

# Tax Cuts and Jobs Act—Section 41 and Section 179: Windfall for the Solid Waste, Hazardous Waste and Recycling Industries

The waste industry should consistently and diligently work to solve the waste crisis by seeking out existing waste technologies or initiate research and development of new waste technologies to minimize the load on landfills.

■ By Tony Nocito and Marco Nocito

There is no question that the world has a waste crisis that is polluting our environment and threatening our health. America is the largest waste generator in the world producing 689,000 tons a day. The waste industry consistently and diligently works to solve the waste crisis by seeking out existing waste technologies that they can use immediately or initiate research and development of new waste technologies to minimize the load on landfills.

## Tax Advantages

Under the Tax Cuts and Jobs Act Section 179, equipment purchases deduction, and Section 41 Research and Development (R&D) tax credits, when implemented, can provide substantial opportunities to develop waste reduction and recycling technologies to improve uses of municipal waste, turn hazardous waste into non-hazardous waste, improve recycling technologies and limit industrial waste. I admit that I am not a tax expert—far from it—but I see these tax regulations as a windfall that can further reinforce the wellbeing of industries by using these regulations to access equipment deduction and tax credit money to advance the development of technologies that alleviate landfilling by cultivating onsite, non-thermal technologies that turn wastes into recycled, reusable or repurposed material, therefore limiting landfill use, averting perpetual liability, and most importantly, insuring the future of a healthy environment.

The cost advantages of the R&D tax credit are that it is a full dollar for dollar refundable credit against taxes paid or taxes owed that can be charged off in the year it occurs or carried forward. It will depend on your financial situation and your accounting firm's recommendations on how you treat the charge-offs. Keep in mind that the R&D tax credit is for businesses of all sizes not just large

companies. Once the R&D phase is completed, including a proof of principle pilot facility, which is a tax-credit expense, section 179 allows deductible equipment purchases of up to \$1,000,000. To take advantage of the deductible equipment purchase, the equipment must be bought and put into use between January 1 and December 31 of the year it was purchased.

## The Waste Crisis

The small waste collectors know there is a crisis, but they are isolated to the concerns of their day-to-day operations. On the other hand, large waste collectors are working to save landfill space by non-hazardous waste collection, recycling, reducing the polluting negative effects of carbon emissions, replacing diesel trucks with compressed natural gas-powered trucks, composting, environmental conservation, sustainability, education and installing waste-to-energy plants on their landfill sites. Both small and large waste industry companies struggle every day with the solutions of waste disposal. All waste collectors strongly believe in and support recycling and innovative initiatives to limit waste to landfills.

From the perspective of the waste we create daily, let's look at the world as an island with limited space. I live on Manhattan Island. Manhattan Island is surrounded by four boroughs all considered the city of New York. New York City generates an estimated 44 million pounds of

garbage per day—only one-third is recycled, burned or composted and the rest is shipped out of state as far away as Virginia. This figure does not include the hazardous waste generated in New York City: asbestos containing material (ACM) and other hazardous materials that are abated daily from commercial buildings, the New York City Transit Authority and the utility company, Consolidated Edison of New York. Think about the number of environment polluting diesel-powered trucks needed to collect and haul the



**NOAH'S ARK  
 CAN'T SAVE US.**

daily-generated waste. The more we can reduce waste with onsite innovative technologies, the more we reduce diesel truck pollution and landfill use.

Adding to the waste crisis are the recent weather disasters that have spread tons of non-hazardous material, hazardous ACM and other hazardous materials scattered all over the U.S. by the cities hit with floods, tornados and hurricanes. Where does all that debris go? Fortunately, at this time, the U.S. has limited, but enough, landfill space to house this debris (although the hazardous material will be hard, if not impossible to separate). What about the Caribbean islands hit by the devastating hurricanes? What are they to do about disposing of the debris caused by the hurricanes? There is not enough landfill space on the Caribbean Islands to take in the waste the hurricanes created. Case in point, there is an island in the Caribbean that thankfully was spared from this year's horrific hurricanes. By its own admission, this island has more asbestos per square mile than anywhere else in the world. It also has 600 or more shipping containers filled with ACM that have been stored for 25 years in different locations around the island. Because of the salt water atmosphere, over half of these containers are rotted out, exposing ACM and other hazardous materials to its environment. Although the island has tried to ship these containers offshore, no other country would allow the ACM laden containers to enter their ports. Exemplifying the hurricanes as debris generating, I ask the question: how long before the U.S. becomes like the Caribbean islands, i.e. no place to house our waste, especially our hazardous waste?

