As projects heat up, construction company owners often find they must buy additional equipment or other assets to ensure project success and remain competitive. Because return on investment for high-dollar purchases can take years, finding the right tax deductions to help offset costs is critical to staying in the black.

The good news is that, thanks to a new and improved version of the bonus depreciation tax break, many businesses buying qualified assets in 2018 will be able to immediately deduct much more than in recent years for their capital expenses.

**The Important Stuff**

As you may recall, the Tax Cuts and Jobs Act (TCJA) was signed into law in December 2017. Among its many changes, the law substantially increased the first-year bonus depreciation deduction from 50% to 100%.

You can apply bonus depreciation to the cost of vehicles, machinery, equipment, computer systems, software, office furniture and other assets that have a useful life of 20 years or less and that are purchased under certain conditions. (In other words, they can't be a gift or inheritance or bought from an ancestor or descendant, such as a child, parent, grandparent or grandchild.)

Another important change is that the deduction is now allowed for both new and used qualifying property. In the past, businesses couldn’t claim bonus depreciation for purchases of used property.

Businesses also can claim bonus depreciation for “qualified improvement property,” which is any eligible improvement made to the interior portion of a nonresidential property — if the improvement is placed in service after the date the building is placed in service. Similar to previous years, the following

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**In This Issue Of Networked & Connected:**

- What You Should Know About Bonus Depreciation
- Making Maryland Magnificent - Benfield Electric
- One Word That Can Make You More Profitable
- The Need To Go Above & Beyond The ADA
- Product Profile - Formtech Concrete Forms
- Meet & Greet - Emmitsburg Glass
- Always Take Care Of The Regulars
- Tips For Storage Yard Security Surveillance Systems
- What Should You Do With Your Tax Refund?
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- The Next Generation Of Job Site Security
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- Indemnification: What Is It & Why Is It Important?
- General Contractors In Maryland Beware!
- Safety Rules
- Environ. Issues For Devel., Contractors & Lenders
- Help Wanted
- Upcoming Events
Benfield Electric Celebrates 50 Years of Quality Service in Harford County, Maryland

Benfield Electric was founded in 1968 by Charles Benfield with only one truck and a focus on installing electric heating. Half a century later, the company is led by his son, Greg Benfield, and has evolved into a major player in the commercial electrical contracting industry.

Posting more than $1 billion in combined sales over the past 50 years, Benfield Electric has remained steadfast in its simple but wise business philosophies – namely, in quality and dependable service for a fair price. By establishing trust and valuing all customers equally, regardless of size, the company has grown to be a reputable community and business partner employing more than 200 employees.

Benfield Electric now provides commercial electrical services, residential construction, home electrical services and energy efficiency services. Partnering with a wide variety of major players in the industry across Maryland, Benfield Electric’s projects include:

- 414 Light Street in Baltimore, a commercial urban mixed use high rise apartment and retail building with Questar Properties; architect and engineer Solomon Cordwell Buenz and general contractor Lend Lease Construction. The project is currently in progress.
- Union Wharf, a 281-unit, mixed-use development in historic Fells Point that opened in October 2013. Benfield Electric worked with Union Wharf Apartments, LLC; architect Hord/Coplan/Macht and general contractor Bozzuto.
- The Trails at Beech Creek, a residential construction project currently underway with Ryland Homes in Aberdeen. Once completed, this community will feature single-family homes, townhomes and villas.
The One Word That Can Make Your Construction Business More Profitable

Last month I presented the results of our 2018 Maryland Construction Industry Survey to members of the Maryland Construction Network.

As I analyzed the results of our annual survey to prepare my presentation, one theme kept cropping up: construction contractors would benefit greatly by saying “no” more often. “No” to certain jobs, and “no” to certain customers.

It’s Hard to Turn Down Work

When a new project presents itself, it’s hard to turn it down. As business owners, we’re hardwired to go after new work and close every deal. While it’s good to be entrepreneurial and aggressive in growing your business, it’s not always smart to take on every new project that comes your way.

Why? Because some jobs just aren’t going to be profitable. And – I’m not going to win any popularity contests for saying this, but I’m being honest – some customers aren’t going to be good for your business.

Let’s dig into those two items a bit.

When to Say “No” to New Work

Thankfully, the outlook for Maryland’s construction industry is looking bright. The data from our 2018 Maryland Construction Industry Survey reflects contractors’ optimism. In fact, 70% of contractors said they thought the construction industry’s outlook is better for 2018 compared to last year. That’s a 20% boost from just two years ago, when only 50% of contractors said they felt optimistic about the industry’s future.

With more projects available today than in the past ten or so years, it’s time for contractors to be more selective in the work they choose to take on.

When evaluating whether to take on a job, ask yourself:

- Do I have the staff, experience and time to meet the customer’s expectations?
- Will I actually make money on this job? (Pro tip: you have to understand your fixed and variable costs before you submit an accurate bid. This burdened hourly rate calculator will help.)
- Do I have the time to spend on upfront project planning before the job starts? (Pro tip: you make most of your money on upfront planning.)

The first step toward profitability is knowing when to walk away from a project before it even starts. While it’s tempting to cave to a customer’s request to lower your prices, know the value of your work and what it’s worth. It’s better to walk away from a job than to lose money on it.

When to Say “No” to Customers

Can we talk about the elephant in the room?

Anyone who has been in business for more than a few months knows what it’s like to deal with difficult customers. One thing I have learned in my 30+ years of working with clients is that it only takes one bad client to do a lot of damage to my most valuable asset: my team of talented employees.

Continued On Page 27
The Need To Go Above And Beyond The ADA
In Maryland: Disabled Applicants/Employees Need Individual Assessments

In light of developments in Maryland employment discrimination law, employers are strongly encouraged to re-examine their reasonable accommodation policies and procedures. When confronted with a reasonable accommodation request, employers should be mindful that Maryland’s Fair Employment Practices Act (“FEPA”) imposes some important obligations on employers beyond those required under the Americans with Disabilities Act (“ADA”).

Under the ADA, the federal law protecting disabled employees, as well as FEPA, Maryland’s law protecting disabled employees, employers are required to provide reasonable accommodations to qualified individuals with disabilities unless doing so would cause an undue hardship to the employer. A qualified individual is an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. However, FEPA imposes some additional requirements on Maryland employers.

Under FEPA it is an unlawful employment practice to “[f]ail to make an individualized assessment of a qualified individual’s ability to perform the essential functions of a job, unless the qualification standard, employment test, or other selection criteria under which the individual was disqualified meet the requirements of a bona fide occupational qualification (BFOQ) reasonably necessary to the normal operation of the particular business or program.” COMAR 14.03.02.04(B)(3) (emphasis added). A BFOQ is some standard or regulation which would prevent all or substantially all individuals with the particular disability from being able to perform the duties of the job in question or it would be impossible or highly impractical to determine such ability on an individual basis. For instance, adequate vision would be a BFOQ of a bus driver and a blind individual could be prohibited from occupying the position of bus driver under this regulation. Notably, the ADA does not use the term “individualized assessment.” It is in this requirement under Maryland law to conduct an “individualized assessment” where we see potential pitfalls for Maryland employers who might only follow the requirements of the ADA.

This Maryland regulation was carefully examined by both the Court of Special Appeals and the Court of Appeals in Adkins v. Peninsula Reg’l Med. Ctr., 224 Md. App. 115, 145, 119 A.3d 146, 164 (2015), aff’d, 448 Md. 197, 137 A.3d 211 (2016). The Court of Special Appeals compared the State “individualized assessment” to the Federal “interactive process” and concluded as follows:

In our view, the “individualized assessment” provides stronger protection for the employee than the federal “interactive process” regulation because it explicitly provides that failure to conduct an individualized assessment constitutes an unlawful employment practice. Indeed, this provision necessarily imposes a clear, unambiguous obligation on the employer, which, in turn, extends protection to the disabled employee. Adkins, 224 Md. App. at 145. Furthermore, the Court of Special Appeals noted that since the COMAR regulation refers to “a job” and not simply the job the employee held, the court did “not interpret the individualized assessment requirement to be constrained to mean the job previously held by the employee; instead, [the court] read it to require an employee-specific evaluation and a consideration of the essential functions of a job.” Id. (emphasis in original). In considering reassignment to a vacant position, the Court of Special Appeals also explained that “although the employee may not have discovered and applied to the vacant position, the employer, upon receiving adequate notice of the need for an accommodation, is in a far better position than the employee to determine whether a position exists that the employee with a disability could perform.” Id. at 148–49.

The Court of Appeals affirmed, and further reasoned

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CONCRETE FORMING & SHORING EQUIPMENT

PRODUCT OVERVIEW

Formwork Systems & Components
Shoring Systems & Components
  Forming Hardware
  Column Forms
  Wall Ties (all types)
  Heavy Tying Products
Flatwork Forms
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Always Take Care Of The Regulars

Years ago while in college and working at a local bar I got some good advice from the bar’s proprietor. He said, “Son, whatever you do take good care of the regulars. If you take care of them, they will take care of you. They will be your best tippers, and if they are happy with your service they will bring their friends with them next time and refer others to your place.”

