

CFMA Great Lakes Regional Conference



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TAX LAW CHANGES AND TAX CONSIDERATIONS FOR THE CONSTRUCTION INDUSTRY



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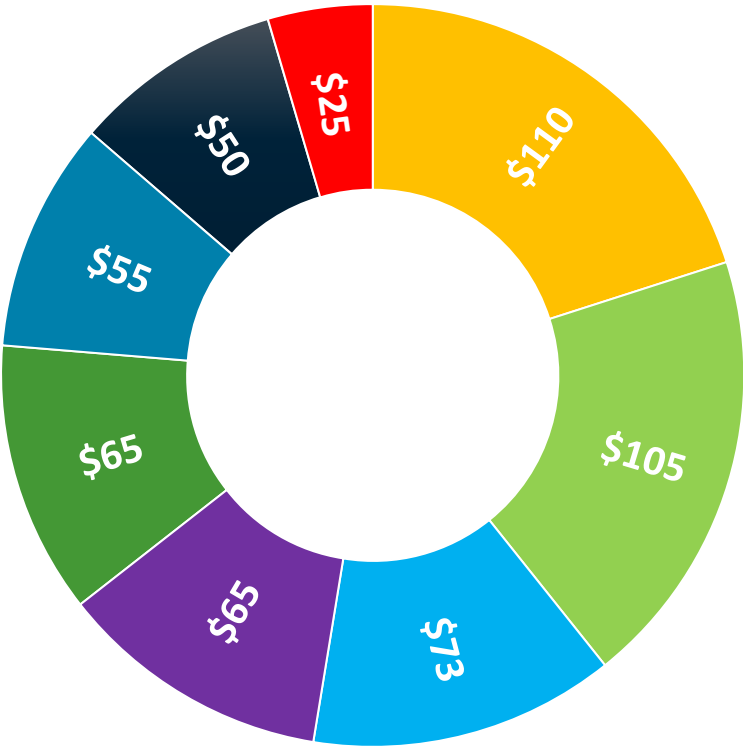
WHERE DO THINGS STAND?

- New legislation
 - Infrastructure Bill Passed
- Build Back Better bill stalled in Congress
- Contact your trusted advisor ASAP
- Have a plan in place before changes come into effect



\$1.2 T - BIPARTISAN INFRASTRUCTURE DEAL

\$550 Billion in New Additional Spending



- Roads, Bridges, and Major Projects
- Public Transit/Passenger and Freight Rail
- Power Infrastructure
- High-Speed Internet
- Clean Drinking Water
- Resilience and Western Water Infrastructure
- Airports
- Additional Programs

Build Back Better Framework

- Initial cost of \$3.5 trillion, can't agree on a cost
- Negotiations in the House and Senate have stalled
- Biden has plan to introduce sections of Build Back Better Framework as separate bills
- Some congress members have currently referred to the Build Back Better bill as “dead”



BUSINESSES



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Business Interest Expense Limitation

- Limited interest expense at the entity level for most businesses (§163(j))
- Limitation is based on “Adjusted Taxable Income,” which, through 2021, was similar to tax basis EBITDA
- In 2022, “Adjusted Taxable Income,” will now be subject to tax basis EBIT

Research & Development Expenses

- Pre 2022 – R&D expenses are deductible as incurred
- Beginning in 2022
 - R&D expenses are required to be capitalized
 - Capitalized amounts would generally be amortized over 5 years.
- Increasing Research and Development tax credits can be an option for contractors

DEPRECIATION OUTLOOK

	Limits	Qualified Property
Section 179 Maximum expense election	2021 - \$1,050,000 2022 - \$1,080,000	<ul style="list-style-type: none"> Machines and equipment Computers Office furniture and equipment ROOFS (not for bonus depr)
Phase-out threshold	\$2,620,000	
Bonus Depreciation	100% of purchases	Generally, applies to depreciable business assets with a recovery period of 20 years or less

	2021 & 2022	2023	2024	2025	2026
Bonus Depreciation	100% of all purchases	80%	60%	40%	20%

20% QUALIFIED BUSINESS INCOME DEDUCTION

- Taxpayers may be eligible to receive a 20% deduction of **Qualified Business Income (QBI)** from a domestic business operated as a:
 - Sole-proprietorship
 - Partnership
 - S-Corporation
 - Trust
 - Estate
- QBI deduction can be taken by Individuals and by some trusts and estates.
- C corporations are not eligible to take this deduction.
- QBI is Temporary – Deduction expires 12/31/2025