American industries bear the economic reality that all environmental liabilities involve future costs. The future costs are imposed when compliance with the environmental regulations are enforced on them. These regulations are the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), better known as Superfund and the Financial Accounting Standards Board (FASB) for retired assets, Fin47. CERCLA requires treatments that permanently and significantly reduce volume, the mobility of hazardous substances, as well as the toxicity. Fin 47 requires recognition of liabilities relating to asset retirement obligations that are contaminated with hazardous materials that will need to be cleaned up and will become a future financial obligation that requires information about expected future cash outflows associated with those obligations, financial information about investments in long-lived assets and financial assurance that they will be able to meet the Fin 47 obligations at an imminent, but undeterminable date. There are industries that produce millions of tons of off-specification and overburden manufactured materials that are sent to the landfill each year. When a landfill is closed, it still requires a minimum of 30 years of monitoring, whereas hazardous waste closure sites may require permanent monitoring. With stricter regulations being enforced every day, these regulations will profoundly affect all industry's bottom line profits now and for many years into the future.

## Forward-Looking Investments

Companies, including waste companies, are showing record profits. The new corporate tax rate reduces corporate tax by 14 percent, down from 35 percent to 21 percent. The cut in taxes allows companies higher margins and more cash on hand. What will they do with the extra cash? Will they take this opportunity to focus on improving corporate social responsibility, by promoting proactive-environmental stewardship, and sustainability by initiating investments in R&D positive, innovative environmental waste treatment technologies to solve waste and other environmental issues? The R&D tax credit and equipment deduction provide returnable cash upon yearend tax filing. Forward-looking companies invest in and put into use positive environmental waste treatment technologies, ratifying to their stakeholders and investors that the company is sustainable, guaranteeing that they will reap financial benefits and that their money will be secure now, and in the future, and our environment will be protected.

I receive waste industry publications by e-mail daily. Almost every day there is a concerning article written about the negative issues affecting the waste industry, i.e. landfill fires, odors, contamination, truck accidents, employees getting injured, leachate problems and fines being imposed to name a few. On the positive side, there are articles about technologies that improve safety, the increased use of compressed natural gas for fuel, truck tracking technologies, street corner solar powered trash and recycle bins that compact the trash as it is deposited, converting landfill gas to energy, the advanced use of robotics to separate waste, etc.—the list goes on and on, proving there is no question that waste industry technology developments are becoming a race against time to conserve landfill space.

Will the future of waste be to develop onsite, non-thermal waste treatment technologies that reduce waste to a recyclable, reusable or repurposed material, significantly alleviating trucking of waste to a landfill, which in turn will significantly spare landfill use sound impossible to accomplish or will it become a matter of necessity? I believe the latter. | **WA**

*Tony Nocito is Managing Member of ABCOV Companies, LLC (New York, NY) and other related companies that provide commercially available services for the non-thermal, EPA approved ABCOV® Method of asbestos destruction and conversion to a non-toxic material and the non-thermal process that converts Hexavalent Chromium in soil to the nontoxic Trivalent Chromium in soil and the non-thermal process that reduces overburden and off-specification fiberglass blow, batt and other manufactured fiberglass insulation to 10 percent of their original volume. He markets and provides these services through his companies. Tony can be reached at (212) 571-9125, via e-mail at [tony@abco.com](mailto:tony@abco.com) or visit [www.abco.com](http://www.abco.com)*

*Marco Nocito attends The Dalton School in New York City. He is in the 11th grade where he a straight A student. He is a member of the Dalton robotics team and does coding for the team as well as operates the robots in competitions. His passion is bio-robotics engineering. Marco is in the process of applying for the top engineering schools: MIT, Cooper Union, Columbia, Stanford, etc.*