This advice has served me very well in the business world. I frequently try to go out of my way to assist my clients with whatever they need. When they call, they are always priority #1. While I’m out in the market, they are always on my mind. True to the bar owner’s wisdom, when I take good care of my clients they often refer me to friends and business partners.

I read once that in business, 80% of your sales will come from 20% of your clients. If that is indeed true then it shows why it is so important to take care of the “regulars.” Don’t get me wrong – you should treat all of your clients and prospective clients well, and strive to do your best for them. But the regulars are the ones for whom you should go the extra mile. If I hear about a new property about to come on the market, the first people I think of are my best regular clients. I’ll give them first bite at the apple every time, because I’ve done business with them in the past and I know they’ll do right by me if I do right by them.

Below I’ve included a lyric video of one of my favorite songs, Billy Joel’s “Piano Man.” He wrote it while working as a lounge player at a piano bar in Los Angeles after his first album failed to find an audience. Billy Joel was a legitimate musician, and he had played much larger and more important gigs than a piano bar. But he treated the regulars right, taking the time to get to know them. And, as he recounts in this famous song, they treated him right in return.

Ro Waldron is a commercial real estate broker and author with 28 years of experience in the Washington, D.C. area market. Through his vast experience in commercial real estate Ro adds value for his clients using his knowledge, connections and successful track record with many of the major players in this market.

Ro’s experiences in commercial real estate and as a player and coach on NCAA college football teams form the basis for his successful blog, “Ro’s Words of Encouragement.” To learn more about Ro, please visit www.rowaldron.com.
Tips For Putting Together The Perfect Security Surveillance System For Your Storage Yard

In the US, there are about 2.5 million cases of burglary every year. Most of these cases occur during the day in buildings that do not have a security system.

As such, you have every reason to ensure your storage yards and business premises are safe from potential break-ins. A sure way to do this is by installing a security surveillance system. This will provide 24-hour monitoring to prevent break-ins before they happen.

In this post, we're going to offer a simple guide on how to set up a surveillance system for your storage yard.

Let's dive in.

Understand The Layout Of Your Yard

Storage yards come in varied shapes, sizes, and designs, and each offers unique vulnerabilities that must be addressed.

Understanding your yard’s layout is essential to define your operations, level of risk, and the current state of security. Plus, it will be easier to evaluate your physical facility to identify possible points for unauthorized entry and penetrations.

Drones have made it easier for you to inspect your yard through an aerial view. Be sure to use the architectural designs of all the structures in the yard. On your yard’s aerial view map, mark all the points you think are critical and determine which equipment you will need to install there.

Positioning Your Cameras

When installing security cameras, focus on those critical areas that need monitoring. This is important especially when you’re using a wireless security surveillance system as they depend on a strong and consistent signal. The location of your central monitoring system is also vital.

Be sure there are no tree branches or any objects that obstruct the view of the cameras. Also, rain, direct sunlight, and snow will affect the output of the cameras. As such, find a sheltered area that will ensure maximum footage quality.

Don’t hide the cameras as they offer a deterrent factor that keeps intruders away. Make it evident that you’re monitoring your storage yard. Just make sure they are hard to reach.

Proper System Setup

If you don’t know to use the system, make sure to work with a professional to install the equipment and configure your software.

For a wireless surveillance system, determining a central location for the monitoring system is essential. This is because a weak signal to some cameras will affect the footage quality.

Ensure you can monitor your yard remotely. You can utilize your computer or mobile device to access the view of every single camera. Most importantly, ensure you’re using a strong password to protect your system.

Security Surveillance System - The Takeaway!

Having a security system for your storage yard is necessary. However, failure to draft a security plan for your physical facility means you’re likely to miss key areas. You need to identify property or areas that are likely to be burglar targets, such as buildings that have safes, electronics, or sensitive documents.

Walkways, entry points, poorly illuminated areas, exit points, and POS terminals are also important.

Do you want further help on setting up your surveillance system? You can simply reach out to us as we’re here to help.

Shawn Scarlata
CEO, SMART Security Pros

SMART Security Pros through its Mobile Video Guard solution protects construction sites, equipment yards, scrap and recycling yards, utility infrastructure sites, among other types of locations. After 22 years in law enforcement and 8 years operating a large security guard firm, the founder Shawn Scarlata knew there had to be a better way. Shawn set out to develop a solution that provided higher levels of security at a fraction of the cost of guard services.
What Should You Do With Your Tax Refund?

M any people look forward to receiving a refund instead of paying taxes. Have you received or are anticipating a tax refund this year? A tax refund may feel like a bonus from the government. However, receiving a tax refund simply means you overpaid on your taxes last year and gave the government an interest free loan. This is money that you earned but did not have access to throughout the year. While it may be tempting to treat your refund as a “bonus” and blow it all, it may be wiser to evaluate what you should do with your tax refund.

What Should You Do With Your Tax Refund?

Add to Your Retirement Savings
An IRA is a wonderful way to save for your retirement. Even if you participate in a company sponsored 401(k) plan, you can use an IRA to supplement your retirement savings. For 2018, you can contribute up to $5,500 into your traditional or Roth IRA ($6,500 if you’re 50 or over). Remember, each dollar that you invest into your retirement will benefit from compound interest. The more you invest now, the more you will have at the time of your retirement.

Pay Down Debt
This is especially true if you have any credit card debt. With high interest rates, credit card debt can be a very expensive way to borrow money. It is also a leading factor in determining your credit worthiness. If you don’t have any credit card debt, paying off a student loan, car loan or putting more money towards your mortgage may be a good idea, especially if you have a high interest rate on those loans.

Add to Your Rainy Day Fund
We suggest you have at least 3 to 6 months living expenses stowed away for emergencies. Whether it is a car repair, unforeseen medical expense, loss of a job or something else, you will be glad to have this financial safety net.

Make Home Improvements
Use your tax refund to tackle various home improvement projects including leaky faucets, a new back splash, a beautiful light fixture or a fresh coat of paint. If there has been a project on your mind, maybe now is the time to tackle it!

Donate to Charity
Use your tax refund to give back to a cause that is close to your heart. As a bonus, you may be able to take a tax deduction for your charitable contributions throughout the year.

Splurge!
It’s okay to set aside some money to treat yourself and your family. Review your finances and see how much of your tax refund you can put towards something extra. Whether it’s a night on the town or a vacation, you worked hard all year and deserve something a little extra!

How to Avoid Getting a Refund Next Year
While getting a tax refund may be better than owing money, the best possible scenario is to break even. Remember, that interest free loan that you gave the government could have been in your pocket throughout the year. Those dollars could have been invested and earning you compound interest. With the recent changes in tax law, you may want to review how much you’re withholding and ensure you aren’t underpaying on your taxes. The IRS has a withholding calculator that you can use to estimate how much you should be withholding. If you would like to change your withholding, you can submit a new Form W-4 to your employer at any time.

Consult a Financial Advisor or a CPA to review your finances and taxes. While a CPA can review your taxes and ensure you are withholding the correct amount, a Financial Advisor can help you decide how best to use your tax refund to provide the most benefit for you and your family.

Feel free to reach out to us, we have a team of Financial Advisors and CPAs available to help!

Maggie Spivak, MS
Marketing Manager
The Prosperity Consulting Group, LLC
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For more information on this effective and efficient member benefit, contact MCI’s Verna Begler at 443-992-7329 or at verma@vendconstructionnet.net.

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Experience Modification Ratings – How Is It Calculated And Can You Lower It?

Your business’ Experience Modification Rating (EMR) directly impacts your Workers’ Compensation premiums. This blog will explain what an EMR is, what factors contribute to the calculation of your company’s EMR, and share some tips on how you can lower it.

What is an Experience Modification Rating?

An EMR is a rating that compares your company’s workers’ compensation claims and subsequent risk to other similar-sized companies in your industry. Companies who have fewer claims and/or lower-cost claims than the industry average have a better chance of receiving a lower rating. This lower rating then translates to a lower premium since there is less risk for the insurer to provide them with coverage. The opposite is true as well. If a company has a large number of claims and/or higher-cost claims than the industry average than they will most likely receive a higher rating and higher premium.

EMRs take into account information from the three full years ending one year before your current policy expires to help determine the rating for the current year. The ratings and the industry/state benchmarks are determined yearly by the National Council on Compensation Insurance (NCCI).

The main factors that impact your EMR include:

- **Expected Loss Ratio (ELR):** Your ELR is the expected percentage that insurers believe they may need to set aside from your premiums to cover future claims. This ratio (in most states) is calculated by the NCCI and is based on industry type, location, and company size. It is possible to see more than one ELR on your experience rating worksheet if you work in multiple industries/trades.

- **Losses (Expected vs. Actual):** Your company will be assigned an expected loss each year. That number will then be compared against the actual losses that your company experiences in the calendar year.

