

BULLETIN



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Message from BCA President, Steve Alessio



Steve Alessio

Safety First, Safety Second, Safety Always

Unfortunately the issue of jobsite safety has been in the headlines in recent months. I say “unfortunately” because it seems the only time safety makes the headlines is when there is an accident on a jobsite. When accidents occur, the media and public at large focus on the incident for a short period of time and then go back to their normal routines. Quite often elected officials choose to use the unfortunate situation to garner some publicity for themselves.

Those of us who work in the construction industry deal with the issue of safety every single day. There is no subject of greater importance than the safety of the people we employ or the public we serve. Our industry is one of the most dangerous. Only coal miners are at greater risk while on the job. Just ask an ironworker who is hoisted 50 stories above the city, raising the steel beams of the next skyscraper, or the laborer who is hundreds of feet below ground, digging the tunnels for the new Second Avenue subway line. Our work is dangerous and no one has to remind us. We live it every day.

Following a series of high profile accidents on construction sites around the city, the leaders of the organized construction industry got together to review the current

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BCA Celebrates 75 Years



Paul O'Brien

This year the Building Contractors Association marks a major milestone in its long history, 75 years of building and growing New York. Since its inception in 1933, with nine signatory construction contractors, the BCA has advanced New York’s construction industry not only in the structures that our members have built, but also in the development of a professional community of management and labor that contributes to the vitality of New York’s economy. The BCA has set and maintained the economic standards for fair and competitive wages and benefits that fuel the economy and maintain New York City’s communities.

We have created a partnership between labor and management that sustains and grows New York’s construction industry. Over the past 75 years, the BCA has set the industry standard for negotiation and collaboration.

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Message from BCA President Steve Alessio

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situation and develop a plan to promote public and worker safety. As has always been the case when the construction industry is faced with a new challenge, or needs new approaches to an old one, the BCA is there developing and implementing standards that become the accepted business practices within the construction industry. Jobsite safety is the perfect example. No issue is more important. Working with the Building and Construction Trades Council, the Building Trades Employers' Association, the Real Estate Board of New York, and the appropriate government agencies, the BCA has been a leader in developing, maintaining and monitoring the regulations and laws implemented to enhance jobsite safety.

On July 1st, the formation of the 17-member Construction Industry Safety Council was announced. The BCA is well-represented on this council with six of the 17 seats. The goals of the CISC

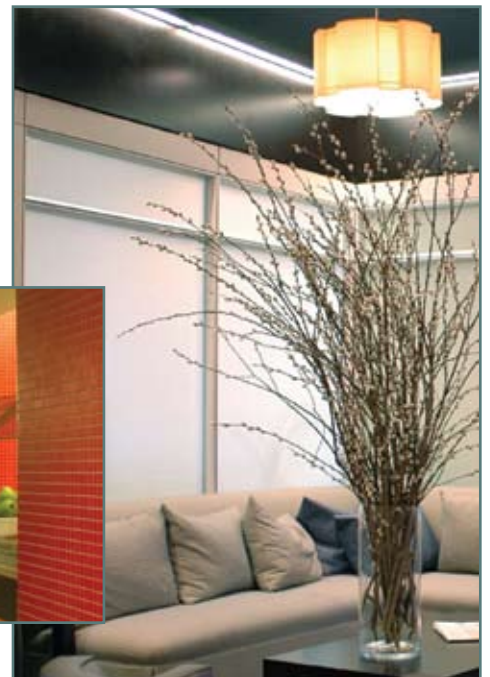
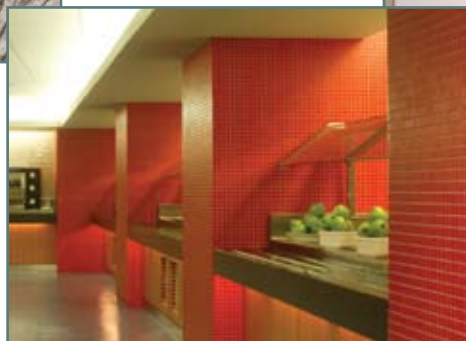
include sharing best practices and procedures for improving safety, conducting research on safety practices being utilized on other parts of the country, assisting the Department of Buildings in monitoring compliance, raising public awareness, and representing the interests of the industry in dealing with government agencies.

