



Today's Contractor

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New Legislation Provides Tax Breaks to Small Businesses

Signed into law by President Barack Obama on September 27, the Small Business Jobs Act of 2010 extends a number of existing tax breaks for small businesses and introduces new provisions designed to stimulate business investment and ease tax burdens on business owners. Among the new tax provisions of the law are the following:

Enhanced deduction for start-ups. For 2010, the deduction for qualified business start-up expenses jumps from \$5,000 to \$10,000. The deduction that can be claimed is reduced

by the amount of the business owner's total start-up costs that exceeds \$60,000, up from \$50,000 in 2009.

Self-employment tax deduction for health care costs. In 2010 only, self-employed business owners are allowed to deduct health insurance expenses for themselves and their families when calculating their self-employment tax.

Five-year carryback of general business credits. Starting in 2010, small businesses with annual gross receipts of under \$50 million are permitted to carry back general business credits to offset tax liabilities for five years, instead of one year. Businesses may also use these credits to offset alternative minimum tax (AMT) liabilities.

Cell phone deductions. Starting in 2010, cell phones are removed from the category of "listed property," thus enabling business owners to deduct the cost of cell phones or similar communication devices used primarily for business purposes without having to keep extensive records.

Limits on tax shelter disclosure penalties. Under Code Sec. 6707A,

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taxpayers who fail to disclose participation in certain tax shelters to the IRS are liable to pay penalties. To reduce the impact of these penalty assessments on small businesses, the maximum amount of these penalties is limited to 75% of the tax benefit received, and caps have been placed on penalties for failure to disclose transactions.

Retirement account changes. Beginning in 2010, participants in 401(k), 403(b), and 457(b) plans are permitted to roll over funds into Roth accounts within their plans. For rollovers in 2010, taxable income may be spread ratably over the 2011 and 2012 tax years. Starting in 2011, taxpayers with a nonqualified annuity are permitted to annuitize a portion of the contract, while the balance continues to grow on a tax-deferred basis, provided that the annuitization period is for 10 years or more, or for the lives of one or more individuals.

The legislation also extends and broadens provisions included in previous stimulus packages:

Extension of bonus depreciation. For qualifying property bought and placed in service in 2010, small businesses have the option of depreciating 50% of the adjusted basis of the property. This is an extension of the 50% bonus depreciation provision of the American Recovery and Reinvestment Act (ARRA). Under the new legislation, bonus depreciation is also decoupled from the allocation of contract costs for certain assets.

Enhancement of Section 179 expensing. For 2010, and 2011, small businesses may expense up to \$500,000 of Section 179 property, up from \$250,000 in 2009. The amount that may be expensed is reduced only if the cost of the Section 179 property placed in service exceeds \$2 million, up from \$800,000 in 2009. The definition of qualified property is temporarily expanded to include certain types of real property, but the expensing amount is limited to \$250,000 for this property.

100% exclusion on sales of small business stock.

Under ARRA, investors were permitted to exclude 75% of the gain from the sale of certain small business stock acquired and held for more than five years, up from 50% previously. Under the new law, the exclusion of qualified stock purchased between the date of enactment and January 1, 2011 is raised to 100%, and the excluded gain is not subject to the AMT.

Five-year S Corporation built-in gain period. For a C corporation that has been converted to an S corporation, the holding period for appreciated assets to avoid the highest corporate-level tax rate has been further shortened to five years for assets sold beginning in 2011, down from seven years in 2009 and 2010.

In addition, the Small Business Jobs Act includes provisions that increase the limits on Small Business Administration (SBA) 7(a) loans, 504 loans, and microloans. Other provisions provide funding for initiatives to help small businesses secure more Federal contracts and to assist smaller companies in exporting their products to foreign markets. To address complaints that certain subcategories of contractors are being awarded Federal contracts based on limited—rather than free and open—competition, the law reaffirms parity among Federal small business contracting programs. In addition, the law gives Federal procurement officers greater leeway to award contracts to small businesses, and it makes it harder for agencies to “bundle” contracts. Finally, the legislation includes stronger subcontracting plan requirements for large prime contractors that encourage them to use small business subcontractors, as well as requirements that small subcontractors are paid on time.

For more information on how the new legislation affects small businesses, consult one of our qualified tax professionals.

