CONTRACTOR

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Year-end tax planning
Accelerated depreciation tax breaks remain valuable

When opportunity knocks …
Making the most of every change order

Protect your construction company's employees from harassment

The pros and cons of software as a service

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ACCELERATED DEPRECIATION TAX BREAKS REMAIN VALUABLE

In construction, procuring the right equipment at the right time is critical. Contractors must, of course, set reasonable budgets and shop carefully as they do. And don't forget about taxes! Two of the most important tax breaks to keep in mind when you're buying assets are the Section 179 deduction and bonus depreciation. Let's take a closer look at each.

Sec. 179

Under Sec. 179 of the Internal Revenue Code, you can immediately deduct 100% of the purchase price of eligible new and used assets, so you don't have to capitalize and depreciate them over many years. Eligible assets include various forms of machinery (such as construction equipment), office and computer equipment, furniture, depreciable software, and certain business vehicles.

Sec. 179 typically doesn't apply to depreciable real property. Deductions may be available, though, for qualified improvement property (QIP). This is generally defined as interior improvements to *nonresidential* real property, which usually includes roofing and building systems such as HVAC, fire protection and security. QIP doesn't include expansion of an existing building, elevators and escalators, and structural/framework changes.

The maximum Sec. 179 deduction for 2024 is $1.22 million. Because the tax break is intended to benefit small to midsize businesses, it begins phasing out on a dollar-for-dollar basis when your qualifying property purchases exceed $3.05 million in 2024.

The maximum deduction is limited by the amount of your business income, too. But you can carry forward unused amounts indefinitely. Alternatively, you may be able to deduct the excess as bonus depreciation, which is subject to no limits or phaseouts.

Bonus depreciation

Under bonus depreciation, companies can immediately deduct a certain percentage of the purchase price of eligible assets. This generally includes business property with a recovery period of 20 years or less — so, again, construction machinery, office and computer equipment, furniture, depreciable software, and certain business vehicles. Bonus depreciation can also be used for QIP.

The Tax Cuts and Jobs Act increased the deductible bonus depreciation percentage for qualifying assets to 100% through 2022. However, in 2023, the percentage began to decrease by 20% annually. So, for the 2023 tax year, it was 80% and, for 2024, the percentage is 60%. It'll fall to 40% for the 2025 tax year and 20% for 2026. Absent congressional action, bonus depreciation is scheduled to vanish completely in 2027.

As mentioned, unlike the Sec. 179 deduction, bonus depreciation isn't subject to limits or

BIG TAX CHANGES COULD LIE AHEAD

Before the Tax Cuts and Jobs Act (TCJA) became law, the construction industry shouldered the highest effective tax rate of any industry — 31%, according to the Associated General Contractors of America. But many of the TCJA provisions that helped reduce this burden for contractors are scheduled to expire at the end of 2025, absent congressional action.

For example, marginal individual tax rates will return to their pre-TCJA levels, with the highest rate increasing from 37% to 39.6%. The basic standard deduction — now $14,600 for single filers and $29,200 for married filing jointly — will plunge to $6,500 and $13,000 respectively, adjusted for inflation. Such changes would substantially affect construction businesses structured as sole proprietorships and partnerships.

If the Section 199A deduction for qualified business income from pass-through entities expires as scheduled, the business income of these companies will generally be taxed at ordinary income tax rates — increasing their tax burden. The corporate tax rate, however, will remain a flat 21%.

In addition, no tax credit will be allowed for employer-provided paid family and medical leave. And the gift and estate tax exemption will plunge from the current $13.61 million to only $5 million, adjusted annually for inflation.

phaseouts. Therefore, you can apply it to create a net operating loss, which will reduce your construction company's taxable income. What's more, net operating losses can be carried forward to reduce taxable income in future years.

And that's not the only important difference. Bonus depreciation is easier to claim — it's automatic unless you opt out. You must explicitly elect Sec. 179 treatment of purchased assets.

However, you must apply bonus depreciation to all assets in an asset class that are placed in service that year — for example, all property that must be depreciated under the Modified Accelerated Cost Recovery System. On the other hand, you can claim the Sec. 179 deduction on an asset-by-asset basis, which provides greater flexibility.

Timing matters

Bear in mind, it's not always advisable to claim either of these "accelerated depreciation" tax breaks or both. For instance, you might be better off depreciating assets over many years if you expect to land in a higher tax bracket in the future. At that point, the multiple deductions would be more valuable.

You also might want to skip accelerated depreciation on QIP applicable to a building you plan to soon sell. The depreciation may be recaptured and taxed at ordinary income tax rates up to 37%, as opposed to 25% for regular depreciation.

Consider, too, how accelerated depreciation might affect other tax breaks. For example, claiming either or both will reduce your taxable income, which could diminish the Section 199A deduction for qualified business income (QBI) earned by pass-through entities. With the QBI deduction scheduled to expire in 2026, you might want to maximize it before then, assuming your construction business is structured as a pass-through entity and otherwise qualifies.