- **Number of claims vs. Severity:** When your EMR is calculated, there is a cap on how much any one claim can affect your rating. This is done by splitting losses into primary and excess. The amount can differ based on state, but for the sake of this blog, we will use Maryland as the example. In the state of Maryland for the year 2018, only the first $16,500 will be used towards your primary loss (regardless of how much the entire claim actually costs). Anything above and beyond would be included in the actual excess loss category. Excess cost doesn’t hold nearly as much weight in the rating as the primary loss. This amount is subject to change each year.

However, there is no cap on the number of claims that can count against you. A company’s EMR will be less affected by one severe claim that hits the primary cap then by having ten smaller claims filed over the course of the year. The EMR is set up to incentivize workplace safety and a high frequency of claims will ultimately be penalized.

Can you lower your EMR in the future?

Your experience modification rating can be seen as either a credit, debit, or a zero balance. The average company (as defined by the parameters set by NCCI) would have an EMR rating of 1.00. Their premiums would simply stay the same. If a company’s modification rating came in lower than the average at .80, they could expect their premiums to decrease by 20%. On the other hand, if a company had a particularly bad year and experienced actual losses far above the expected, they could find themselves with an EMR of 1.20 and owe 20% more on their premiums. It is obviously in any company’s
Years ago there were a series of popular commercials that asked the questions: “Is it live? Or is it Memorex?” The ads were from the early 1980’s and promoted a revolutionary consumer product that promised to forever change the way in which we would be entertained - VHS videotape.

While videotape dates back many years, the commercial viability of the product saw explosive growth during the 80’s with the introduction of affordable VHS recorders.

It is hard to imagine that in the brief span of four decades, this technology moved from cutting-edge to entirely obsolete. The last manufacturer of VHS-compatible video cassette recorders ceased production in July of 2016; effectively marking the end of videotape entertainment.

Times changed. Technology changed. Expectations changed. And people changed with them.

People constantly search for better, more efficient ways to work and play. Early adopters ditched the VCR years ago while others may still cling to their “old friend” to this day. In fact, there are some who will collect videocassettes and play them for years to come just as there are those who still play 78 records on a Victrola for nostalgia.

MCN’s partners, Verna Regler and Rob Bertazon, have over 40 years combined experience managing construction associations. However, prior to our time running associations, both of us worked in the construction industry. Our fathers were in the industry. We understand and appreciate what it means to work hard to earn a living. Now our attention is focused on helping your businesses be successful. In this multi-part feature, I will delve into the historical aspects of construction associations and examine what they represent today. Afterwards, you can decide what associations are truly working for you and your business.

Technology now allows us to “see” things that simply do not exist. Appearances can be so convincing that we often cannot distinguish between reality and illusion. With this in mind, my question becomes, “Is an association efficiently adhering to a viable mission, or is it an illusion?

 Associations are products very similar to those of technology. However, the adoption and rejection rate for associations is much slower. Decision makers selecting associations are often top-tier executives from a generation that, at some point, established a connection to an association.

Construction associations were typically formed by a group of like-minded individuals who identified a need or deficiency within the industry. Trade specific associations were developed to raise awareness of the benefits of a
Safety Message - Summer Driving Tips

The days of summer are upon us. Whether it’s a day at the beach, an Independence Day cookout in the backyard, or just a lazy day by the pool, we are focused on having the most fun possible in these few short months. We are happy to leave winter behind, with all its woes of driving in the snow and ice. Other than navigating the summer beach traffic, most of us don’t consider that summer comes with its share of driving hazards as well. It can be a very dangerous time to be on the roadways.

The National Safety Council has determined that more motor vehicle injuries and fatalities occur during summer months than any other season, with August being the most dangerous month. Consider the amount of travel that occurs in the summer. The average vacation destination experiences an influx of people all navigating the town, unfamiliar with the local roads and traffic laws, distracted by the new sights and sounds that surround them. Additionally, there are more pedestrians who are in the same situation. In the last decade or so, a phenomenon called “distracted walking” has developed, where pedestrians have failed to avoid obstacles and have been injured or killed because they were looking at their cell phones. Add all of this together and the potential for accidents increases substantially.

In the last year, an estimated 40,000 people died and 1.7 million were injured in motor vehicle accidents. Some of the leading causes contributing to this data include high speed, impaired or careless driving, increased traffic, vacation travel, increased pedestrian traffic, and not using proper child restraint or safety belts. Furthermore, according to a Governors Highway Safety Association report, there were nearly 6,000 pedestrian fatalities in 2017.

Have fun indulging in the carefree spirit of summer, but don’t let it follow you behind the wheel. Here are some safety tips for safe driving (and walking) this season:

Be aware. The most effective defense against accidents is awareness. There is much more going on during the summer months and your heightened awareness is important. Children are home from school and often playing outdoors. Outdoor adult activity also increases. Be aware when driving for these common situations:

- Small children playing on or near the street or roadway
- A ball traveling in the street with a child in pursuit
- Bicycle riders, skateboarders, roller bladders, recreational walkers, and joggers sharing the roadway

Follow the traffic laws, signs, and signals. They are there for the safety of you and others. Obey the speed limit. Be extra cautious approaching intersections, crosswalks, or any other high-traffic area. When driving in unfamiliar territory, you are more likely to make mistakes, like miss your turn or get in the wrong lane. It is important not to make sudden or illegal maneuvers to correct your mistake. Continue your path until the mistake can be safely corrected. Before you travel, do some research and inquire about any unique traffic laws or ordinances that pertain to the area you are visiting.

Drive defensively to avoid incidents. Again, awareness is key. Use the following defensive driving techniques to avoid traffic incidents:

- Scan your mirrors every 10-12 seconds and observe your surroundings.
- Use the “3-second rule” to maintain appropriate following distances. Leave a safe “cushion” around your vehicle to provide the necessary escape routes in the event of an unexpected traffic or pedestrian situation.
- Cover the brake. When spotting something ahead that could potentially cause you to brake – emergency vehicles, pedestrians on the side of the road, children playing near the road, etc. – take your foot off the accelerator and...
The construction industry is one of the most visual businesses out there. Everyone can see what you do, as you do it. Now, think out of the box to capitalize on this!

Your brand builds around many customer touch points with visual content playing an essential role. Every piece of communication should align with your brand image. Hiring a professional to capture all the elements of your company can reap tremendous rewards. A professional photographer is your partner in creating a rich Photo Library of high quality images.

Use Your Photo Library For:

- Annual Reports
- Company Brochures
- Website
- Company Facebook Page
- Company LinkedIn Page
- Media Requests For Print & Electronic
- Historical Records
- Print & Digital Advertising
- Email
- Newsletters

As you can see, the avenues for images are limitless. Another point, professional head shots of company officials give a historical perspective to any company. Using your employees in company photography also builds spirit and pride in their work. Always get model releases or put in your contracts that any images used for company purposes may contain their image.

Keeping your Photo Library organized with project names and dates is historically critical. You should have both digital media and hard copy photographs telling your story. Interior, exterior and aerial photos should be included where possible. If you make products, hire a professional proficient in the area of Product Photography.

Creating a Photo Library is an ongoing project! As in any library, everything must be filed properly for access by current and future personnel.

Your company has a brand to sell, a story to tell and a history to preserve. Your Brand Marketing Photo Library of professional images lets you build your future, show the present and honor the past!

For more ideas and a “To Do” list to help you get started, click on our latest post about Building A Brand Marketing Photo Library. To inspire your creativity, click here to see how other companies have built their Photo Library.

Bill Rettberg
Robin Sommer
MidAtlantic Photographic LLC
Never Underestimate The Value Of Your “Unpaid Sales Force”

Since the rise of websites and social media as marketing strategies, the world of marketing and promotion has been in flux. Without a doubt, every form of advertising we have ever known is still in use to one extent or another. But much of the energy and investment has switched to digital media.

Traditional public relations formerly relied on press releases and media interest to manage the company reputation. Those tools are still in use, but now reputation management has turned into a full-time job for many companies because of all the avenues people have to make comments about services and products almost as soon as they experience them. And their comments go worldwide on review sites and social media platforms. It’s nice to get positive feedback and very difficult to deal with negative comments.

Word of mouth has always been an important positive and negative force on organizations. It still is. Years ago, one researcher found that if you did something well, customers will tell five people. If you did something badly, customers tell ten people. In a world driven by social media, that imbalance has likely gotten a lot worse. So, what do you do?

One important strategy is to identify people who are fans of your company and who spread positive (and well-deserved) comments about your company to others. You cultivate them and nurture them. These people are your “unpaid sales force.”

Identifying Them. Make it easy for people to communicate their feelings and attitude about your company. Thank the happy ones and address the ones who are not happy. You know the old observation about converts: Customers who have had bad experiences that are resolved properly and promptly can become fans. Get the names of anyone that has communicated with your company and put them in a database to be cultivated and nurtured. Ask new customers how they heard about your company. The data they give you helps evaluate your marketing programs. The names they give you should go on your unpaid sales force roster.