Using Integrated Project Delivery (IPD) to Improve Efficiency

Construction projects require the cooperation of three distinct groups of people who often have very different agendas: project owners, design professionals, and contractors. But, a complex project cannot run smoothly unless all three parties are able to reach a clear agreement on their goals and communicate effectively as the project progresses. To help foster teamwork from the outset—and to improve the likelihood that the project will be completed on time and within budget—the construction industry is increasingly discovering the advantages of a process known as integrated project delivery (IPD), which employs a combination of management concepts, contractual arrangements, and technology tools to incentivize and facilitate collaboration between the various project stakeholders.

Fostering Teamwork

As part of the IPD process, the project owners, the contractors, and the architects and engineers responsible for design come together at the beginning stages of a project to share their expertise and reach joint decisions about key issues such as scheduling, cost estimates, and the selection and procurement of materials. These initial meetings also provide a forum for clearing up any outstanding questions or concerns about the design.

At the culmination of these initial meetings, the owners, the design professionals, and the builders create and sign a relational contract that obliges them to share the risks and the rewards of the project, while clearly outlining the rights, responsibilities, and potential liabilities of each stakeholder. For example, an IPD contract may include an “incentive compensation layer,” in which the expected profits of the architects and the contractors are at risk unless they meet certain performance goals. If both parties reach their targets, they share the expected profits, and if they exceed these goals,

they may receive specified bonuses from an incentive pool built into the agreement.

The contract is intended to encourage the parties to work together to achieve a common set of performance goals, which typically cover areas such as budgets, scheduling, and the quality of craftsmanship. In some contracts, the parties even waive their right to litigate, except in the event of fraud, willful misconduct, or gross negligence. Depending on the extent of their involvement, subcontractors may also be brought into the planning meetings and asked to sign the agreement.



This process of advance planning can help to minimize the need for change orders, and it may pave the way for stakeholders to discuss any issues that arise in the course of the project. Because IPD requires the parties to become “team members” from the start, they become accustomed to using a collaborative approach to resolving their differences. Recognizing that more serious disagreements may nonetheless come up, IPD teams may establish in advance a procedure for mediating conflicts.

Adding Technology Tools

Building information modeling (BIM) is a technology tool that is typically used by IPD teams to reach decisions and set their goals for the project, as well as to collaborate more efficiently over the course of the project. With BIM, the team can create a “4D” model that incorporates not only a 3D computer-aided design (CAD) image of the

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construction trend data

Due to a surge in public works, new construction starts rose 6% in August. Between July and August, nonbuilding construction jumped 24%, residential building fell 2%, and nonresidential building decreased 4%. Total construction starts came to \$277.7 billion for the first eight months of 2010, down 4% compared to 2009.

The rise in nonbuilding construction in August was fueled by a 40% jump in the public works sector. In nonresidential building, office construction decreased 48% in August; however, improvements were reported in educational buildings, amusement-related facilities, and transportation terminals. Residential building decreased 2% in August, with single family housing receding 3% and multifamily housing declining 1%.

“After languishing in late spring, the pace of construction starts picked up during July and August, returning activity to the upper half of its recent

range,” observed Robert A. Murray, vice president of economic affairs for McGraw-Hill Construction. “That range shows total construction starts essentially stabilizing at a low level...but not yet moving up to the point where one could say that renewed expansion is taking hold.”

Total new construction starts by region for the first eight months of 2010 were as follows: Northeast, up 6%; South Central, down 4%; South Atlantic, down 10%; West, down 7%; and Midwest, down 1%.

Year-to-Date Construction Contract Value Unadjusted Totals, In Millions

	8 Mos. 2010	8 Mos. 2009	% Change
Nonresidential Building	\$100,556	\$116,335	-14
Residential Building	82,456	73,968	+11
Nonbuilding Construction	94,721	98,288	-4
Total Construction	\$277,733	\$288,591	-4

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project, but also a sequencing of the various phases, thus facilitating scheduling.

BIM models are a type of shared-knowledge resource that makes it easier for all of the stakeholders to better understand the geometric and geographic aspects of the building, as well as the quantities and properties of the components used in the project. The information stored in a BIM model can enable planners to generate more accurate cost estimates for the project and reduce the need to re-gather and re-format information as the project progresses. In a project's later phases, changes can be entered into the model, and laser scanning can be used to adjust the model to mirror the site's actual conditions.

Because BIM models are unable to reflect all of the communication between project stakeholders, most IPD teams also use project management software to keep track of e-mails, change orders, requests for information (RFIs), submittals, adjustments to budgets and schedules, minutes of meetings, and any other information relevant to workflow.

These technology tools, used in conjunction with the innovative IPD project management framework, can help builders deliver projects on time, within budget, and with the expected level of quality—while also maximizing profits and greatly reducing the risk of becoming involved in costly litigation.