

MEMBER NEWS

BUSINESS NEWS

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• **David M. Schwarz/ Architectural Services, Inc.** has named **Sean Patrick Nohelty, AIA, LEED®AP**, an associate. Nohelty has been with the firm since June 1997 and is currently the job captain on the new **Le Bonheur Children's Medical Center** in Memphis. He also serves as the firm's Employee Recruiting Coordinator and Traveling Fellowship Program Coordinator. • Construction is scheduled to begin in March on two office buildings designed by **Still & Svitchan Associates, PC**, for **LCOR Incorporated**. The buildings, totaling 130,000 square feet, will be located on prominent corners in the **Carlyle Development** in Alexandria. The firm is also completing



Sean Nohelty, AIA, LEED®AP



Digital rendering of Carlyle Development office building by Still & Svitchan Associates, PC.

the design of the **Regional Training Institute** for the **Army National Guard** at Fort Belvoir, Virginia. The 112,000 square foot campus-like facility will be the first project to be built by the Guard to seek a **U.S. Green Building Council LEED Gold** rating.

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Architects May Qualify for New Income Tax Break

by David A. Blake, Esq.

The **American Jobs Creation Act of 2004** established a new tax break under the Internal Revenue Code (Section 199), which permits qualifying taxpayers to claim a deduction for, among other things, certain construction and architectural services performed within the United States. For 2005, the deduction is equal to three percent of the lesser of the taxpayer's taxable income or qualified production activities income as defined in Section 199 of the Code. The percentage increases to six percent for years 2006-2009, and nine percent for 2010 and thereafter.

In general, three criteria must be satisfied to qualify for the tax deduction. First, the construction or architectural services must relate to one of the following: real property (such as residential and commercial buildings), inherently permanent structures, inherently permanent land improvements, or infrastructure. Second, the services must be performed by a taxpayer engaged in a construction trade or business, such as general contractors, certain specialty subcontractors, and architects or engineers. Third, the services cannot be purely tangential to construction. For example, hauling debris or transporting material does not qualify unless performed by a taxpayer that is otherwise responsible for some portion of the construction of the project.

Activities performed by architects that may qualify for the deduction generally consist of professional architectural services performed in the United States, such as consulting, planning, designing, preparing drawings and specifications, and supervising construction activities (for purposes of assuring compliance with plans, specifications and designs) in connection with construction projects located in the United States.

The deduction is subject to various limitations based upon, among other things, the type of business entity that provides the construction or architectural services. Like many tax regulations, the application of Internal Revenue Code Section 199 is very complex. The intent of this article is to bring this potential tax break to your attention so that you may raise the issue with your accountant to determine if you are entitled to this deduction based upon the specifics of your situation.

David Blake is a partner in the Washington, DC office of Seyfarth Shaw LLP, and a professional affiliate of AIA/DC. He specializes in the representation of design professionals, owners and contractors in the construction industry. Mr. Blake also holds a degree in architecture from The Catholic University of America.

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