Cultivating Them: Once you identify someone who qualifies for the unpaid sales force, keep them informed of company successes and new products and services. Deal with negative news promptly by acknowledging what happened and what is being done about it. They take a chance with every referral they give you. Do nothing to reduce the trust they have in you to make those referrals.

Nurturing Them. If your unpaid sales force database is large, then you need to have someone whose job it is to keep in touch with them by mail, e-mail, newsletter to avoid taking them for granted. They do not work for you and probably do not think about your company every day so find the right balance between bombarding them with information or ignoring them. If possible acknowledge every referral they send you and keep them informed of how the situation with the referral is progressing. Not all referrals turn into customers, but every referral is something to manage properly and treasure.

Now here is an example of information from an unpaid sales person: In case you are curious about any resources out there that can help your company get employees involved in generating fandom for your business, check out a company named Social Toaster right here in the Baltimore area.

Paul Riecks is a Principal at INSIGHT.

At INSIGHT, we believe that every business has the opportunity and the potential to be as successful as its owners want it to be and deserves the chance to reach that potential. One of the best resources available to business owners and CEOs for help in reaching their company’s potential is the deep pool of knowledge shared with other business owners and CEOs. So what we do is form INSIGHT Groups-each with 10-15 owners and CEOs- and facilitate their monthly meetings where they advise each other, share ideas and experiences and gain the clarity they need to achieve the success they seek. www.gaininsight.net
The Next Generation Of Job Site Security

For many years now if you wanted to install cameras to monitor your business you would purchase a NVR/DVR run some cabling and deploy the cameras in the preferred areas. There would be a monitor connected with a video wall of all the cameras displayed and maybe even the capability to connect to the NVR/DVR over the network or even remotely over the internet with your mobile device. An incident would occur and you would then pull up the recorded footage and begin searching through minutes or even hours of footage hoping to find a segment of video helping to show the incident in question.

The traditional security camera solutions pose some challenges. The cost of the video storage for the NVR/DVR goes up significantly with the addition of each camera. You may end up having to purchase multiple storage devices as your coverage needs increase and add new cameras. Having this footage stored at one central location also puts you at risk for a single point of failure or having the device itself stolen and losing the recorded video. These devices also run software that commonly is never updated after the initial install. Years go by and these devices connected to the internet for remote viewing become targets for attacks of malware and entry points into your network.

BIG recently deployed a new security offering from Cisco Meraki at our Corporate Headquarters and are highly recommending this solution to clients as well based on performance. These security cameras offer HD-Quality video, centralized cloud management, local storage, optimized retention, motion search, and are available in both indoor and outdoor models.

Each camera has its own self-contained storage so there is no single point of failure. The storage is optimized based on custom storage plans focused around schedules, video quality, and motion based retention. Camera firmware is always up to date. These updates and bug fixes are always pushed out as part of the active license subscription.

Access to the system can be controlled at various levels. You can create user accounts for view only access to a specific set of cameras or give users additional access to export footage. Each user can even customize their own video wall. Additional security for remote access can be enabled by turning on two factor authentication.

One of BIG’s favorite features of the system is the motion based search. This allows you to select an area of the video feed to search for past activity. For example, let’s say you had a tool stolen from a job site, or even a piece of equipment, a laptop at the office or a cell phone off a desk. The solution allows you to select the camera for that area and select the area in question. Immediately all the footage that involved movement in that area would appear in the timeline. You can zoom out to longer time windows by just pressing the plus or minus buttons and select to play the selections of your choice. Once you find the video that you want you can easily export it or take a screenshot.

Meraki continues to add features to the cameras that get pushed out with firmware updates. Some recent example of this are the video analytics including motion heatmaps to show high traffic areas in your business and people detection as part of its machine learning based computer vision to determine unique identities and count people in an area over time.

To find out more about the Cisco Meraki Solution or How to Get a Free Trial contact BIG at http://businessinformationgroup.com/contact/

Mike Nitchman
VP Network Operations

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Human Meets Machine: Why Investing In Both Labor & Automation In Construction Makes Sense

How Automation Helps Workers Do Their Jobs

Whether it’s large-scale 3D printers capable of constructing a skyscraper, drones utilized for inspecting jobsites or robotic-powered equipment, automation is starting to sweep the construction industry.

Not everyone thinks automation is the way to go: according to the Pew Research Center, 72% of US adults are actively worried automation will replace jobs performed by humans, illustrating our natural reluctance to accept the potential sea change.

Instead of fighting the trend, let’s look at the ways automation can benefit construction -- both for laborers, and for increasing job opportunities across the industry.

Automation Benefits Recruitment

Consider the ongoing labor shortage plaguing the construction industry: a major reason for this shortage is because fewer young employees are entering the sector. This new workforce is tech savvy and the skills they are choosing to develop don’t cross over into the conventional construction industry.

Or do they?

Automation can actually attract younger talent. Construction companies that provide laborers with technical skills will go further in hiring qualified Millennials. With the latest technology, construction companies can connect with and foster a new generation of workers. More importantly, automation will generate a safer and more productive workforce for laborers both young and “old.”

Productivity Transformers

Automation helps to increase productivity, and reduce costs and schedules. When you can streamline systematic steps in construction by way of more efficient methods, entire processes speed up. For example, using construction software paired with automation dramatically streamlines slow administrative processes such as submittals. Products like PlanGrid, for instance, can generate a submittal log in minutes -- not weeks -- and workers can reinvest their energy into more meaningful tasks.

Solving Communication Problems

Automated systems also help laborers achieve better collaboration. A lack of communication or miscommunication frequently leads to costly mistakes for the construction workforce. Tools that automate communication, such as field collaboration software, empower everyone to be on the same page, and work from the very latest plans and data. Everything from blueprints to processes can be organized and streamlined so anyone who needs to communicate with teammates or find information can do so immediately.

The Best of Both Worlds

Construction is still a human-centric business. To complete complex designs and efficiently problem-solve, jobsites need humans. What the industry needs is a dual investment in both labor and automation to keep up with increasing demands. Proactive firms should focus on implementing automation in construction to help the skilled workers focus on their jobs. Doing so gives companies the advantages of automation, while increasing their labor pool to meet growing demands.

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Tax Talk For Contractors, Architects And Engineers: Measure Twice, Cut Once: It Pays To Think Twice Before Converting To An S-Corp

With all the talk around the new Tax Cut and Job Act (TCJA) legislation, you might be a little anxious and wondering how the changes will affect your construction company. Many construction firms are set up as S-corps, so maybe you're thinking you should switch to a C-corporation, to take advantage of the lower corporate tax rates and the other potential benefits.

Whatever the reason the TCJA is on your mind, your heart beats a bit faster each time it comes up. And, I get it. Having helped construction companies with their tax and business planning for more than 20 years, I see how personally invested you are in the organization you built and how you want to be sure you're making the best decisions on its behalf. This includes always keeping an eye out for ways to reduce your tax bill.

For some construction firms, changing designations will be the right conclusion, as they’ll save in a few different ways, including a lower tax rate, avoiding double taxation in certain circumstances, and fully deducting state and local taxes. However, for other companies, staying as they are will make more sense. (By the way, if you’re looking for an explanation of the major changes that will happen with the new legislation, we’ve got a short post on the subject.)

Here's what I will say right off the bat - don't make any rash decisions. Do your research, run the numbers, and gather all the information you need to make an informed decision.

How to decide

Your choice should be based on a number of factors, one of which must be calculating your tax liabilities under the different structures to assess which is best for your firm. You, and your trusted advisors, should also ask the following questions to gather the additional data you need and make a decision you feel comfortable with:

1. What are the long-term business goals?
2. Do you distribute earnings? If so, how much?
3. Do you earn any income outside of the U.S?
4. Will you qualify for the pass-through deduction if you stay an S-corp?
5. How much do you pay in state and federal taxes?
6. How soon are you considering exiting the business, either through a sale or leaving it to the next generation? Do you have any estate planning considerations?

Keep in mind that you could lose money moving to a C-corp

One of the drawbacks to C-corps is the possibility of paying taxes twice. As a C-corp, you could be taxed once on earnings and once on dividends, so it’s important to understand your potential for income loss. If you don’t pay dividends, and don’t plan to use the cash you have on hand for a good while, moving to a C-corp could make sense.

Did you realize there’s a chance the change might not be permanent?

If Democrats regain control in Washington, they could vote to change or repeal the law. If that happens, it could be extremely complicated to go back to being an S-corp.

One thing is clear

If you’re the owner of a construction or real estate firm that is currently an S-corp, it’s important to clearly understand all the aspects around how moving to a C-corp could affect the amount of taxes you pay. The TCJA is complex and full of intricacies. You want to be sure you have all the information you need and are comfortable with your decision, before you make it,

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Did you purchase or renovate a building recently or are you planning to do so? Assuming you will capitalize it and depreciate it over 27.5 or 39 years? That’s a long time to wait to recoup those depreciation costs. Good news! You may be eligible to do a cost segregation and move some of those building costs to a shorter depreciable life.