According to the Occupational Safety & Health Administration, New York has the best safety record in the world. However there is still much we can do to improve on that. That is why throughout its 75 year history the BCA has been at the forefront to develop and maintain the highest safety standards possible. It seems only fitting that as we mark our 75th anniversary we re-affirm our commitment to jobsite safety. I can think of no better way to honor our past, or prepare for the future. ■

Save The Date: New York Sales Tax Seminar

New York's Tax Department is stepping up its efforts to collect every penny, plus interest and penalty, that it can in these times of increased budgetary hardship. The construction industry remains a ripe target for sales tax audits. Cunningham & Cunningham, LLP, the BCA's counsel, has advised many members on the ins and outs of New York sales tax compliance. This timely seminar will provide important "need to know" information for contractors.

Thursday, November 6, 2008
8:30 AM
451 Park Avenue South
New York City



BCA Celebrates 75 Years

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As a result, the partnership between labor and management is the envy of all other industries.

Our strength is derived from our diverse membership. The BCA includes construction contractors of all sizes, performing a broad scope of work from new core and shell construction, to comprehensive interior alterations. The men and women who comprise the BCA's membership are amongst the finest industry professionals. They represent our 75 year history and at the same time they mirror the future of New York's construction industry.



The future holds great promise for our industry. But as we have seen over the past 75 years, great opportunities are often met by great challenges. Some challenges are never ending. Maintaining a safe and healthy jobsite always has been a top priority. New technology has given us the ability to build bigger and faster. Bigger and faster still requires that we maintain a safe jobsite. As responsible business leaders and good citizens, our commitment to a safe work environment will remain our top priority.

Our commitment to our members, our industry and our city and state will continue to grow and strengthen in the years to come. We know that the next 75 years will be even more dynamic. The BCA stands ready to advance our proven tradition of a quality construction industry, with a trained, skilled and safe workforce. ■

Paul O'Brien
Managing Director

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Construction Industry in Crosshairs of State Task Force

In December 2007, former Governor Spitzer issued an Executive Order establishing The Joint Enforcement Task Force on Employee Misclassification. The Task Force consists of the Commissioner of Labor, the Attorney General, the Commissioner of Taxation and Finance, Chair of the Workers Compensation Board, Workers Compensation Fraud Inspector General and the Comptroller of New York City. The Task Force was formed for the purpose of remedying abuses associated with employers misclassifying employees as independent contractors. Of particular note is the fact that the Task Force is taking special aim at the construction industry.

This past February, the Task Force issued its first report. It notes that "10.3% of private sector workers are misclassified as independent contractors and about 14.8% of these workers are in construction." Only the construction industry is specifically highlighted. The report evidences where Task Force investigations and recommendations for future legislation will be focused by stating:

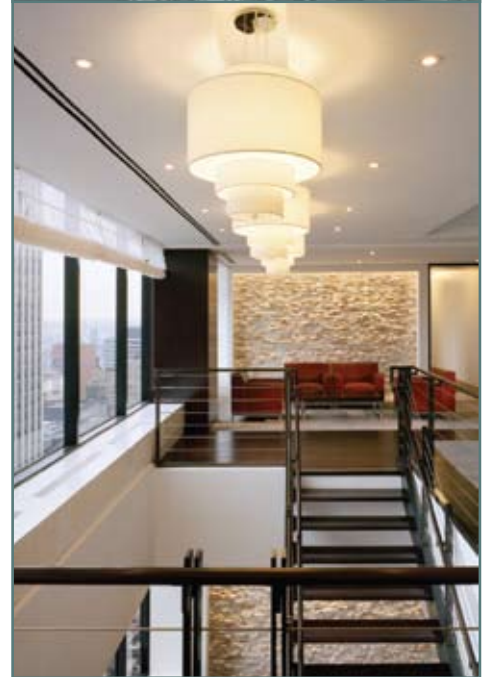
In addition, the review of transactions in the construction industry showed cash flows from developers and general contractors to subcontractors that were not accounted for in the records of the subcontractors.

Key players in construction jobs are the property owner, construction manager, the general contractor, and sub-contractors. Each has respective responsibilities and its

own employees. In many ways, the general contractor is the entity that links all these related entities together. They determine the subcontractors with which they contract, and play a role in seeking out the reputable versus the disreputable.

It is not unreasonable to imagine legislation establishing a general contractor's liability for the unpaid taxes, wages and benefits of the subcontractors it retains since it is the Task Force's position that general contractors "seek out" the reputable versus disreputable. It is already the recommendation of the Task Force to establish or expand personal liability for corporate officers, shareholders, members of LLC's and LLP's, and to create liability for successor, substantially owned or affiliated entities.

