

CONSTRUCTION INSIDER

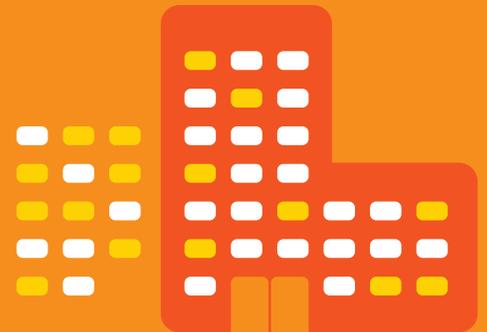
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In This Issue:

Road Bill Vetoed By Governor Snyder

Electronic Filing of Construction Plans

Section 199, Domestic Production Activities Deduction



ROAD BILL VETOED BY GOVERNOR SNYDER

In July, Governor Rick Snyder vetoed Senate Bill 557, dubbed the Road Bill. This bill, which would be an amendment to Public Act 51, would have eliminated some localities' responsibility to pay a portion of the repair costs for state highways and interstates that run through their city borders. The bill would have removed the current cost-sharing provision and put the full financial responsibility on the Department of Transportation to raise the appropriate funds to maintain and update the State owned roads throughout Michigan.

The bill was introduced and sponsored by Senator Marty Knollenberg of Troy in October of 2015 and passed unanimously in both the Senate and in the House in May and June 2016, respectively. Senator Knollenberg and was very disappointed with the Governor's decision to veto. "I'm going to fight and fight and fight. Our cities deserve better. It's unfortunate because you've got the Michigan Department of Transportation (MDOT), which is benefitting at the expense of local governments. It's the big guys versus the little guys and today, the little guys lost."

In order to overturn the Governor's veto there will need to be a two-thirds majority vote in both the House and the Senate.

In response to his veto letter, Governor Rick Snyder stated "The bill seeks to mitigate a provision that can, on occasion, create road funding challenges for some communities. However, eliminating local government cost sharing altogether is a piecemeal approach to what needs to be a much broader discussion."

The Governor was concerned that the bill goes too far in its affect for a variety of reasons. In some cases, cost sharing seems reasonable. For example, for roads like Woodward Avenue and Telegraph Road, which are critical commercial corridors in their community. In addition, Public Act 51 currently requires MDOT to distribute additional resources for communities with larger populations and more miles of major trunk line. Eliminating cost sharing and keeping this current requirement (as proposed in the bill) would cause even more inequality. He agrees Public Act 51 should be revised, and has asked the Legislature to work alongside with his administration to collaborate on a revision by the end of this year.

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ELECTRONIC FILING OF CONSTRUCTION PLANS



The Michigan Department of Licensing and Regulatory Affairs (LARA) implemented new web-based software systems called Accela and e-PlanCheck. These systems will allow online submission of construction plans, permits and all other necessary construction documents. Within these systems, the documents will be submitted, reviewed and approved solely online. The current status of the submitted documents is available 24 hours a day 7 days a week within the new systems. The State of Michigan oversees the licensing and regulation of over 1.2

million entities annually and therefore, these systems will greatly increase the efficiency of the permitting process and help them to better serve citizens, contractors and other business professionals.

After a short registration on the Department of Licensing and Regulatory Affairs (LARA) website, users will be able to submit all documents that were previously filed in paper form. While this process will shorten the approval process and allow for on-demand access to status, it is an optional service and users

still have the option to continue to file paper forms.

“Under this innovative electronic plan review process, our bureaus can work more cohesively with each other and with our customers toward building a better Michigan. The ‘one-stop’ platform offers wide-ranging benefits and saves our customers valuable time and money, while allowing our department to make more efficient use of resources.”
-LARA Director Shelly Edgerton

SECTION 199, DOMESTIC PRODUCTION ACTIVITIES DEDUCTION

The domestic production activities deduction (DPAD) provides a deduction for many businesses engaged in construction activities. The deduction is currently 9%. Owners of flow-through entities (partnerships, LLCs or S corporations) will take the deduction on their personal income tax returns after combining the income (or loss) from each qualifying activity.

In general, compensation for the performance of construction services qualifies for DPAD deduction, but not all construction activities qualify. If a construction company has both qualified and nonqualified activities, an allocation of revenues and expenses must be made in order to calculate the deduction.

Therefore, the starting point in calculating DPAD deduction is to determine which activities qualify, and which do not.

WHICH CONSTRUCTION ACTIVITIES QUALIFY?

1. General contractor services.

Activities performed by a general contractor qualify for the deduction. This includes activities relating to management and oversight of the construction process such as approvals, periodic inspection of the progress of the construction project, and required job modifications.

2. Infrastructure. Construction activities involving infrastructure, including the development of roads, power lines, water systems, sewers, cable and wiring, etc., are qualifying activities.

3. Services. Activities such as hauling trash and delivering materials (referred to as tangential services) may only be deducted if they are done by the company performing the qualified construction activities. Grading, demolition, clearing, excavating, and other similar activities that physically transform the land qualify only if they are

performed in connection with other qualifying construction activities (whether or not by the same taxpayer).

Landscaping and painting qualify only if they are done in connection with other qualifying construction activities (whether or not by the same taxpayer).

4. Administrative support services.

These services, which include billing and secretarial services, are considered qualifying construction activities if provided by the taxpayer performing construction activities.

5. Sale of construction warranties.

If the warranty is neither separately stated from the construction property, nor separately offered by taxpayer or separately bargained for by the customer, then it will qualify.

WHICH CONSTRUCTION ACTIVITIES DO NOT QUALIFY?

1. Equipment rental. Leasing, licensing, or renting equipment, such as bulldozers, generators, or computers, is not a construction activity, even when this equipment is used in the construction of real property.

2. Land. When land is sold as part of a construction project, the proceeds from the sale of land must be separated from the proceeds from the sale of a house or building. Land costs include zoning, planning, and entitlement costs. "Safe harbors" have been developed to provide guidance on how to calculate the deduction in these situations.

3. Other nonqualified activities. The sale of real property acquired by purchase is not a qualifying activity.

The production of items that are used in the construction of real property, such as glass, bricks, etc., is not a qualifying activity.

The sale of personal property, such as furniture, sold as part of a construction project, is not a qualifying activity.

Construction activities taking place outside of the United States.

DE MINIMIS EXCEPTION

If less than 5% of the total gross receipts derived by a taxpayer from a construction project are derived from nonqualified activities, the total gross receipts may be treated as qualifying for purposes of the DPAD.

Proceeds from the sale of land are not included in calculating the de minimis exception.

These aspects of the DPAD represent only a portion of the law as a whole. A thorough knowledge of construction accounting is needed to apply DPAD properly. For more information, please contact a member of the firm's Construction Practice in Detroit 313 964 1040, Farmington Hills 248 355 1040 or Sterling Heights 586 254 1040, or visit us on the web at www.uhy-us.com.



The current Domestic Production Activities Deduction (DPAD) is 9%.



CONSTRUCTION INDUSTRY INSIGHT

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As active members of various national, state and local construction associations, state housing councils and specialty trade groups, our team keeps alert to industry trends and opportunities. Our

professionals are leaders in the industry and take the steps necessary to ensure our client's future success by identifying and addressing new accounting requirements and regulations. You can depend on us to anticipate major industry issues that might impact your company and help you structure workable solutions.

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