What is a cost segregation study, you may ask? Cost segregations have traditionally broken down 27.5/39 year building assets into 5, 7, and 15 year buckets. This allows a building or renovation to be broken down into different classes of property and may allow for accelerated depreciation. For example, the carpeting in a building could be moved to the 5 year bucket and be eligible for bonus depreciation. If it was simply capitalized as part of the building, it would be depreciated over 39 years instead.

Prior to the passage of the Tax Cuts and Jobs Act, real property that was broken down into 5 and 7 year property was eligible for 50% bonus. 15 year property was eligible for bonus depreciation if it was Qualified Leasehold Improvement Property or Qualified Restaurant Property. Additionally, Qualified Improvement Property, although a 39 year asset, was eligible for bonus depreciation as well. With the passage of tax reform, qualifying assets placed in service after September 27, 2017, are now eligible for 100% bonus depreciation. Assets no longer have to be brand new to be eligible for bonus depreciation, as used assets now qualify.

The Qualified Leasehold Improvement and Qualified Restaurant Property categories were also removed and replaced with an expanded definition of Qualified Improvement Property (QIP). This new QIP category is much broader than the previous, and improvements no longer need to be made pursuant to a lease. There was a mistake made when the new tax reform law was written that currently makes QIP ineligible for bonus depreciation. It is expected, however, that a technical correction will be issued, making QIP both 15 year property and eligible for bonus depreciation.

Tax reform also implemented some changes for Section 179 depreciation as well. The Section 179 limit was increased to $1,000,000 and the spending cap was increased to $2,500,000. Certain real property is also now eligible for Section 179 treatment for commercial buildings. This includes roofs, HVAC systems, fire protection systems, alarm systems, and security systems. These items were previously ineligible for Section 179 and had to be depreciated over 39 years.

While depreciation is normally a timing difference, 2017 presents a unique situation in which accelerated depreciation may present a permanent tax savings due to the lowering of tax rates for 2018. By having a cost segregation done, you can take advantage of 100% bonus depreciation for assets that would otherwise be 39 year assets. Work closely with your tax advisor to determine if any buildings purchased or renovated would qualify for a cost segregation study so you do not miss out on the potential savings.

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McKonly & Asbury provides advisory, assurance, entrepreneurial, internal audit, placement, and tax services to many of the region's largest and most well-known companies and organizations. We have been helping construction clients do business since our firm was founded over four decades ago. We are more than just an accounting firm to our clients; we are a team of business partners who possess years of experience with national and global accounting firms and provide service to large national and international construction entities. Learn more at www.macpas.com.

“Well done is better than well said.”
~ Benjamin Franklin
Use Financial Statements To Make A Solid First Impression

Financial statements are a must-have for any organization. The balance sheet reveals how much its assets and liabilities are worth based on historic costs. The income statement tells investors and lenders how profitably and efficiently the company has performed during the accounting period. The statement of cash flows details sources and uses of cash from operating, investing and financing activities. All this is relevant information for company insiders, as well as for lenders, bonding companies and other stakeholders.

Whether you prepare these statements in-house or hire an outside accounting firm to prepare them is a cost-benefit decision. But accounting for construction companies is often less straightforward than it is for retailers, manufacturers and service firms. Construction bookkeeping requires a specialized understanding of accounting for multiple long-term projects, as well as a mastery of their specific reporting requirements for income tax, payroll, union and bonding purposes.

If you opt to prepare your financial statements in-house, an accounting professional can help set up your books to comply with generally accepted accounting principles (GAAP) and the Internal Revenue Code. A CPA can also review or audit your in-house statements to provide investors, lenders and other third parties with a greater level of assurance.

Here are some basic guidelines bookkeepers should bear in mind when preparing financial statements for construction firms:

Provide Comprehensive Cost of Sales Figures

Cost of sales is an accounting term that has a very specific meaning. It refers to any costs incurred by your firm that are directly or indirectly used to bring a construction project to a saleable condition and substantial completion, per the project documents, and used to deliver the finished project to the customer. In accordance with GAAP, cost of sales should be subtracted from sales on your income statement to arrive at gross profit. In turn, a comprehensive, professional presentation of your gross profit can qualify your firm for larger loans, lower interest rates and greater bonding capacity. If costs aren’t correctly classified between cost of sales and operating expenses, however, stakeholders could be making apples-to-oranges comparisons between your company and industry benchmarks (or your competitors’ financial statements).

If you have only three line items under cost of sales — direct labor, direct materials and subcontractor costs — it could signal a problem. Also includable in cost of sales are allocations of overhead costs, such as site telecommunications, benefits and pension costs for field workers, and vehicle costs.

If your total cost of sales figures contain errors or omissions, it’s also likely that your in-house accounting personnel aren’t providing you with accurate job costing reports on individual projects. Without accurate job costing details for each project, you have no idea whether your bidding process works or which jobs are actually profitable.

Set Up a Meaningful Chart of Accounts

Your chart of accounts was probably set up when you first began operations. But it may require some tweaking to align your bookkeeping practices with a GAAP or tax-basis financial statement presentation. Proper set-up requires significant forethought and experience. Such diligence can enhance the readability of your firm’s financial statements both for you and third parties who rely on them. It can also facilitate preparation of your year-end financial statements and tax returns.

Numbering of asset, liability, equity, income and expense accounts on your chart of accounts should generally follow the format of your financial statements. The 1000 series is generally reserved for assets. For example, your checking account might be assigned account number 1120, trade receivables might be 1200, costs in excess of billings might be 1320 and tools might be 1550.
Indemnification: What Is It And Why Is It So Important?

There are specific construction contract clauses that receive extra scrutiny. Indemnification is one of them. Indemnification is a risk-shifting provision that identifies certain potential liability exposure, and it shifts that risk to one party. Typically, prime contracts shift risk from the owner onto a prime contractor. Subcontracts usually shift risk from the contractor onto a subcontractor.

Typical indemnification clauses will commence with language along the lines of “[Contractor] agrees to indemnify, defend and hold harmless the [Owner] against . . . .”

Usually, contractual indemnification pertains to injuries (losses) that may arise due to a third-party suffering physical or property damage. Common examples that might trigger indemnification litigation include a pedestrian injured on a sidewalk near a construction site, or if a construction activity somehow injured property, such as a neighboring building or automobile. In those instances, the injured party would likely pursue its claim against (at a minimum) the owner, prime contractor, and relevant subcontractors.

The reason indemnification clauses receive extra scrutiny during contract reviews is because a contractor/subcontractor should be aware of the risk that it is accepting on a project. Most contractors/subcontractors are willing to be responsible for losses caused by their own acts, omissions, and negligence. It only seems fair that if one company caused the loss, then that company (or its insurer) should be responsible for the pay-out to the injured party.

Where significant redlining tends to happen, is when the contract seeks to expand the indemnification clause to cover risks or losses that are beyond the control of the party. For example, Pennsylvania courts will enforce a contract that requires the prime contractor to cover (indemnify) the losses that arise from the owner’s portion of negligence. Accordingly, depending on the specific language in the clause and the circumstances of the injury, a prime contractor may be required to cover the entire loss, even if the prime contractor was only minimally at fault. This same issue can arise for subcontractors in relation to a prime contractor.

One of the distinctions in Pennsylvania law is that a party can contractually agree to be responsible for the full payout on a loss, even if the loss was solely caused by another party. These “sole negligence” indemnity clauses are often prohibited by statute in other states.

Under Maryland law (Maryland Code, Courts and Judicial Proceedings, Section 5-401) any construction contract requiring indemnification of the other party’s sole negligence is void and unenforceable. Still, in Maryland, an indemnity clause could potentially be enforceable if it provides for coverage of a loss that was partially caused by another party. Under this scenario, for example, if the loss was partially caused by a subcontractor and also partially caused by a contractor, then the loss was not caused by sole negligence, and it would still be an enforceable indemnity clause under Maryland law. Pennsylvania allows for a party to indemnify an entire loss, regardless of whether it was partially or solely caused by another party.

Some states’ anti-indemnification statutes go further and prohibit any contractual indemnification that obligates a party to pay for any portion of the loss that was caused by the other party. Oregon is an example of this type of anti-indemnification statute. O.R.S. section 30.140 provides that any construction contract clause is void if it requires indemnification for injuries caused “in whole or in part” by another party. Minnesota also has a similar statute (Minn. Stat. section 337.02), as do several other states such as California (Civ. Code 2782). Under these statutes, a party is generally only allowed to indemnify to the extent that losses are attributable to its own acts.

Further compounding the analysis of indemnity clauses: not all contract clauses are worded the same, and outcomes often depend on the unique factual circumstances from which the loss arose.

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General Contractors In Maryland Beware

Beginning October 1, 2018, You May Be Held Liable For Your Subcontractors’ (and their suppliers’) Failure To Pay Their Employees.