The Task Force seeks to end the abuses and adverse financial consequences resulting from employers misclassifying employees as independent contractors. The Task Force also includes paying workers off the books as part and parcel of this problem. Both are allegedly brought about by employers trying to avoid paying employment taxes, workers' compensation coverage and other benefits such as health insurance and retirement benefits. The Task Force cites a report issued by the Fiscal Policy Institute that addresses the cost of misclassification in the construction industry alone. The fiscal cost estimated for 2008 is at least \$557 million. This revenue shortfall is placed upon the



shoulders of companies that play by the rules in the form of increased taxes and insurance premiums.

The Task Force points specifically to the construction industry and notice is given that contractors will be closely reviewed. Cheating gives the industry a black eye and takes money out of the legitimate contractor's pocket. For those companies that comply with applicable laws there should be no reason to worry. Other companies can expect the auditors to be knocking on the door. ■

NYS Department of Taxation and Finance Announces Voluntary Disclosure and Compliance Program

Intended to provide incentive for the voluntary disclosure of overdue tax liabilities, the NYS Department of Taxation and Finance has announced the establishment of the Voluntary Disclosure and Compliance Program ("the Program"). Regardless of the reasons for the failure to pay, the Program allows taxpayers to correct their tax liability without risk of audit. Incentives also include protection from possible criminal charges and avoidance of penalties.

To be eligible, taxpayers must not currently be under audit or party to any criminal investigation, the tax liability must be unknown to the Department and does not involve tax avoidance transactions commonly referred to as tax shelters. To participate, taxpayers

must submit an application making complete disclosure of the outstanding tax obligations.

If the Department determines the taxpayer is eligible to participate, the Program requires the taxpayer to enter into a Compliance Agreement. The Compliance Agreement may include a "limited look-back clause" whereby the Department agrees to limit its scope of review to a specific period of time. In order to get a limited look-back clause, taxpayers must request it in their application but still disclose the full extent of their liability.

Taxpayers who participate must pay the tax and interest for the periods included in the Compliance Agreement. If full payment cannot

be made, it is possible to enter into an installment payment agreement.

To coax taxpayers into making full disclosure, the Department is prohibited from disclosing the information to other agencies. The Department itself is prohibited from using the information against the taxpayer. For those readers lying awake at night worrying about when their tax problems will catch up with them, this is a perfect opportunity to come clean, put those worries to bed and get on with your lives and businesses.

If you have any questions or believe you would benefit by participation in the Program, please call and we can begin to address your problems. ■



Section 199 – Domestic Production Activities Deduction

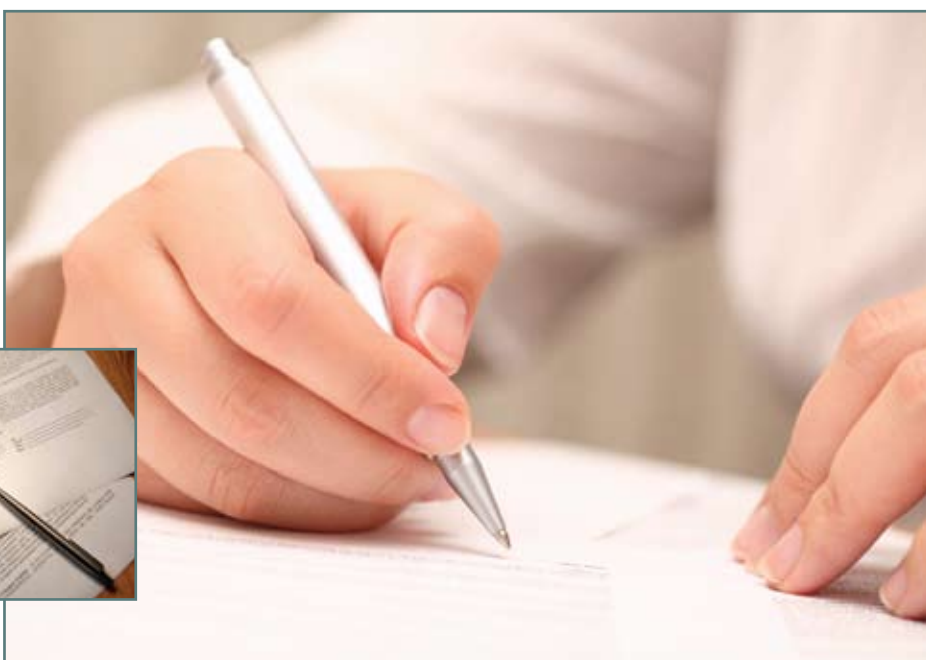
Is your contracting business taking advantage of all available tax deductions? Businesses with “Qualified Production Activities” can take a tax deduction of 6% from net income. This is a tax break, pure and simple. It is even referred to as a gift from Congress. The more complex your business is, the more difficult the calculation of the Domestic Production Activities Deduction (DPAD) will be. Basically, businesses engaged in manufacturing and other qualified production activities will need to implement cost accounting methods to make sure this deduction is calculated properly.

