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WHAT'S IN A NAME?

Green Industry company names run the gamut from those based on their owners' names (The Brickman Group) to ones that evoke the pristine turf their clients seek (TruGreen). Here are a few names we like and why they work. —M.P.

OFF THE WALL

YARDAPES | New Milford, Conn.



Origin: When President Shayne Newman and a friend were mowing lawns in college in the late 1980s, Newman's friend referred to the duo as "yard apes," and it stuck. Newman incorporated the business a few years later, adding a logo created by another friend who's a graphic artist.

Why it works: "The main thing is it's easy to remember," Newman says. "What I feel works is people can remember the name, go to the website and let the website do a lot of our marketing.

"It's also part of our company culture. The employees take pride in being called a YardApe, and it's about being a part of the family and the team."



continued from page 20

for some of the industry's biggest players, including convincing ServiceMaster to drop ChemLawn from the TruGreen LandCare name in 1999 (it was going to be TruGreen ChemLawn LandCare), and also with ValleyCrest Cos. in 2002 to rebrand all of its divisions under the founding name of the company. For 30 years the parent company had operated as Environmental Industries Inc., and the landscape maintenance division was known as Environmental Care.

Rolling out the change

With a seasonal business, timing is an important part of the name change game.

Because of the time commitment required, Gray says her company had to do it in the winter off season. "This wouldn't be something you wanted to do during the spring and summer months," she says.

Dennis Garland, co-owner of The Grounds Guys of Elizabethtown, Ky., found that the best time to rebrand his company from G-N-S Lawn Care when he joined The Grounds Guys franchise system was in the fall, around the time many commercial maintenance contracts were being renewed. He says he benefitted from rebranding right before those proposals went out, selling \$175,000 worth of commercial maintenance work right off the bat. In some cases, explaining the brand change was a talking point that helped get him in the door and close the sale.

After about six months of preparation, Vander Slik's goal was to complete the rebranding activities in one month, so there weren't materials or equipment with the old logo floating around, but it was challenging.

"We wanted to bring it all out for the start of the new green season," he says of his decision to

continued on page 24

PROFESSIONAL TOUCH

BARRINGER & BARRINGER | Charlotte, N.C.

Origin: President John Barringer, a former banker with an MBA, started his company as Barringer & Assoc. in 1985. That name was taken when he incorporated, so he decided on Barringer & Barringer.



Why it works: "This name does two things for us: It's professional sounding, which we believe is part of our value proposition, and it has the integrity of the person who stands behind the product," Barringer says.

Barringer & Barringer, Inc.
Landscape Services

STRAIGHTFORWARD

OUTSIDE SOLUTIONS | Sykesville, Md.



Origin: President Chad Beidel came up with his company's name with simplicity in mind. "I wanted something simple that communicated that we are in the business of helping," he says. Plus, he wanted a name he could expand on one day, if necessary, to provide services other than landscaping, such as siding, windows, doors, gutters, roofing, decking, pools and more.

Why it works: "It's simple, communicates what we do, tells people we can help them with their needs, and gives us a broad scope of services to provide," Beidel says. "It also rings to the tune of being a solution from an outside source, someone other than yourself."



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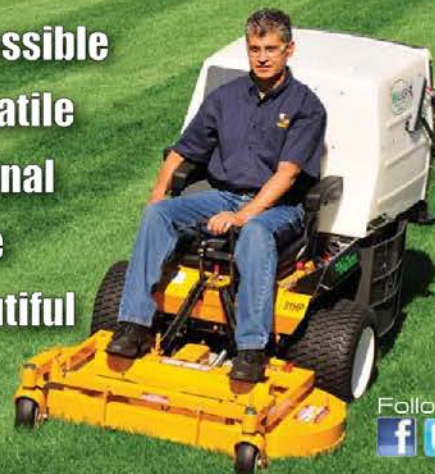
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continued from page 22

make the change in January 2011. “But we were still plowing snow so we couldn’t take all of the vehicles out of circulation.”

Getting the word out

To promote his rebranding effort, Garland sent a letter to all of his clients sharing the news about joining the franchise system and explaining the benefits.

