



# Today's Contractor

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## Economic Stimulus Legislation Offers Tax Breaks to Contractors

In addition to providing tax rebate checks to individual taxpayers, the Economic Stimulus Act of 2008, signed into law on February 13, created enhanced incentives for small businesses investing in qualifying property, including a return of the 50% bonus depreciation allowance and a doubling of the Section 179 expensing limit.

By taking advantage of these new incentives, contractors can invest in more efficient equipment, computer software, and office furnishings, while preserving working capital.

But because these special provisions apply only to property placed into service after December 31, 2007 and before January 1, 2009, builders hoping to lower their tax liabilities for 2008 must act quickly.

Under Section 179 of the Internal Revenue Code, businesses are allowed to treat the cost of qualifying property as an expense and deduct it in the year the property is placed in service, rather than depreciating it over several years. Eligible expenses include tangible personal property, such as equipment and furniture, that is actively used more than 50% for business purposes.

The stimulus legislation permits small businesses to expense up to \$250,000 of Section 179 property in 2008, up from \$125,000 in 2007. Prior to the enactment of the law, a maximum amount of \$128,000 was allowed to be written off in 2008 on the purchase of qualified property that did not exceed \$510,000. Under the new law, the amount that may be expensed is reduced only if the cost of the Section 179 property placed in service during 2008 exceeds \$800,000.

## Tips for Getting Paid Promptly

Customers who are late in paying their bills are a problem most contractors have to deal with from time to time, but there are steps you can take to improve the chances that you will receive your payments on schedule—without having to resort to threats of legal action or collection agencies.

Here are some tips for making the process of getting paid a little easier:

**Set up a payment schedule.** Putting a payment schedule in place helps to eliminate uncertainty for both the contractor and the client, and it is particularly useful for bigger projects that take more time to finish. Asking for smaller payments, rather than a single large check, can also be more manageable for the customer, while providing a steady income to the builder. The payment schedule may be tied to certain dates or to reaching specified milestones in the completion of the project.

**Get a deposit.** Before starting a new job, consider asking the customer to put down a deposit of between 10% and 50% of the estimated costs. Taking a deposit can help to cover your initial costs, including the price of materials and labor. Ideally, the deposit should be large enough to cover your expenses until the next payment is due. Requesting at least some money down also ensures that the client is invested in the project from the outset and is likely to cooperate in seeing the job through to completion.

**Draft solid contracts.** Regardless of what type of payment schedule you agree upon with the client, make sure the terms of the arrangement are clearly laid out in a written contract that has been signed by both parties. The contract should include details not only of the work you have agreed to perform, but also of the terms of payment, including the billing procedures for change orders and the penalties the customer will incur for failure to pay on time, such as late fees.

**Implement invoicing processes.** To make invoicing easier, consider using a software program that automates the process of drafting and sending out invoices and reminders. Whenever possible, mail out invoices well in advance of the date that payment is due. For longer-term projects, send out monthly statements summarizing the invoices paid to date and the payments still outstanding.

**Expand the types of payment you accept.** Increasingly, Americans are paying their bills with plastic, rather than cash or check. While there are some transaction costs associated with accepting payment by debit and credit cards, agreeing to take payment in these forms may improve the chances you will be paid on time and attract a wider range of customers.



**Keep the customer satisfied.** A client who sees that you are making good progress in completing the project as agreed upon may be more willing to pay for the work. Take the time to discuss with customers how the project is coming along and give them a chance to talk to you about any issues they may wish to see resolved. If you are encountering problems that will make it difficult to finish the project on schedule or within budget, clear and honest communication with the client is essential.

**Request payment for change orders immediately.** When it is necessary to issue change orders, ask the client to authorize the change orders and settle the bill right away.

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## Tips for Getting Paid Promptly

**Remain flexible.** While it is useful to have certain billing policies in place, customer preferences for how and when they would like to pay will vary. Consider doing business with a customer who suggests an alternative arrangement, provided the payment schedule is reasonable and meets your needs. You may also want to create a number of different payment plan options and offer a choice to customers when bidding for a project.

**Issue friendly reminders.** If a client fails to pay on time, it could be due to an oversight. To avoid unnecessary conflict, remind the client in a friendly tone that payment is due and that you need their payment to meet your own commitments and operate your business. Asking for the customer's cooperation—rather than threatening to take them to court—often produces better results and could help you retain a valuable client.

## Reducing Risks to Your Business

Like all entrepreneurs, contractors are accustomed to taking risks in order to grow their businesses. But while there are some forms of risk against which little protection is available, threats to your business can be greatly minimized by identifying potential liability issues, taking action to correct these problems, and finding ways to protect your business should the worst come to pass.