MICHIGAN FLOW THROUGH ENTITY TAX

- On 12/20/21, Michigan introduced a “workaround” to the SALT cap for itemized deductions
- The flow through entity tax is optional. Entities must elect into this treatment and the election cannot be revoked for the following two tax years.
- A separate tax return has been introduced at the entity level
- Payments related to this flow through entity tax can be deducted from Federal taxable income at the entity level
- Michigan Flow Through Entity Tax payments will flow through to the passthrough owner’s personal Michigan tax return and will be a credit towards taxes paid
- Quarterly estimates must be made moving forward related to the MI Flow Through Entity Tax

THINGS TO BE AWARE OF

- **Net Investment Income Tax (NIIT)**

- Business income is subject to 3.8% NIIT if the owner is passive in the business.

- **Excess Business Losses**

- Imposed limit of \$250,000 (Single)/\$500,000 (MFJ) limit on business losses by noncorporate taxpayers.
- Excess carried forward as a Net Operating Loss (NOL)
- Limitation suspended in 2020, but back in 2021
- Limitation is set to expire at end of 2025.



MEALS AND ENTERTAINMENT

- **Meals – 100% deductible in 2021 and 2022**
- **Entertainment – 0% deductible in 2021 and beyond**
- **Example:**

Taxpayer takes a client to a Red Wings game. During the game, the taxpayer and the client have 4 beers and a couple slices of pizza. The tickets to the Red Wings game would be nondeductible and the beers and pizza would be fully deductible in 2021 and 2022.



EMPLOYEE RETENTION CREDIT - 2020

- Eligible employers may take a credit based on qualifying wages.
 - Amount of credit = 50% of wages
 - Wages include allocable group health insurance
 - Credit is capped at \$5,000 per employee for the year
 - Calculation of qualifying wages will depend upon the number of employees of the employer

- An employer is eligible for the credit if they have:
 - Fully or partially suspend operation during any calendar quarter in 2020 due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19; or
 - Experience a significant decline in gross receipts during the calendar quarter (more than 50% reduction in gross receipts compared to the same quarter in 2019)

EMPLOYEE RETENTION CREDIT - 2021

- Eligible employers may take a credit based on qualifying wages.
 - Amount of credit = 70% of wages
 - Wages include allocable group health insurance
 - Credit is capped at \$7,000 per employee ***per quarter***
 - Calculation of qualifying wages will depend upon the number of employees of the employer

- An employer is eligible for the credit if they have:
 - Fully or partially suspend operation during any calendar quarter in 2021 due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19; or
 - Experience a significant decline in gross receipts during the calendar quarter (more than **20%** reduction in gross receipts compared to the same quarter in 2019)

EMPLOYEE RETENTION CREDIT

Changes made by Infrastructure Bill

- Wages paid after 9/30/2021 are no longer eligible for this credit.
- Credit can still be claimed for 2020 and January – September 2021.
- Recovery Startup Businesses can still claim credit through December 31, 2021.
 - Began operations after February 15, 2020, and
 - Average annual gross receipts of \$1 million or less, per §448(c)(3).

CARES ACT ITEMS TO BE AWARE OF IN 2021 AND 2022

- Paycheck Protection Program (PPP) Loans
 - Did you receive a PPP Loan?
 - Has your PPP Loan been forgiven?

- Deferred Payroll Taxes – employer portion
 - Did you defer your employer portion payroll taxes in 2020?
 - Did you repay the first half of your deferred payroll taxes by 12/31/21?
 - Are you prepared from a cash flow standpoint to make your second half payment by 12/31/22?

SECTION 179D

- Tax deduction of \$1.80 per square foot is available to owners of new or existing buildings who install:
 - Interior lighting;
 - A building envelope; or
 - Heating, cooling, ventilation, or hot water systems
- These new systems must reduce the energy and power cost of the system by 50% or more in comparison to a building meeting minimum requirements by ASHRAE in order to qualify for the additional deduction
- Partial deductions can be taken for partially qualifying property
- Section 179D is now a permanent program as enacted as part of the Consolidated Appropriations Act of 2021

NET OPERATING LOSS UTILIZATION

Due to various tax law changes over the past 5 years, there may be limitations on how prior year NOLS can be utilized.