“All of my bigger commercial accounts, I visited them in person to show them The Grounds Guys corporate binder,” he says. “It was right when we were renewing our contracts with them, so it worked in our benefit as a way to explain ‘Look what more we have to offer.’”

Phil Klemme, owner of The Grounds Guys of Union, Mo., used public relations tactics to get the word out about his company’s rebranding effort. He joined The Grounds Guys franchise system last fall, after operating for seven years as Platt Landscaping, a business he purchased from his former employer in 2004. With the help of the franchise’s parent company, The Dwyer Group, he sent press releases to the local newspaper and invited a reporter to a party he held at the chamber of commerce for

Landscape company owners who have rebranded, including those who’ve switched to franchise systems like The Grounds Guys, agree that relettering trucks is the greatest expense. Rebranding enclosed trailers, like the one pictured above, can cost more than \$1,000.

employees and other business associates.

“It was a great photo opp for the paper,” Klemme says. “We got great exposure. It’s something worth contemplating for others who are rebranding.”

Adding up the costs

Changing the trucks over was the most painful part of the process because it was the biggest expense, Vander Slik says.

“The hardest thing, ultimately, was taking those old labels and vinyl lettering off the trucks and trailers,” he says. “You’re talking about taking vehicles that have been in service for five to seven years and putting new logos on them.”

Vander Slik estimates he spent about \$20,000 on the vehicles alone (about 75 trucks, plus trailers, a hydroseeder, bark blower and other equipment). Vinyl lettering on a typical pick-up

continued on page 26



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[NIMBLEWILL]

[BENTGRASS]

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MAKING IT OFFICIAL

Legally changing the name of a business can be both surprisingly simple yet quite complicated, says Michael Duffy, a business attorney with Duffy Law in Philadelphia.

There are two types of business names: those on legal documents and those used when interacting with the public. Changing the legal name of the business involves completing a form with the state's secretary of state, and often businesses won't actually change their names. They obtain a fictitious entity (aka a "DBA"), which links the new name to the old entity without having to lose either.



"As long as no one else has that exact combination of letters, you are allowed to use it for legal documents and the like," he says.

It can get complicated when using the name in the course of business. The primary concerns are trademark issues.

"Even if a name is available for registration, if it's confusingly similar to another existing business' name or trademark, you might be liable for trademark infringement," Duffy says. "You have to make sure there is no risk to using that name in your market to avoid a big hassle down the road. Also, you want to take steps to protect the new name, such as trademark

registration, to avoid the same."

Duffy cautions companies to consider the implications of entering a new market.

"For example, Green Lawn might have been in business for 50 years in Texas, but when it wants to expand into Florida it finds there's already another Green Lawn business there," he says. "Either company might be forced to change its name, or both might be allowed to keep it based on a variety of factors. Green Lawn Texas might be even allowed to keep its name in the home market but go by a completely different name in Florida."

A good attorney is essential in such situations, Duffy says. For more information on trademark registration, visit uspto.gov/trademarks/basics/. —M.P.



continued from page 24

truck costs about \$200; the enclosed trailers were \$1,000 to \$1,500 each.

All told, he says the rebrand cost about \$35,000 or more, including business cards, uniforms, stationery and the website.

Klemme agrees that rewrapping his trucks was the biggest expense when he rebranded. "I spent about \$11,500 on 10 trucks and the large equipment alone," he says. "Fortunately most of my trucks were white, which is a Grounds Guys requirement; the one that was maroon cost me \$2,000."

Companies that have rebranded say the paperwork aspect of changing their names was surprisingly simple and cheaper than they expected, as many of them opt to file as a fictitious entity or "DBA" (see "Making it official," above.)