In September of 2017, I wrote an article warning the construction industry that the Court of Appeals had changed the way indemnification clauses in contracts had been historically interpreted. You can read that article here:

Today, I am writing to warn you about a new law passed by the Maryland General Assembly during the last days of the 2018 legislative session. It essentially allows employees of subcontractors and their suppliers who have not been paid to sue the general contractor directly. This new law effectively imposes strict liability on the general contractor for any unpaid wages, damages, interest, penalties, or attorney’s fees owed as a result of the subcontractor’s failure to pay its employees as follows:

A subcontractor shall indemnify a general contractor for any wages, damages, interest, penalties, or attorney’s fees owed as a result of the subcontractor’s violation unless:

- Indemnification is provided for in a contract between the general contractor and the subcontractor; or

- [the failure to pay wages] arose due to a lack of prompt payment in accordance with the terms of the contract between the general contractor and the subcontractor.

Employers should be aware that the general rule in Maryland was that when an employer fails to properly pay its employees what they are owed for work performed, the employer may be held liable for up to three times the unpaid wages, plus reasonable attorneys’ fees and costs. This law applied only to an employer’s own employees. Beginning in October of this year, however, general contractors can be held liable for up to three times the unpaid wages, plus reasonable attorneys’ fees and costs to all downstream employees.

The pertinent text of the statute states:

**A general contractor on a project for construction services is jointly and severally liable for [failure to pay wages] committed by a subcontractor regardless of whether the subcontractor is in a direct contractual relationship with the general contractor.**

I was shocked when I read the text of the law – and general contractors should be too. And you should know that “construction services” involve all aspects of construction, i.e., “building, reconstructing, improving, enlarging, painting, altering and repairing.” The expansion of liability for employee wages to non-employers is unprecedented on private projects. My first thought (as a lawyer) was – can this risk be managed? My second thought (as a business owner) was that construction costs may increase as a direct result of this law. (See the recommendations below).

The legislature attempted to give some protection to the general contractor in the form of the requirement by the subcontractor or supplier to indemnify the general contractor for its failure to pay its employees as follows:

What comes to mind is that if the subcontractor is not paying its employees, it most likely would not have the financial wherewithal to reimburse the general contractor for the damages that it may sustain as a result of a lawsuit or other dispute resolution costs and expenses. This “protection” may be meaningless.

The second portion of the so called “protection”, while a bit confusing, seems to allow the general contractor to continue to pay – or not to pay - its subcontractors pursuant to its subcontract. For example, if the contractor has a pay-if-paid clause in its subcontract, and it has not been paid by the owner, it would seem to be able to use its failure to pay the subcontractor as a defense to liability to the employee.

Further, the general contractor is at a disadvantage if an employee sues. Because it is not the direct employer, it will not have the employee records to defend itself against these claims, including potentially fraudulent
Safety Rules

Safety professionals know that Personal Protective Equipment (PPE) is the last line of defense and must only be used in conjunction with other protective measures. PPE is best used as a layer of protection in a process that has been fully evaluated and deployed with other controls including effective training. Having said that, how many times have you seen a committee review an incident report on a hand laceration and then issue a 100% glove policy? It may be true that if that person was wearing gloves in that specific incident, the injury may have been prevented or reduced to first-aid. However, making everyone wear level 3 cut resistant gloves 100% of the time does not guarantee a safer workplace. (Please note - only the injury would be minimized, the accident itself cannot be prevented by the gloves.)

On average when employees are faced with the new generalized 100% glove rule, they evaluate their situation, if they feel the rule does not fit, they choose to work without gloves. After a few more experiences, they no longer bother evaluating the specific situation and just ignore the rule. Over a period of time with urgent priorities such as tight scheduling, customer demands, etc they tend to simply ignore most of the generalized safety rules as long as no one is watching. This leads to a downward spiral where every incident investigation yields the finding that the employee should have been wearing PPE – and then more rules. All of these will again be ignored when time pressure or a customer demand becomes a higher priority than compliance to a rule that does not make sense to the employee.

Here’s another scenario using traditional safety methods. An incident review found that an employee was driving a haul truck and he hit his head, causing an injury. This was not the first cabin related head injury, so it led to a 100% hard hat policy. Everyone had to wear a hard hat 100% of the time, even in the cab of vehicles and equipment. While the safety culture was strong enough to score high rates of compliance during Behavior Based Safety (BBS) observations, there was an underlying attitude of non-compliance. Meaning employees ignored the rule whenever they could get away with it. When employees or subcontractors were caught not wearing their hard hat, many could not be disciplined because they were highly-skilled, hard to replace equipment operators! That of course led to lower compliance with the 100% hard hat rule and weakened the overall safety culture.

How would you have handled this incident review? Please email me your thoughts and I will email you the guiding principles on the Human Performance (HP) approach to engage employees to prevent the incident. Or if you are an upper-level leader and want to learn how to challenge your operations & safety staff to find effective HP solutions during the incident review meeting, please contact me for a free initial consultation.

About the author: Joseph Xavier is the CEO and Senior Consultant at Summit Sustainability Solutions. Summit’s mission is to help companies strive for zero harm to their workforce. His specialty is safety culture and enjoys working with people to train them on how to think like a risk manager. Call or text Joe at 443-910-7874 or by email: jxavier@hpfx-factor.com. Link-in with Joe: www.linkedin.com/in/josephxavier/
Environmental Issues For Developers, Contractors & Lenders

What could go wrong? The owner/developer wants to build a project. The lender provides funding. The contractor is hired and the project is underway. In most cases, there is a Phase I Environmental Study required by the lender which attempts to address any known environmental exposures.

Consider the properties developed in the Baltimore/Washington DC Metro area. Old industrial sites are now residential or mixed use residential and retail. Not too many years ago, there might have been industrial operations at one of these sites, with chemicals and pollutants disposed of in ways that do not meet today’s codes and guidelines. Paints, dry cleaning fluids, and PCB’s were sometimes just “dumped out back” or buried.

ISSUES

Concerns for the Owner/Developer

- Unidentified/pre-existing contamination that was not discovered in the Phase I report.

Conditions that arise from/during the construction process; either due to materials brought on site or exacerbating a present situation or condition. Damage caused to an underground drainage pipe or unintended runoff resulting from grading are two examples.

Concerns for the Contractor

- Construction related incidents such as fuel spills, storm water runoff, waste disposal, underground pipe damage. Fumes that originate from adhesives, coatings, insulation and carpet can also create an environmental issue.

- Completed operations such as a slow leak that results in mold/microbial infestation.

- Chemical spills such as chlorine for swimming pools or leaking fuel from generator tank.

Concerns for the Lender

- Inability of borrower/owner to pay loan arising from environmental issue.

- Decrease in the value of property used as collateral.

- Continuance of environmental exposures after foreclosure.

Concerns for the Owner/Developer, Contractor & Lender

- Plume that migrates from neighboring property.

- Mold/Legionella: This is particularly an issue in health care or senior facilities where inhabitants may be more susceptible to infection. Showerheads have been known to be a breeding ground for mold.

SOLUTIONS

Owner/Developer

- Take control of securing insurance policies rather than relying on coverage provided by the contractor. It is a good idea to require contractors to carry pollution coverage and add the owner as additional insured. This might not cover all situations since the contractor’s policy is likely triggered by an event emanating from the contractor’s work or products. A site-specific policy, secured by the owner, does not require an event arising from construction operations to trigger coverage. The owner’s site-specific policy would provide broader coverage than the contractor’s pollution policy.

- Known, pre-existing conditions are not insurable; however, off-site migration resulting from same may be insurable. Risks from known factors can be mitigated through seller indemnification and/or funds held in escrow.

- Coverage options exist for owners/developers that have a clean Phase I report showing no

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three improvements don’t qualify: 1) enlargement of a building, 2) elevator or escalator work, or 3) changes to the internal structural framework of a building.

If your business-related purchases don’t qualify for first-year bonus depreciation, the Section 179 deduction provides similar benefits. (See “Section 179 expensing and the TCJA.”)

A Look Back And Forward

In nearly every year since 2001, businesses have been able to immediately deduct a percentage of the cost of eligible property during the first year it is placed in service — with the remaining cost deducted using regular depreciation methods, the Sec. 179 deduction, or a combination of regular depreciation and the Sec. 179 deduction. (See “Section 179 expensing and the TCJA.”)

This became known as “bonus depreciation.” It was designed as a tax incentive to help stimulate the economy as well as provide tax relief for small to midsize businesses in need of equipment. Although the bonus depreciation deduction expired between 2005 and 2007, it returned in 2008. Percentages have ranged from 30% to 100% over the years, but the deduction hasn’t been at 100% since the 2011 tax year.

After the Protecting Americans from Tax Hikes (PATH) Act was passed in late 2015, the bonus depreciation deduction, which at the time was 50%, was on the road to being phased out yet again. The percentage under the PATH Act was scheduled to decrease to 40% in 2018 and 30% in 2019 before disappearing (with certain exceptions) completely in 2020. The TCJA, however, breathes new life into the deduction, ensuring it will remain for several more years.

