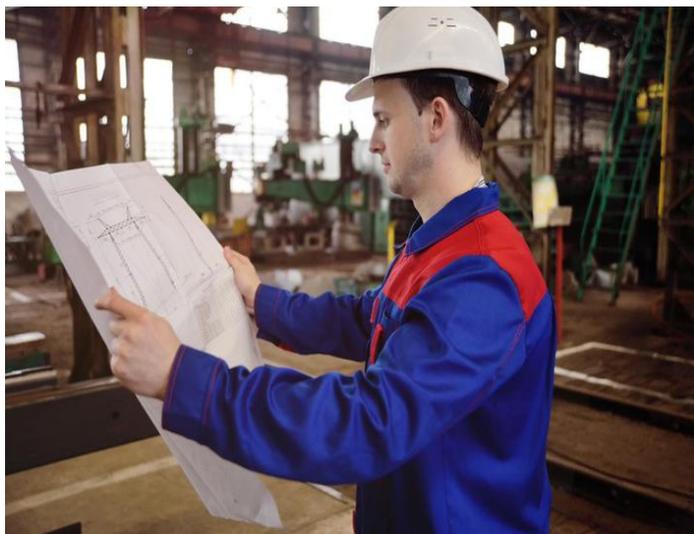


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The Significant Tax Credit Construction Firms Are Overlooking

Julio Gonzalez Forbes Councils | Forbes Finance Council | CommunityVoice. Post written by Julio Gonzalez - Julio Gonzalez founded Engineered Tax Services (ETS) (www.engineeredtaxservices.com) and is a nationally recognized tax reform expert.

The development team of a prominent construction firm in the Midwest began its new project with a rough sketch provided by the client/owner. The project entailed a three-story facility, along with an adjacent garage. They proceeded to estimate construction methods before moving to alternative method studies. They led discussions with the engineer and architect teams to design building systems with approved costs and practice methods.



The site was located near a residential zone, and the client requested unique approaches to be made so the structure's design would not look like a garage. The team tested schemes with false glazing storefronts, a vegetated green wall and mesh screens to integrate the façade, all of which required structural and technical changes. Other challenges included adding an additional level to the garage, redesigning numerous aspects of the facility's systems, constant reworking of the design between shop drawings and construction drawings and lighting design changes while remaining in code.

While it may seem like these design/build professionals were just doing their job, many of these activities qualify for a significant federal tax incentive: the Research and Development Tax Credit. Originally enacted in 1981, this dollar-for-dollar tax credit was expanded with IRS rules that were finalized in December 2015. At that time, the main criteria for qualification of the credit, the discovery test, was replaced by a four-part test. A company no longer needed to discover something new to its industry in order to qualify for the credit. Now, it only needed to conduct activities within the U.S. that met this new test. As it turned out, a lot of the technical design within the construction industry met those new requirements.

In order to qualify for the federal R&D tax credit, four things need to occur. First, the company needs to be trying to develop a new or improved product or process in the U.S. In the construction industry, the technical design is the product. Second, the activity needs to involve the hard sciences, like engineering. Third, there needs to be some technical uncertainty at the onset with respect to the appropriate design. And, finally, there needs to be an evaluation of different alternatives when the design is being developed — examples of this include systematic trial and error, modeling and simulation.

Some typical qualifying R&D credit activities for general contractors include design-build construction, value engineering, BIM modeling, development of means, methods and construction techniques, design for LEED/green initiatives, HVAC or electrical system design, development of installation methods, system detailing for constructability, pipe design and testing and structural steel detailing.

“The federal R&D tax credit is primarily based on wage allocations, including direct supervision and support of these types of qualifying activities. Contractors, estimators, project managers, superintendents and foremen will typically have wage allocations. The owners/senior management could have wage allocations, as well. Most states also offer an R&D credit, which could double the benefit,” says National Director and R&D Specialist, David Mayer, CPA.

The R&D credit has recently been made a permanent federal tax incentive, and a qualifying company can claim it yearly, providing it a significant recurring reduction in its income tax liability. In addition, beginning in 2016, the credit can be used to reduce Alternative Minimum Tax (AMT) for companies with under \$50 million of gross receipts. There is also an opportunity for certain startup companies to use their R&D credits to reduce a portion of their federal payroll taxes. For these reasons, this tax incentive is more powerful than ever and there are many construction firms that are still not aware they qualify.

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