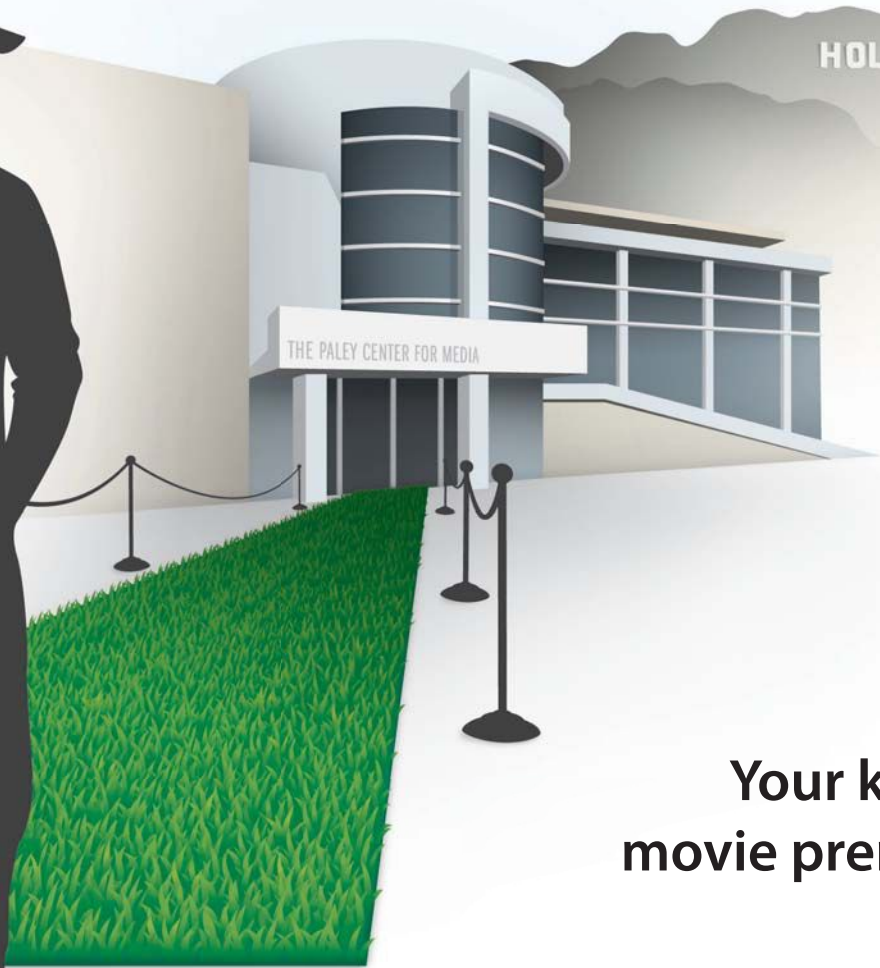
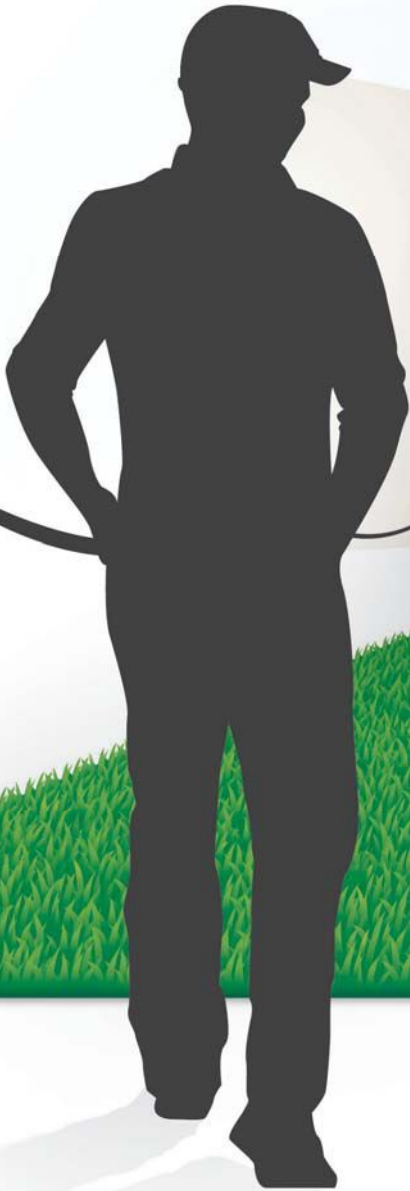
That was the case for Klemme. "I kept it simple," he says. "I'm registered with the state of Missouri as an LLC, so I went with the DBA so I didn't have to spend several thousands of dollars getting a new federal tax ID."

Going this route cost about \$350 including attorney fees vs. more than a thousand dollars if he set up a new business. Garland did the same thing; it cost him about \$250.

More than anything, contractors who have rebranded say the biggest cost was their time.