Under the new law, 100% bonus depreciation is available for assets placed in service after September 27, 2017, and before January 1, 2023. Then bonus depreciation is scheduled to be reduced as follows:

- 80% for property placed in service in 2023,
- 60% for property placed in service in 2024,
- 40% for property placed in service in 2025, and
- 20% for property placed in service in 2026.

For certain assets with longer production periods, the above dates are delayed by one year. For example, 100% bonus depreciation applies to long-production-period property placed in service in 2023 and is reduced to 80% for such property placed in service in 2024.

Complicated Business

Claiming depreciation deductions can get complicated — especially with the recent tax law changes. To reap the full benefits, contact your CPA to discuss your construction company’s 2018 capital improvement purchase plans, as well as plans for future years.

Sidebar: Section 179 Expensing And The TCJA

Like bonus depreciation, Section 179 expensing allows businesses a large deduction for certain business assets in the year they’re placed in service, rather than depreciating them over a longer period. It encourages companies to stay competitive by investing in needed equipment and writing off the cost on their tax returns. This deduction is tailored for small to midsize businesses, because it has a spending cap that larger businesses often will exceed.

Under previous tax law, the maximum deduction was $510,000, with a $2.03 million phaseout threshold for total equipment purchased in a year. Since this law is still applicable on your 2017 return, this means that you can deduct the full cost of qualified purchases (up to $510,000 for total asset purchases for the year) until $2.03 million is reached. Once that happens, the deduction decreases on a dollar-for-dollar basis and disappears entirely at $2.54 million.

The Tax Cuts and Jobs Act (TCJA) essentially doubles the deduction to $1 million while increasing the phaseout threshold to $2.5 million. At $3.5 million, the deduction disappears. These amounts will be indexed for inflation after 2018.

Nearly all types of business assets qualify for Sec. 179 expensing, including equipment, vehicles exceeding 14,000 pounds (vehicles weighing more than 6,000 pounds may be eligible for a partial Sec. 179 deduction), computers, software, and property attached to your

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building that’s not a structural component (such as large manufacturing tools and equipment). The TCJA also expands the definition of qualified real property to include the following improvements to nonresidential real property: roofs; heating, ventilation, and air-conditioning equipment; fire protection and alarm systems; and security systems.

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that an employer “does not satisfy its responsibility to conduct an individualized assessment to formulate an effective accommodation” by merely referring a returning employee to the employer's website. 448 Md. at 221 n.16. Moreover, the Court “agree[d] with the Court of Special Appeals that for a failure-to-accommodate claim, where the employee provided adequate notice that he or she has a disability and needs an accommodation, a formal application to a specific position is not necessary.” Id. at 232. It is clear from both opinions in Adkins that Maryland employers shoulder a heavier burden under FEPA than under the ADA.

These opinions, as well as the COMAR regulations, represent important developments in Maryland employment discrimination law. In light of these developments, Maryland employers should re-examine their reasonable accommodation policies and procedures to account for COMAR 14.03.02.04. When confronted with a request for reasonable accommodation from a qualified individual with a disability, Maryland employers should be mindful that FEPA imposes some important obligations on employers. As FEPA claims brought before the Maryland Commission on Civil Rights and in State Court become more prevalent, distinctions between Maryland law and Federal law become even more vital to protecting against and, if necessary, defending such claims.

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One of the joys of being a business owner is developing lasting relationships, some that evolve into friendships, with clients from all walks of life. But every once in a while, a client can wreak havoc on morale.

Over the years I’ve severed ties with a few clients who have run my staff into the ground for various reasons, including using disrespectful language around my employees, being perpetually tardy for meetings, and employing nefarious business practices. While it goes against our nature to “fire” a customer, does it really make sense to continue a relationship that isn’t mutually rewarding, profitable and respectful?

When a client’s behavior repeatedly wears down my employees, it’s time to say “no” to the client. That’s not to say my employees aren’t expected to work hard and deal with difficult situations and people. But when the same customer never shows up for meetings or verbally abuses my employees, it’s time to say “enough” as a business owner.

**Saying “No” Has to Be a Strategy**

Knowing when to say “no” has to be a strategy for making your construction business more profitable. If you’d like help understanding your company’s profit margins, identifying fixed and variable costs, submitting accurate bids and evaluating jobs, let’s talk.

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best interest to lower this rating…the question then becomes: is that possible?

While you don’t have control over how your EMR is calculated you can look for ways to decrease the number and cost of claims. Approaches could include:

- **Have a properly designed Return to Work Program in Place.** Having a well-designed Return to Work Program is both beneficial for employees and the employer. For employers, it can reduce the amount of time that employees are out of work and also minimize the risk of a re-injury. This can result in a reduced overall claim amount and the likelihood of a new claim. You can check out the Return-to-Work Toolkit from the DOL for more information: https://www.dol.gov/odep/return-to-work/employee-resources.htm#resources

- **Reporting accidents as soon as they happen.** There are very strong statistics that reveal the quicker a claim is reported, the lower the ultimate incurred loss. Frequently, injuries that go unevaluated for an extended period of time will end up being more expensive due to exacerbation of the injury. Reporting accidents promptly can help minimize your overall primary losses.

- **Improve workplace safety.** Do you have safety guidelines and procedures in place? Do you implement a formal safety plan? Are these rules or plan actually followed? Look for ways to improve your overall workplace safety and have a zero tolerance policy for safety violations. You can also offer training programs to help ensure proper safety education for employees. The OSHA 10-hour and 30-hour Training programs are great places to start.

- **Personal Protective Equipment (PPE).** Providing PPE to employees, teaching them proper usage, and enforcing the use of PPE can minimize frequency of losses. Having a low frequency is beneficial since frequency of losses impacts the EMR more than severity (example five $10,000 losses is much worse than one $50,000 loss).

- **Don’t rush hire.** You can have the best workplace safety guidelines in place, but if your employees don’t care, it doesn’t really matter. Make sure that you hire workers you can trust to not just to do the job, but do it safely.

- **NEVER hire uninsured subcontractors.** You should always verify that any subcontractors that you work with have proper insurance coverages and limits in place. If they don’t, you could be left footing the bill.

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specific product or service, to promote the use of those products/services, and/or increase the training and professionalism of the workers and contractors within that specific trade. Indeed, these are worthwhile reasons for the existence of associations.

Almost without exception, groups were organized as non-profits to ensure all of the proceeds from the association were used to satisfy the association’s mission. At infancy, groups were administered by their creators. The day-to-day operations of the organization were handled by the same same men and women who formed the organization via their own “sweat and blood”. Every dollar put into the association went to achieving the group’s pre established goals.

However, this level of commitment from top-tier executives could only continue for so long. Eventually, staff was hired to take care of the day-to-day operations. Staff frequently were individuals from within the industry. Often, this was a retiree willing to work for less to remain connected to the industry. In addition, founders continued to volunteer their time and energy to help reduce costs. Committees were formed, responsibilities were delegated, and tasks were completed.

As the number of associations grew, saavy individuals identified an opportunity and the “association professional” was born. These full-time managers often have limited knowledge of the industry they are hired to represent. Their job of managing the association is simply that; a job. There is no passion. At least, not like that of the founders. If they lose this job they will likely move on to another association; without notable impact on their lives.

With a full-time staff of “association professionals”, money must be raised to cover staff overhead, office space, utilities, etc. This is in addition to funds needed to achieve the original mission of the association. Typically, this is when the out of control spiral begins.

**This is the birth of the association “machine”**.

Once the heart of the machine starts beating, the focus changes. It transforms from being one of accomplishing a goal to that of keeping the beast alive. If you have ever attended an orientation meeting as an association Board member, hopefully you will recall hearing that as a member of the Board, you have a fiduciary responsibility to protect the well-being of the association. Ensuring the continuation of the group is often construed to be part and parcel with this duty. The association President and the Executive Committee reiterate the importance of the continuation of the association; almost at all costs. Is realistic consideration given to compliance with the mission or the financial state of the association?

Why? It starts with the law. In short, a fiduciary duty means Board members are required to act reasonably, prudently, and in the best interests of the organization.

Second, it involves a bit of self-esteem. Who wants to be associated with the demise of the proverbial sinking ship? No one wants to be viewed as the one manning the helm when the ship sinks.

**What does sustaining the machine mean to you as a member of the association?**

You and your business devote a significant amount of time, money, and resources to an association that may or may not be fulfilling its mission or providing benefit.

Was your association tasked to pursue a legislative agenda or was it formed to provide education and training? Perhaps it was established to promote construction as a viable way to make an honest living or to provide a vehicle for you to expand your business. Regardless, because of “the machine”, a much smaller portion of the association’s annual income is now used to achieve the founders’ original goals.

**The Bitter Truth**

Far too often, members do not know the purpose of the association, nor do they recognize how small a percentage of the total association income is used to address its mission. In fact, there are companies who, knowingly or unknowingly, belong to associations whose purpose is in contrast to their own goals.

