

**STATEWIDE
EDITION**

**August 20,
2010**



**Empire State
Chapter**

Associated Builders and Contractors—Empire State Chapter

MERIT MESSENGER

ABC HAILS INTRODUCTION OF AMERICAN JOB BUILDERS TAX REFORM ACT

Washington, D.C. – Associated Builders and Contractors (ABC) today hailed the introduction of the American Job Builders Tax Reform Act of 2010 (H.R. 6097), a bipartisan bill, sponsored by Reps. Wally Herger (R-Calif.) and Shelley Berkley (D-Nev.), that will modify the tax code to help small construction contractors that are facing increased costs in energy, labor and materials.

“For far too long, construction contractors have been forced to pay income taxes on projects based on estimates rather than having the option of paying taxes when the contract is completed,” said Robin Word, chairman of ABC’s Tax Advisory Group and president of Word CPA Group in Jackson, Miss. “The definition of ‘small contractor’ under this bill will enable more contractors to report contract income at the conclusion of their jobs. “What is exciting is that this bill’s provisions will enable contractors to retain capital in their businesses for a longer period of time thereby enabling both investment and potential opportunities for job growth,” said Rich Shavell, CPA, a member of ABC’s Tax Advisory Group and president of Shavell & Company, P.A. in Boca Raton, FL.

Under current law, construction contractors cannot use the completed contract method (CCM) accounting method if average annual gross receipts exceed \$10 million - a figure that has not been adjusted for inflation since the threshold’s inception in 1986. Instead, contractors are required to use the percentage of completion method, or PCM, which does not accurately reflect results because of the required use of estimates. The American Job Builders Tax Reform Act increases the threshold to \$40 million and also indexes the threshold for inflation.

The bipartisan bill also provides relief from Alternative Minimum Tax (AMT). Since H.R. 6097 allows for small construction contractors to utilize CCM, taxes on the gross profit can be deferred until the project is complete. However, under current law gross profit is not deferred for AMT purposes. Therefore, the provision in HR 6097 to eliminate this AMT adjustment will help small contractors to avoid falling into the AMT trap.

By increasing the threshold and eliminating the AMT adjustment under this bill, small construction contractors will no longer be subject to “look-back” calculations for both regular and AMT purposes. Current law requires that when a contract is completed, the contractor must “look-back” and perform calculations that substitute the actual costs and revenues for the estimated costs and revenues that were used in the PCM calculations.

ABC OFFERS TWO UPCOMING WEBINARS

ABC ANNOUNCED two upcoming webinars. On Aug. 31, ABC General Counsel Maurice Baskin will discuss prevailing wage and fringe benefit requirements in "Complying with the Requirements of the Davis-Bacon Act." On Sept. 28, a group of experts from Venable LLP will discuss how new health care developments will affect construction companies in "Health Care Reform Law Updates and Regulations." For more information or to register, visit www.abc.org/webinars.

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EMPIRE STATE CHAPTER DATES TO REMEMBER

5:00 p.m. Monday, August 23, 2010

**Rochester Meet & Greet Carl Paladino
Diplomat Banquet Center & Hotel**

5:30 p.m. Thursday, September 9, 2010

**Metro/LI Member Meeting Nyack Location
Best Western Nyack on the Hudson**

11:30 a.m. Friday, September 10, 2010

**Metro/LI Member Meeting Plainview
Plainview Holiday Inn**

3:00 p.m. Saturday, September 18, 2010

**WNY ABC Picnic
Chestnut Ridge Park**

7:30 a.m. Monday, September 20, 2010

**Rochester "Meet the Candidates"
Steamboat Landing**

3:00 p.m. Tuesday, September 21, 2010

**Rochester Quarterly Apprenticeship
Seminar**

METRO/LONG ISLAND REGION DEFEATS PLA

Tuesday, August 17th, 2010 proved to be a "Hot August Night " at the Orangetown Town Hall. On that night approximately 85 Merit Shop Contractors led by Ruth Mulford (LI/Metro Regional ABC VP) together with Tom Walsh (of member law firm Jackson-Lewis), Tom Bertussi (Pearl River Plumbing & Heating) and Paul Valentine (Valentine Electric) stood their ground and prevented what was to be a vote to put a PLA on work to be done at the Town's Blue Hill Golf Course. Although a small project (\$ 1.3 million), this became a focal point of the need for Merit Shop Contractors to stand together to stop the increasing numbers of PLA's popping up around Rockland County. As a result of the meeting, the Town Council will put out an RFP for a Construction Manager to oversee the project to insure its completion by March 2011. The Board did not completely rule out using a PLA if the CM were to prefer using one, but the PLA issue is dead for now. This is the third time this summer a PLA has been averted by ABC members showing up and speaking up! We must make our message heard! We can defeat these PLA's!

