bonus depreciation. For 2009, bonus depreciation is a 50% additional first-year depreciation deduction allowed for qualified property. Qualified property generally includes most new tangible property with a recovery period no longer than twenty years including computer software and certain leasehold improvements. The property generally must also be acquired and placed in service during 2009.

Eligible small businesses may also benefit from increased Section 179 expensing. When a taxpayer purchases assets with useful lives beyond one year, the cost of that asset generally must be capitalized and depreciated over an assigned life. The Code under Section 179 allows small businesses to instead deduct up to \$250,000 for 2009 of qualified purchases in the year of purchase. The deduction is phased-out if more than \$800,000 of qualifying property is placed in service during the year. The deduction amount is also lim-

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ited to taxable income for the tax year.

Another exception to the general rule that assets must be capitalized and depreciated over an assigned life relates to repairs and maintenance expenditures. Recent regulations provide taxpayers with the opportunity to expense amounts that previously may have been capitalized and depreciated. This opportunity for taxpayers spins on the concept of a betterment. If the repair expenditures do not result in a betterment of the unit being repaired or maintained, the amount generally can be expensed.

Utilizing Losses:

Now that strategies are in place to maximize tax deductions, we need to make sure we can effectively use these deductions. Many contractors own their business through partnerships and S corporations. These are referred to as pass-through entities for tax purposes. When a pass-through entity has losses in excess of income, the net loss can often be used to offset other income of the taxpayer. The net losses that pass-through to individual taxpayers can only be deducted to the extent of something called basis. Don't assume that just because you have losses, they can be used to offset other income sources. Planning is often required to increase basis and effectively utilize these losses.

Credits & Incentives:

Federal credits such as the Work Opportunity Tax Credit (WOTC) can serve as solid base hits. In the past, taxpayers avoided the WOTC because the credit came with administrative steps that many did not want to accept. The program has been enhanced to make it more attractive and many payroll providers now have processes in place to ease the administrative concerns. Other types of federal credits may relate to fuel used for off-highway business purposes, energy related incentives, and research & development activities. Also, don't forget the states. States and local governments can provide income, property, payroll, and sales & use tax incentives in some cases.

State & Local Taxes:

Tax professionals subscribe to a number of tax news databases. They help us identify base hit and home run

strategies for our clients. Unfortunately, we are seeing more these days regarding the troubled budget situations in many states. A consequence to these budget woes is that states are becoming far more aggressive in expanding their tax base and auditing taxpayers.

Income, franchise, and excise taxes are certainly a big issue. The 2009-2011 Wisconsin budget act, signed into law June 29, 2009, contained many tax provisions that will affect contractors. Most of the provisions are effective for tax years beginning after 2008. Some highlights of

the act to discuss with your tax advisor include:

- The highest tax rate for individuals is now 7.75% (formerly 6.75%).
- Except for certain assets used in farming, the capital gains exclusion is reduced from 60% to 30%.
- The domestic production activities deduction (discussed above) is now disallowed in Wisconsin.
- Pass-through entities subject to non-resident withholding are now required to make four quarterly

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