The cornerstone of any risk management strategy is having in place adequate insurance coverage. Increasingly, however, liability insurance, especially coverage for certain types of risks, is becoming difficult and expensive to obtain. In particular, the cost of coverage for construction defects has been driven up by a recent surge in litigation. Taking steps to reduce potential risks is especially important in areas where insurance coverage is unavailable or inadequate.

One of the biggest areas of risk exposure builders face is related to worker safety. Despite receiving workers compensation, workers who injure themselves on construction jobsites may be entitled to sue contractors for damages. To reduce the impact of a personal injury lawsuit, take special care to comply with the safety procedures mandated by the Occupational Safety and Health Administration (OSHA). Any violations of OSHA guidelines that can be proven in court may lead to large compensation awards. To minimize the risk of injuries, workers should be required to attend accident

prevention training sessions, and supervisors should be instructed to take disciplinary action against workers who exhibit unsafe behaviors on the worksite.

In addition to ensuring that employees are trained in safety issues, consider providing workers with continuing education on construction techniques. Mistakes made in the course of building projects are often due to lack of knowledge on the part of workers. Even experienced workers may need instruction when they are asked to use new materials or apply unfamiliar construction methods. Providing workers with specialized instruction in how to prevent the types of construction defects that frequently lead to litigation, such as mold and water intrusion, can be especially useful in reducing risk.

Whenever possible, draft contracts using language that minimizes your company's exposure to liability. For example, warranties on completed work should have time limits and should outline in detail what types of work are, and are not, under warranty. Particular attention should be paid to avoiding problems related to items that are covered under warranty. Consider, too, the risks posed by the selection of lower quality materials. If the materials you have chosen are sub-standard or are likely to lead to construction defect claims, going with the cheaper option could prove to be a false economy.

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Builders that qualify for Section 179 may also be able to take advantage of the 50% depreciation allowance on property they do not expense under Section 179. The bonus depreciation provision permits contractors and other business owners to increase the amount of depreciation deduction in the 2008 tax year. For qualifying property placed in service in 2008, businesses are allowed to depreciate 50% of the adjusted basis of the property. In practice, this means that, in addition to the usual depreciation of equipment that may be claimed for year one, any qualifying purchase made in 2008 will be eligible for 50% bonus depreciation.

To make the most of the 50% bonus depreciation allowance, contractors may want to consider commissioning cost segregation studies of new and recently initiated projects. Cost segregation

studies are used to identify all construction-related costs that qualify for accelerated depreciation periods. Whereas the schedule for depreciation of real estate is 39 years for commercial buildings and 27.5 years for residential income properties, certain types of assets used in the construction of these buildings—such as carpeting, wall coverings, landscaping, and electrical fixtures—may qualify for shorter recovery periods of 5, 7, and 15 years. A cost segregation study can reclassify assets that qualify not only for shorter depreciation periods, but also for 50% bonus depreciation in the first year they are placed in service.

Because of the complexity of the rules surrounding Section 179 expensing and depreciation, contractors interested in capitalizing on these generous, but short-lived, tax breaks should seek advice from a tax professional.

## construction trend data

A drop in nonresidential building, coupled with the continued slide in residential building, resulted in an 8% decline in new construction starts in March, compared with February. For the first three months of 2008, total construction starts amounted to \$121.2 billion, down 19% from the \$150.6 billion recorded in the first quarter of 2007.

Commenting on the March figures, Robert A. Murray, vice president of economic affairs for McGraw-Hill Construction noted that the lift provided by nonresidential building during the first two months of this year was not present in March. Nonresidential building fell 23%, after rising 36% in January and February combined due to the start of very large projects, such as three World Trade Center towers in lower Manhattan. Meanwhile, residential building starts declined 1% in March, with single-family housing down 1%

and multifamily construction unchanged compared with February. Nonbuilding construction increased 18% in March, with the bulk of growth coming from the starts of major electric utilities projects.

New construction starts by region for the first three months of 2008 were as follows: Midwest, down 32%; Northeast, up 10%; West, down 18%; South Central, down 20%; and South Atlantic, down 27%.

### Year-to-Date Construction Contract Value Unadjusted Totals, In Millions

	3 Mos. 2008	3 Mos. 2007	% Change
Nonresidential Building	\$52,745	\$51,067	+3
Residential Building	41,043	68,695	-40
Nonbuilding Construction	<u>27,461</u>	<u>30,825</u>	-11
Total Construction	\$121,249	\$150,587	-19

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