In upcoming segments of this report the dynamics of today’s associations will be examined. Information will be provided to assist you as you consider “is my association fulfilling its mission or simply sustaining its pulse”? Together, we will unveil the reality hidden within the illusion.

Robert Bertazon
Maryland Construction Network
hover over the brake. This decreases the reaction time and allows you to brake quickly if necessary. Once you’ve cleared the potential hazard, you can put your foot back on the accelerator.

- Be aware of the weather and possible changes. Use sunglasses increase vision and decrease glare from the road or other vehicles. Adjust your driving techniques for rain and thunderstorms, as visibility may decrease considerably and quickly.

**Avoid distractions.** Anything you do in the car that takes your focus away from driving is considered a distraction. While most of us think of cell phones as the most obvious distraction, it also includes activities such as looking at maps/GPS, adjusting controls, eating, drinking, looking at billboards and buildings, and even interacting with passengers.

This advice applies to walking as well. Keep your head up. If you are using earbuds, keep the audio low enough that you can still hear what is happening around you. Always be aware of your surroundings and stay focused on your task, which is arriving safely at your destination.

**Never drive impaired.** Alcohol is often part of many summer activities. The best defense is not to consume alcoholic beverages at all if you will be driving. If you drink, be sure to have a designated driver so that all individuals arrive home safely. Impaired drivers are not always alcohol impaired, however. Although alcohol is a contributing factor in approximately 50% percent of all traffic fatalities, another cause is over-the-counter medication. Many allergy medications used during the summer season can cause drowsiness and impair driving as alcohol does. Be aware of the side effects of any medications you take and use good judgement. If you notice a driver demonstrating unsafe behavior such as weaving in their lane, straddling the centerlines, stopping abruptly, or responding slowly to traffic signs and signals slow down, increase your following distance and stay clear of this driver.

**Know the signs of fatigue.** Signs of fatigue include eye strain, blurred vision, head dropping, yawning, swaying out of your lane, or an urge to close your eyes. If you are experiencing any of these, get off the road and rest. Some suggestions to avoid drowsy driving are:

- Always check medications for side effects that could affect your driving
- Get adequate sleep the night before driving long distances
- Plan your driving during your normal waking hours
- Take regular breaks when driving long distances
- Never drive more than 100 miles at a time
- Share the driving responsibilities even if you do not feel tired
- Eat frequent small light meals rather than large ones

Drowsy drivers are a serious concern. Although drowsiness is not considered an impairment by current definitions, it is the cause many are the cause of traffic crashes and fatalities. Drowsy drivers are involved in about 56,000 crashes annually; averaging about 40,000 nonfatal injuries and 1600 fatalities. This is approximately four (4%) percent of total fatalities.

**Use seatbelts and proper child restraints.** Child restraint is a law in all fifty states. If you are transporting children under the age of 4 years or forty pounds an appropriate child protective seat is required. Seat belt usage is the single most important activity you can engage in to reduce your risk of serious injury or even death in a motor vehicle crash. Buckle up.

**Keep up with vehicle maintenance.** Summer is hard on all vehicle parts. Be sure to take some simple steps to ensure your vehicle is safe throughout the warm weather. If you have not completed the following tasks, it’s not too late.

- Check all engine related fluids including oil, transmission, brake, and radiator. Anti-freeze is essential during the summer months for the

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proper operation of the cooling system.

- Check your tires for uneven or excessive wear. Keep all tires properly inflated, including your spare tire.

- Check all engine belts for cracks and wear. Replace any that seem worn.

- Check all engine hoses for soft spots. If the hose has a soft spot or bulge, replace it immediately. Always have this type of repair work should be done by a professional mechanic.

- Check the refrigerant to ensure proper air conditioning operation. Low levels of refrigerant will cause your air conditioning system to not cool properly. Always have this type of repair should be done by a professional mechanic.

- Check windshield wipers and windshield washer level. A clean windshield improves your ability to see the driving environment.

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Litigating indemnification clauses can be particularly unpredictable due to these various factors.

Indemnification is a risk-shifting concept, and, relatedly, additional insurance clauses also shift risk. It is common for contracts to require not only indemnity, but also additional insured status. This factor can further complicate the analysis because, for example, in Maryland, while sole negligence is prohibited in indemnification clauses, it may be possible to require a party to procure additional insured status to cover sole negligence. This would effectively act as an end-around to Maryland’s anti-indemnification statute. At least one appellate judge has written non-binding dicta indicating that these types of additional insured obligations should also be void, but the Maryland Court of Appeals has not yet ruled on the specifics of any given case.

To ensure the greatest amount of protection and clarification of rights and obligations, it is wise to seek advice from counsel to redline and negotiate the indemnification language, as well as advice from counsel when an incident occurs and complex litigation is pending. This is especially true when the work is crossing state lines where indemnity risks may be different.

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Other account numbers are generally assigned as follows:

- 2000 series is for liabilities;
- 3000 series is for equity accounts;
- 4000 series is for sales (or revenue) accounts;
- 5000 series is for cost of sales;
- 6000 series is for operating expenses;
- 7000 series is reserved for interest and income taxes; and
- 8000 and 9000 series are for other income and expenses.

Customarily, accountants organize their 6000 series (operating expenses) in alphabetical order to make line items easier to locate on the financial statements. To keep reports alphabetized in the future, it's helpful to skip numbers between accounts in case new line items need to be inserted later on.

**Name Accounts Succinctly**

Some forethought also should be given to how you name accounts. For example, the name “transportation” might be mistaken as an asset; instead, the term “vehicle costs” might be more descriptive when reporting expenses related to your vehicle fleet.

Likewise, “sales tax expense” denotes a cost to the end user, not the construction firm. A more appropriate account name might be “sales tax payable” to convey the nature of the obligation.

Also ensure account names are not overly ambiguous. For example, instead of the term “discounts,” considering using “sales discounts” for discounts given to customers and “purchase discounts” for discounts taken on supplier invoices.

Keep in mind that a financial statement done properly with appropriate contract schedules is a wonderful management tool. The Hoffman Group's outsourced accounting and CFO service team specializes in the construction niche and can provide guidance to enhance your financial reporting. Contact us for help in preparing more meaningful, user-friendly and professional-looking financial reports.

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claims by downstream employees. Having defenses to payment, however, does not solve the problem of increased costs incurred on a given project for downstream wage violations.

General contractors can take several actions:

1) Review and revise its indemnification clause in its subcontracts and purchase orders;
2) Review and revise its lien and claim waivers;
3) Require insurance coverage or bonds to protect against wage and payment claims;
4) Require information from its subcontractors regarding its financial solvency, its wage payment practices and wage claim history; and/or
5) Increase its oversight regarding downstream employee wages.

Yes, the risk can be managed, but it comes at a cost. Not only to general contractors but to the industry as a whole. The potential costs cannot be overstated.

**It’s time to dust off those subcontracts** and review your subcontract’s indemnification clause carefully. If you would like to learn more about what provisions to look out for and how to get a contract you can work with, I offer in-house seminars on contract review and negotiation at no cost to your firm.

Tracy L. Steedman, a partner at Adelberg Rudow, specializes in construction law. She partners with small and large construction and design firms in preparing risk mitigation strategies, claims avoidance and counseling, and pre-litigation alternative dispute resolution processes. A large portion of her practice is contract drafting and review, and as a litigator, she is familiar with how the courts interpret contracts. Feel free to contact Tracy at 410.986.0822 or tsteedman@adelberg.com.

**“A leader is one who knows the way, goes the way, and shows the way.”**  
~ John C. Maxwell
**Coming Soon**

**June 12th – “Wisdom & Wine” Presentation With Networking**
PK Law Office - Towson
4:00 – 6:30 p.m.

**July 26th – “Summer 2018” Direct Connect Networking Extravaganza**
The Crazy Tuna - Essex
5:00 – 7:30 p.m.

**August 2nd – “Project Tour” With Networking**
The Fox Building - Hampden
3:30 – 7:00 p.m.
(Rescheduled From 6/13/18)

**September 20th – “Direct Connect Networking” & Pre Networking Presentation**
Hayfields Country Club - Hunt Valley
3:00 – 7:30 p.m.

**October 17th – 10th Annual “Meet The Primes”**
Timonium Fairgrounds - Timonium
8:00 a.m. - Noon

**October 23rd – The Blue Book Showcase**
M&T Bank Stadium - Baltimore
Time: TBD

**October 24th – “Direct Connect Networking” & Pre Networking Presentation**
Location: TBD
3:30 – 7:30 p.m.

**November 14th – “Direct Connect Networking” & Pre Networking Developer-Builder Forum**
Manor Country Club - Rockville
3:00 – 7:30 p.m.

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Great benefits along with company paid health insurance. Interested applicants contact Verna Regler at verna@mdconstructionnet.net.

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“Pleasure in the job puts perfection in the work.”

~ Aristotle

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“Learning networking basics is only a gateway to career growth and exploration.”

~ Tae Yoo

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