Businesses engaged in the following lines of business may qualify for the DPAD. These are “Qualified Production Activities” eligible for claiming the deduction under the Internal Revenue Code Section 199:

- Manufacturing based in the United States;
- Selling, leasing, or licensing items that have been manufactured in the United States;
- Selling, leasing, or licensing motion pictures that have been produced in the United States;
- Construction services in the United States including building and renovation of residential and commercial properties;
- Engineering and architectural services relating to a US-based construction project; and
- Software development in the United States, including the development of video games.

The DPAD is limited to income arising from “Qualified Production Activities” in whole or a significant part based in the United States. Businesses can take the deduction if at least 20 percent of the total costs are the result of direct labor and overhead costs from US-based operations.

Calculating the DPAD can be either very simple or extremely difficult, depending on the nature of the business. The key is to examine qualified production activities income and qualified production activities expenses. Again, if you have one line of business, this will be fairly simple. Complex businesses with many lines of business have allocations to deal with. Certain limitations arise when calculating this DPAD and as always, this and any other tax issues should be discussed with your tax professional, or feel free to call our office to discuss this deduction or any other business related tax matter. ■



2008 BCA Scholarship Winners Announced

The BCA has announced the recipients of the 2008 BCA Scholarship. This year 16 students, eight from management and eight from labor, were awarded the \$2000 annual award. Children of management personnel and I.A.P. contributing labor unions are eligible to apply for the four-year scholarship. Below are the names of this year's winners.

MANAGEMENT

Kathryn M. Chiarelli FCR Construction Services, LLC
Duke University

Patrick C. Tartaro DeMatteis Construction Corp.
Bryant University

Jennifer F. Wright Henegan Construction Co., Inc.
Bryn Mawr College

Alexander P. Frawley Structure Tone, Inc.
Georgetown University

Jennifer L. Micceri Ambassador Construction Co.
SUNY-Binghamton

Elizabeth Fitzgerald James E. Fitzgerald, Inc.
Providence College

Frank J. Arcuri Citnalta Construction Corp.
Eckerd College

Tara C. Malone National Acoustics
Fordham University

LABOR

Philip Ng NYC District Council of Carpenters
SUNY-Stony Brook

Dariel I. Benjamin NYC District Council of Carpenters
New York University

Justin H. Schiano General Building Laborers' Local #66
SUNY-Buffalo

Kenneth N. Brancaccio Mason Tenders District
Council of Greater N.Y.
Fairleigh Dickinson University

Jessica M. Virga Mason Tenders District Council
of Greater N.Y.
The College of New Jersey

Brianne E. Carroll Metalic Lathers' Local #46
Manhattan College

Christine Borkowski Operating Engineers' Local #14
James Madison University

Margaret H. Chan Operating Engineers' Local #15
Towson University



2008 BCA FISHING & GOLF OUTING: October 22nd - 24th, 2008

FIRM NAME: _____

NAMES OF GUESTS	FISHING ONLY	FISH & GOLF
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____

AUTHORIZED SIGNATURE

Please make checks payable to the Building Contractors Association. Reservations are non-refundable.

We look forward to seeing you in Montauk. If you have any questions, please contact John at the BCA at (212) 683-8080. Please mail or fax your registration form to (212) 683-0404.

Join us for our Annual Fishing & Golf Outing on October 22 - 24, 2008 at Montauk Yacht Club, Star Island. Price is \$900 per person for fishing or \$1,000 per person for a combination of fishing and golf. Prices include hotel for Wednesday and Thursday nights. Additional nights (Tuesday or Friday) are available for \$200 per night.

Wednesday - October 22

11 AM - Golf at Montauk Downs

6 - 8 PM - Reception Cocktails at Yacht Club

Thursday - October 23

10 AM - Brunch

Noon - 1/2 Day Fishing Charters

5 PM - Return to Dock

6 PM - Reception / Cocktails at Yacht Club

7 PM - Dinner and Awards

Friday - October 24

11 AM - Hotel Check-Out



451 Park Avenue South - 4th Floor
New York, NY 10016