NOLS GENERATED ON OR BEFORE 12/31/2017

- Two-year carryback
- 20-year carryforward
- Eligible to offset 100% of taxable income

NOLS BEGINNING AFTER 12/31/2017 AND BEFORE 1/1/2021

- Five-year carryback
- Indefinite carryforward
- Eligible to offset 100% of taxable income prior to 2021 and 80% of taxable income after 2020

NOLS BEGINNING ON OR AFTER 1/1/2021

- No carryback
- Indefinite carryforward
- Eligible to offset 80% of taxable income

TAX PLANNING FOR CONTRACTORS

- Review your WIP schedule closely at year
 - Many project managers like to “sandbag” and are more conservative and jobs finish with gain at the end.
 - Some project managers like to get results throughout the year and at the end jobs result with “gain fade”
- Assess whether your company qualifies for the Cash Basis Method
 - The best method to defer income allowed to contractors
 - 3 year tax revenue average now \$26 million (\$27 million in 2022)
- Maximize Bonus Depreciation and Section 179 to get the biggest deduction
- WIP percentage of completion planning

INDIVIDUALS



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CURRENT RATES – INDIVIDUALS*

Individual Rates

Ordinary Tax Rates - 2021	
Tax Rate	Income
10%	\$0 - 19,900
12%	\$19,901 - \$81,050
22%	\$81,051 - \$172,750
24%	\$172,751 - \$329,850
32%	\$329,851 - \$418,850
35%	\$418,851 - \$628,300
37%	Over \$628,300

INDIVIDUAL TAX PLANNING TIP: CONVERTING 401(K) OR IRA TO A ROTH IRA



- Reasons to Consider:
 - There is no required minimum distribution (RMD) with a Roth IRA
 - Withdraw money at anytime once you reach the age of 59 ½ without suffering a penalty
 - Donate to charity tax free using a qualified charitable distribution
 - Negative – you have to pay tax on the conversion currently

- Estate & gift tax lifetime exclusion:
 - 2021 - \$11,700,000
 - 2022 - \$12,060,000
 - Amount will be indexed for inflation each year through 2025
 - Estate & gift tax exemption is scheduled to revert back to 2017 amounts after December 31, 2025.
- Estate planning is still very important for administration of estate upon death.
- Annual exclusion amount for purposes of gifting
 - 2021 - \$15,000
 - 2022 - \$16,000

Transfers During Lifetime

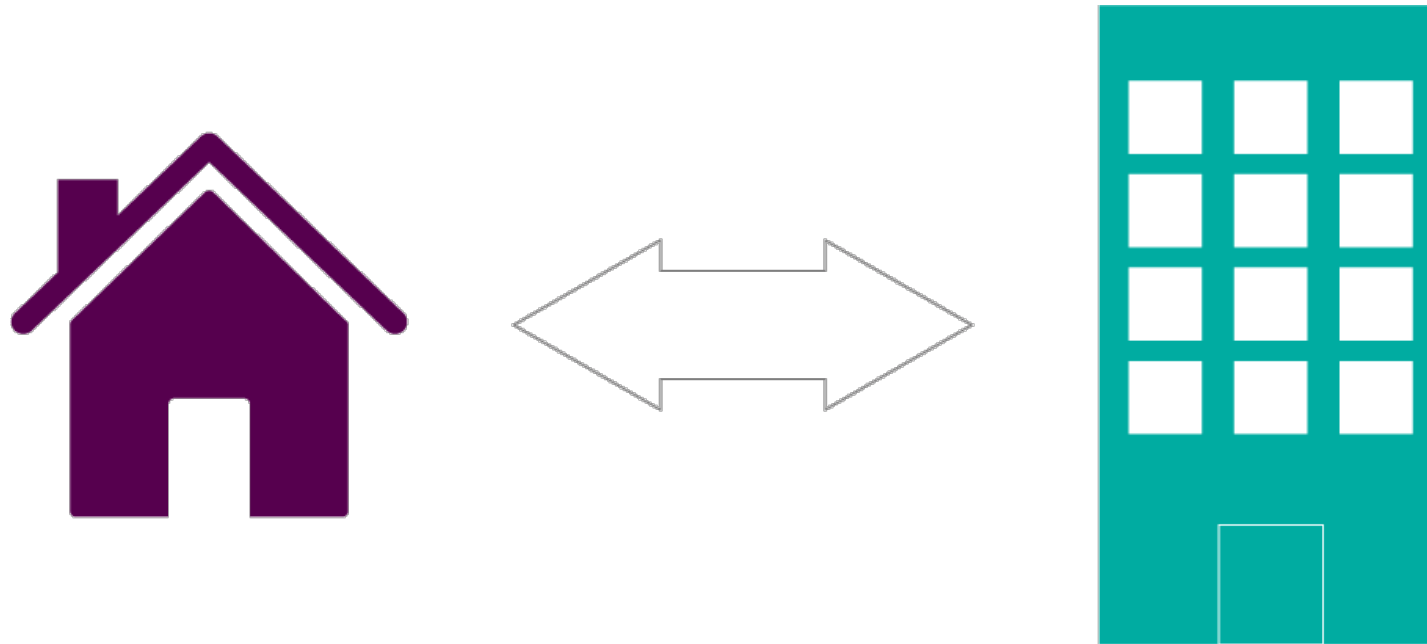
- Valuation Discounts
 - Lack of Marketability
 - Lack of Control
- Transfer by Gift
- Transfer by Sale
- Assets Grow Outside of your Estate
- Maintain Control of your business
 - Gift non-voting stock
 - Utilize trusts to hold stock