Your circumstances

Construction company owners and their leadership teams shouldn't make decisions about depreciation deductions, or any tax matter, in a vacuum. Work closely with your CPA to determine the best approach for your business's circumstances. ■

WHEN OPPORTUNITY KNOCKS ...

Making the most of every change order

Change orders are a distinctive quirk of the construction industry that hold the potential to either disrupt and disappoint or generate additional revenue and potentially boost project profitability. To make the most of every change order, you must recognize and document all the costs involved, so you can charge the project owner appropriately and get paid for the additional work.

Address all costs

If you've been in business a while, you've probably encountered many of the common causes for change orders. These include unforeseen site conditions, inaccurate or unclear specifications, owner-requested scope or design changes, unseasonable weather or other acts of nature, and materials shortages.

Change orders can disrupt workflow, creating a ripple effect felt throughout a project.

Although certain costs associated with most change orders are obvious, others are less so. To accurately price change orders, you need to consider:

Direct costs. These include labor, materials and equipment, of course. But direct costs can go beyond money spent to do the work itself.

For example, the costs may also include staff time needed to analyze the changes, prepare estimates, and communicate with the owner, architect or engineer. You could incur professional fees for redesign work. Or you might have to put in additional hours for supervision, safety meetings and cleanup. There's the cost of fuel, utilities and storage to consider as well.

Overhead and indirect costs. As you're no doubt aware, direct costs are only one piece of the puzzle. Unless you recover your overhead, indirect costs and a reasonable profit, you could end up losing money on a change order.

Overhead for construction businesses is much like that for any company. It includes rent, office equipment and utilities, and management and administrative staff salaries and benefits, and other general business expenses.

Related to overhead, but not the same, are indirect costs. Generally, these are considered a cost identified with more than one job, such as workers' compensation insurance, or a cost that's only indirectly related to on-site activities, such as payroll service fees. Ask your CPA for help identifying other types of indirect costs.

Many contracts provide for a markup percentage for change orders, such as 10% or 15%, intended to cover overhead, indirect costs and profit. But this often isn't enough for a contractor to break even on change-order work. One study, for example, reported that the average overhead percentage for electrical contractors was more than 19%.

Consequential costs. Change orders can disrupt workflow, creating a ripple effect felt throughout a project. These "consequential" costs may include those associated with work delays, overtime, crew reassignments, site access issues and weather conditions.

They could also include the cost of lost productivity resulting from things such as stacking of trades — that is, the need for multiple tradespeople to work in a limited space. Problems often arise, too, from "dilution of supervision." This is when the attention of project managers and on-site supervisors is diverted from planned work to the change-order work.

Check the contract

Ensure adequate compensation for a change order by reviewing the contract. Before signing, check any contractual limits on pricing change orders, such as maximum markup percentages. If they don't sufficiently cover your costs plus a reasonable profit, try to negotiate higher limits.

In addition, familiarize yourself and your project manager with the contract's change-order approval procedures. Put controls in place to ensure they're followed to the letter. Generally, you should avoid beginning out-of-scope work until a change order is approved in writing.

Once a change is approved, stay focused on costs. That means tracking all three types of costs discussed above. Consequential costs are usually the most difficult to prove, so it's critical to have systems in place to measure and document productivity, compare it to the originally budgeted hours, and calculate the impact of change work on productivity.

Look on the bright side

Although change orders often arise unexpectedly, and they may add to the stress level of everyone involved in construction projects, think of them as opportunities. Proper handling, which includes comprehensive cost recognition, can lead to a positive financial result. ■

PROTECT YOUR CONSTRUCTION COMPANY'S EMPLOYEES FROM HARASSMENT

In 2023, the Equal Employment Opportunity Commission (EEOC) announced that construction has a serious problem.

Following a year of hearings and scrutiny on sexual and racial harassment and discrimination in the industry, the EEOC published *Building for the Future: Advancing Equal Employment Opportunity in the Construction Industry*. The report found a high prevalence of bias and hate on jobsites nationwide. Some of the most egregious incidents involved sexual harassment, hate speech and the presence of nooses.

In 2024, the EEOC published *Enforcement Guidance on Harassment in the Workplace*. Although the guidance addresses all employers, construction business owners and their leadership teams should familiarize themselves with its content.

Best practices

According to the guidance and an accompanying document entitled *Summary of Key Provisions: EEOC Enforcement Guidance on Harassment in*

the Workplace, here are some best practices for avoiding EEOC investigations and lawsuits:

Review the law. Work with your attorney to refresh your understanding of all laws prohibiting harassment and discrimination based on *protected characteristics*. These include race, color, religion, sex (including sexual orientation, gender identity, pregnancy, childbirth and related medical conditions), national origin, disability, age and genetic information (including family history).

Identify what's illegal. Harassment is generally illegal if it refers to a protected characteristic and either results in a change to the complainant's employment status or creates a hostile work environment (when harassment is so severe or frequent that a reasonable person would find it abusive).

Develop and distribute a comprehensive anti-harassment policy. Also, in consultation with your attorney, create an easy-to-understand and widely disseminated policy that outlines prohibited behaviors.

