

10 tax tips for the construction industry

Now more than ever, construction contractors face complex tax issues that can strain resources and drain what may be already-shrinking profits. Especially during a recessionary period, contractors need to do what they can to minimize spending by effectively managing their tax burden and protecting themselves against tax increases and assessments. With 2009 ushering in new tax changes and the economic situation worsening, construction contractors should keep in mind the following tax tips:

1. Nail down “bonus” depreciation deductions. All contractors should be aware by now that bonus depreciation deductions were revived for investments made in calendar year 2008. As an incentive for investment in equipment, taxpayers are allowed to deduct half of the cost of 2008 qualifying property in the first year of use, and then depreciate the remaining half of the asset over its normal useful life. For five year equipment, this results in a deduction of 60 percent of the asset’s cost. If you invested in this property in 2008, make sure to take this bonus depreciation. And keep your eye on Congress in 2009. Legislators are already talking about extending this provision for calendar year 2009.

2. Look out for the expanded “Kiddie tax.” Most contractors are family-owned businesses and many have used a variety of tax planning techniques to shift income from one family member to another. The kiddie tax has been expanded to require excess unearned income of full-time students under age 24 to be taxed at their parents’ marginal rate, unless the student’s earned income equals one-half of his or her support. Thoroughly review estate planning and gifting strategies to avoid higher income taxes on dependent children over age 18.

3. Revisit the tax rebate. Most taxpayers who qualified for an Economic Stimulus rebate have already received a check, however there are situations where taxpayers may claim an additional credit, even though they have already received a check. The tax stimulus rebate actually is an advance rebate on 2008 tax liabilities, so if income or dependency changes from 2007 to 2008, taxpayers may be able to claim additional credits when they file their 2008 income tax returns this filing season.

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4. Maximize capital asset expensing deductions. Rules originally intended for small businesses were significantly expanded in 2008 to allow contractors to expense up to \$250,000 of fixed asset cost, provided less than \$800,000 of assets are placed in service throughout the year. Unlike bonus depreciation, this applies to new or used assets. Look for this provision again in 2009. Congress is expected to extend it.

5. Determine whether the company can lower property taxes. A property tax review would ensure that all real and intangible property is excluded from the personal property tax base. In addition, there may be opportunities to lower the property tax valuations on real property. The review would not only generate savings in the first year, but also in future years.

6. Examine capital asset depreciation methods and lives. Depreciating fixed assets is one of the most complex aspects of tax law. Understanding and properly applying these rules can accelerate income tax deductions and often those deductions add significantly to current tax flow. For those contractors that have underreported prior depreciation, recent IRS guidance allows “catch-up” deductions by filing an automatic change in accounting method.

7. Review deferred compensation plans. It’s imperative to check with your tax advisers to make sure that any arrangement that calls for compensation earned in one year and paid in another year has been modified to conform with the complex new rules. These rules, originally enacted in 2005, became final at the end of 2008 and extend to deferred compensation plans, phantom stock and stock option plans, as well as some severance agreements, bonus plans and offers of employment.

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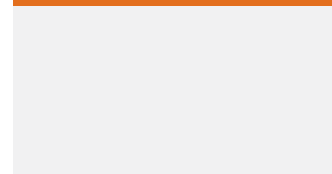
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8. Consider future capital gains and dividend tax rate increases. Under current law, capital gains and qualified dividends are taxed at a favorable 15 percent federal income tax rate. This preferential treatment is scheduled to expire at the end of 2010, however, the presidential election may significantly change the taxation landscape. Taxpayers with significant capital gains transactions will want to work with tax advisers to determine if the tax positions of the new president and Congress merit acceleration of these items into 2009.

9. Analyze the business structure. A business’s organization can have a major impact on the amount of taxes paid, especially in the areas of state, local and employment taxation. The benefits of restructuring the business may not only include reducing taxes, but may also reducing liability risk and aligning structure with the profit drivers in the business.

10. Consider establishing a separate entity to own and lease fixed assets used in the business. Often referred to as leasing companies or procurement companies, these entities help manage assets and may significantly reduce sales and use tax, which is collected and remitted regardless of whether the company is profitable.

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