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LIKE-KIND EXCHANGES

Gain deferral for like-kind exchanges is limited to real property that is not held primarily for sale



TAX PLANNING TIPS IN GENERAL

- The golden tax rule is “Defer, Defer, Defer” (USUALLY)
- Discussing with your trusted business advisor is crucial



CONTACT INFORMATION

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ABOUT OUR FIRM

LOCAL

- More than 50 years of experience
- Ranked 5th largest accounting firm in Southeast Michigan by Crain's Detroit Business
- Over 450 employees in Ann Arbor, Detroit, Farmington Hills, Port Huron and Sterling Heights
- Largest accounting firm presence in Macomb County
- Practice leaders with Big 4 experience and training

NATIONAL

- 23 offices across the US
- One of the top professional services firms in the country
- PCAOB registered
- Most recent peer review resulted in a *Pass* opinion, the highest possible result
- Over 1,000 professionals providing comprehensive audit, attest, tax, advisory and related services

INTERNATIONAL

- Member firms in nearly 330 business centers across more than 100 countries
- Over 8,500 professionals
- 18th largest international accounting and consultancy network
- Member of the Forum of Firms

US LOCATIONS

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Irvine, CA 92618
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CONNECTICUT

FARMINGTON

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Seychelles
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Uganda
United Arab Emirates
Zambia



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SELECT SERVICE OFFERINGS

TAX PLANNING & COMPLIANCE

- Strategic tax planning
- Business formation and entity structuring
- State and local taxes and incentives
- Unclaimed property
- Estate and gift tax
- Succession planning
- International tax compliance
- Transfer pricing
- Research and development credits
- Cost segregation

AUDIT & ASSURANCE

- Audits, reviews and compilations of financial statements
- Audits of financial statements of employee benefit plans and pensions
- Financial forecasts and projections
- Attestation services including agreed-upon procedures reports and service auditor reports (SSAE 19)
- Financial reporting assistance
- Due diligence
- Audit committee advice

CORPORATE FINANCE

- Sell-side and buy-side advisory
- Financial and commercial due diligence
- Financial planning and analysis
- Employee stock ownership plans (ESOPs)
- Capital raising

CONSULTING

- Business and strategy
- Organization and operations
- Finance and accounting
- Technology innovation
- Cybersecurity and privacy
- Solution partners

BUSINESS VALUATION

RESOURCE SOLUTIONS

- Interim solutions and loan staff
- Professional search and permanent placement

CLIENT ACCOUNTING ADVISORY SERVICES

- CFO and controller services
- Financial statement preparation and advisory
- Technology solution deployment
- Accounts payable and accounts receivable services
- Reconciliations (e.g., bank, credit card)
- Sales tax filing and management

OTHER ADVISORY

- Forensic accounting and expert witness
- Special purpose acquisition company (SPAC) support services
- Crisis management
- International business services