It should address things such as ethnic slurs, offensive jokes, hate symbols, sexual misconduct, and harassment based on stereotypes or personal associations with protected characteristics. The policy should also expressly forbid retaliating in any way against anyone who alleges harassment. Ask employees to acknowledge in writing that they've read and understood the policy.

Provide multiple reporting channels. Employees should have several safe, reliable avenues for reporting harassment that bypass potential harassers — even those at the management or executive level.

Conduct regular trainings. Include anti-harassment training in your onboarding process for new hires. Require regularly scheduled (at least annually) refresher training to all employees, especially supervisors and managers, on your policy and reporting and investigation procedures.

Promptly investigate complaints. Upon learning of potential harassment, conduct an immediate and thorough investigation. Investigators should be trained and follow structured procedures. Keep both the complainant and alleged harasser(s) informed about the status of the investigation and notify them of the outcome as soon as possible.

Refresh your understanding of all laws prohibiting harassment and discrimination based on protected characteristics.

Depending on an investigation's findings, appropriate actions may include warnings, counseling, training, suspension, reassignment or termination. Be sure to maintain detailed records of all complaints, investigations and outcomes. Consult your attorney before taking any adverse employment action.

Ounce of prevention

By adhering to these best practices and others, you can, first and foremost, create a safe and welcoming workplace for your employees. This can make hiring easier and drive productivity.

Beyond that, there can be a severe and negative financial impact to EEOC investigations and lawsuits. Your construction company's employer brand may also suffer lasting damage. When it comes to harassment, an ounce of prevention is indeed worth a pound of cure. ■

THE PROS AND CONS OF SOFTWARE AS A SERVICE

For decades, buying software generally meant purchasing an off-the-shelf product and installing it on each and every one of your construction company's devices. But today there's an easier way: software as a service (SaaS). Under this cloud-based delivery model, various forms of software are hosted on service providers' servers and made available to customers via the internet.

Pros to consider

SaaS has become a popular approach for many types of businesses. Reasons why include:

Potential cost savings. SaaS is typically offered on a subscription basis, allowing for better expense management as you pay for only what you need. Plus, you generally don't need to invest in additional hardware, IT infrastructure or staff.

Scalability. Again, thanks to the subscription model, you can easily get the software you need and then scale up or down as requirements change. This is great for contractors who have busy seasons or just need to adapt to different project types and sizes.

Remote access. SaaS is essentially designed for mobile use. Any authorized user with an internet-connected device can access an application, whether at the office or on a jobsite. Such functionality reduces the potential for errors, as well as enhances decision-making and collaboration across project teams.

Automatic updates and support. Providers handle all software updates, ensuring the latest features and security patches are installed. Subscription fees generally include user training, support and system maintenance.

Integration and compatibility. Some SaaS solutions can integrate seamlessly with other software tools, creating a unified ecosystem for accounting, project management and more.

Cons to watch out for

Naturally, there are potential downsides to SaaS. These include:

Data security and privacy. Reputable SaaS providers are generally reliable when it comes to cybersecurity, but using software operated from a third party's server can expose you to the risk of a data breach on their end.

Connectivity issues. Reliable internet access is a must for SaaS. Poor connectivity can disrupt users' access to the software, which may be an issue on some jobsites.

Limited customization. SaaS products may offer far fewer, if any, specially tailored features as traditionally purchased software or, of course, a custom solution.

Recurring costs. Although initial costs are lower, SaaS subscription fees are ongoing. Over time, the total cost of ownership can exceed that of a one-time software purchase.

A potentially savvy solution

Could SaaS be a savvy solution for your construction company? It's a question worth discussing with your leadership team and IT department. Your CPA can also help you assess the costs and potential return on investment. ■

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About Wouch, Maloney & Co., LLP

Wouch, Maloney & Co., LLP is a regional certified public accounting firm with offices in Horsham and Philadelphia, Pennsylvania and Bonita Springs, Florida. The firm has provided closely held business and individual clients with a wide array of accounting services for over 30 years. Wouch, Maloney & Co.'s domestic, multi-state and international clients reflect a broad range of industries from real estate and construction to manufacturing, wholesale and professional service. The firm offers a comprehensive group of services including tax, audit and accounting, business consulting, estate planning, business valuation, litigation support and forensic accounting.

Serving the Construction Industry

Wouch, Maloney & Co., LLP prides itself on its niche practice in the construction industry. The majority of our clients are involved in construction and we are adept at recognizing and solving problems common to that industry. For over thirty years, we have represented contractors along with commercial and home builders in Pennsylvania, New Jersey and Florida.

- We develop **relationships with lenders and bonding agents** and understand how to present your financial picture in their preferred format.
- We assist you in **keeping a close eye on debt, cash flow, profit margins** and other measures of financial health.
- We prepare **contracts in progress** schedules that management can understand which clearly illustrate gross profit, job costing and over/under billings per job.
- We have highly trained staff with **expertise in construction accounting** who are detail oriented, but who do not lose sight of the larger goal which is to provide our clients with quality services to meet their many financial needs.

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