LONG ISLAND GRADUATION CEREMONY

Long Island/Metro celebrated their first graduation ceremony with 24 attending on August 5th, with a buffet dinner at the Holiday Inn in Plainview. Six of the 15 graduating students attended our first ceremony. The recent graduates are: Greg Russo (Pav-Lak) Carpentry program, Tom Helms (Chesterfield Assoc.) operator program, Jeremy Aragonas (DF Stone) craft laborer program, Michael Manglaviti (Chesterfield Assoc.) craft labor program, Matthew Heinlen (DF Stone) operator program, Brian Stanek (Frendolph Construction) craft laborer program, Michael Robinson (Ocean Electric) electrical program, Shaun Tiberie (C.M. Richey Electric) electrical program and Chris Benn (Ocean Electric) electrical program. Pictured are: Emerson Badger (Arcon Electric) electrical program, Ryan Morris (Relle Electric) electrical program, Eric Roye (LD Wenger Construction) Craft Laborer program, Shawn Gallo (Hi-Lume Corp.) carpentry program, Gerard Michels (TRS Construction) operator program, Abdus Bhuiyan (Sal's United Services) carpentry program. Instructors Matt Rossback, Bill Zajec and George Guide also attended.

ROCHESTER REGION WAGING EFFORTS TO STOP PLA'S

The ABC Rochester Region recently received approval for a 45% match in funding from ABC National. The monies will be utilized towards the cost of a billboard that will go up September 3rd protesting Project Labor Agreements (PLAs). This campaign is off to a grassroots start; a flyer was developed (to view go to http://www.abcnys.org/Regional_Offices/Greater_Rochester.aspx) and has gone out to Rochester members and other various mailing lists on file. This effort will be followed up by two op-ed pieces; one drafted by Marci Miller that a local PR firm is assisting with placement in the Democrat and Chronicle, the other drafted by Council member Ronney Finke of Gypsum Systems Interiors and will run at the end of the month in the Rochester Business Journal. We have fears of these PLAs being imposed on several upcoming projects hence the urgency of public education and involvement.



WNY Golf Event

In the picture to the left, ABC Empire State Chapter Board President Jim Collins and his Milhurst Construction foursome participated in the WNY Region's annual golf event. Over 100 golfers participated. A portion of the proceeds benefited Big Brother and Big Sister of Western New York.

MANATT ALBANY UPDATE

On August 3rd, one hundred twenty-five days after the constitutional budget deadline, and just over one week from the record for the latest State budget ever, the Legislature completed its work on the 2010-11 budget with the passage of the Revenue portion of the budget. The Senate's passage of the Revenue bill, after some last minute wrangling, ended what was one of the most unusual budget processes in recent memory, with the Governor challenging the Legislature to either approve his emergency budget bills – comprised chiefly of portions of his Executive budget proposal – or shut down State government operations. The Legislature's ultimate acquiescence, coupled with the Governor's veto of thousands of appropriations added by the Legislature, resulted in significant, across the board budget cuts.

The Revenue bill will raise approximately \$1 billion in revenue necessary to balance the appropriations approved by the Legislature in June of this year through the temporary elimination of the sales tax exemption on clothing and footwear under \$110, the deferral of business tax credits over \$2 million until 2013-14, a fifty percent reduction on the tax benefits of charitable contributions from taxpayers with an adjusted gross income greater than \$10 million, and limits on the STAR property tax exemption for high-income New York City residents. The final budget is estimated at \$134.4 billion, a 2.4% increase over the 2009-10 budget, and is expected to address a projected \$9.2 billion current year deficit.. In the Senate, this final budget piece passed 32-28 - along party lines, while the Assembly approved the bill, 88-57.

In addition to its passage of the budget, the Legislature approved a FMAP "contingency plan" to address the prospect that Congress may not approve enhanced FMAP funding – for which New York has budgeted \$1.1 billion. On September 16, 2010, the Division of the Budget would be authorized to implement a plan for across the board percentage reductions to portions of the enacted budget. Funds would begin to be set aside at that point and, if no Congressional action is taken to extend enhanced FMAP by November 15th, the statute contemplates that the Legislative leaders and staff would "meet to review the impact of the uniform reductions and discuss potential alternative reductions." At that time, conceivably, the Legislature could develop and pass alternative plan, and hope the Governor approves the same. Of course, if Congress approves the FMAP funding, in whole or in part, as now appears likely, the FMAP contingency plan may not have to be fully implemented. Even a partial restoration of FMAP, along with substantial new education funding contemplated by Congress, may make any further cuts to the State budget unnecessary..

The Legislature also passed a few other fiscally-related bills, including an extension of the Power for Jobs Program, which provides low-cost electricity to businesses located in New York and some provisions modifying and extending the tax credit program for the New York State film industry.