As Vander Slik says, "It was worth it, but it was a tremendous effort that I hopefully won't have to do again any time soon." LM

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OBAMACARE'S TAX HIKES

Businesses await rising taxes as a result of the Affordable Care Act, which the U.S. Supreme Court ruled as constitutional in June.

BY **MARK E. BATTERSBY**

Like it or not, the U.S. Supreme Court has ruled and the Affordable Care Act (ACA) is now the law of the land and the tax code. By ruling that the ACA is constitutional, the court has approved more than 20 tax hikes, some of them already in play.

On the personal front, looming big is the 3.8 percent Medicare surtax on investment income, and the 0.9 percent Medicare payroll tax hike (from 1.45 percent to 2.35 percent). And then there are the tax hikes for everybody else, including the health savings account withdrawal penalty. Since Jan. 1, 2011, taxpayers who withdraw money from health savings accounts for non-medical expenses before age 65 face a 20 percent penalty, up from 10 percent before.

The employer mandate

The tax most likely to affect landscape contracting and lawn care businesses is the employer mandate tax that goes into effect in January 2014. The ACA requires businesses with more than 50 employees to provide health insurance or face an “assessable payment.” In other words, under ACA, employers are required to provide at least minimal benefits, via a health plan, to their employees.

If an employer does not offer health coverage, and at least one employee qualifies for a health tax credit or a cost-sharing reduction payment, the employer must pay an additional non-deductible tax of \$2,000 for all full-time employees.

Shared responsibility for small businesses

Since 2010, companies with fewer than 25 full-time equivalent employees have been eligible for a unique, under-utilized, tax credit if they provide at least half of the cost of health insurance. Remember, tax credits reduce the tax bill while deductions merely reduce the income upon which the tax bill is computed. And, full-time equivalent employees include both full-time employees plus the number of part-time employees when considered on a full-time basis.

Only companies with fewer than 10 full-time equivalent employees with average salaries of \$25,000 or less are eligible for the full credit. Today, that full credit is 35 percent of the operation's contribution toward an employee's insurance premium. As the size of the business and average wages go up, the amount of the tax credit goes down. And once the business hits 25 full-time equivalent employees, or \$50,000 in average salaries, the credit is completely phased out.

The high-cost health coverage excise tax

Any business that rewards its owners, shareholders or employees with health insurance coverage that exceeds a threshold amount established by lawmakers will face a whopping 40 percent excise tax beginning in 2018. Although the Internal Revenue Service (IRS) has yet to weigh in, the dollar limit for determining the tax thresholds are \$10,200 (for 2018) multiplied by the health cost adjustment percentage for an employee with self-only coverage and \$27,500 (for 2018) for employees with coverage other than self-only coverage.

In addition to a hike in the Medicare payroll

tax on self-employment income (from 2.9 percent to 3.8 percent), an “unearned income Medicare contribution” tax will impose the new 3.8 percent rate on “net investment income.” That includes interest, dividends, annuities, royalties, certain rents and other “passive” business income. Fortunately, only individuals with more than \$200,000 in income and married couples with income greater than \$250,000 will be subjected to the 3.8 percent tax.

Grandfathered plans

Certain plans or coverage existing as of March 23, 2010—when ACA was enacted—are subject to only some provisions. These plans are known as “grandfathered plans.”


The IRS, the Health and Human Services Department and the Department of Labor, which all are involved in ACA enforcement, say a group health plan or group or individual health insurance coverage is considered a grandfathered health plan even when it comes to new employees (just hired or newly enrolled) and their families.

Employers are allowed to maintain a grandfathered plan regardless of necessary administrative changes, even if an insurer stops offering coverage in a market or the business changes hands.


The individual mandate

The impact for sole proprietors will be much like the impact on individuals. For people in this group, the crux of the 2014 rollout is the individual mandate, which requires all U.S. citizens and legal residents to have health coverage or pay a penalty.

There are some exemptions, such as people from certain religious backgrounds or those who are eligible for the so-called “hardship exemption”, when the cost of the annual premium exceeds 8 percent of household income. There also are penalties intended to ensure compliance. The top penalty for individuals, once fully phased in, for not having insurance is \$695 or 2.5 percent of income, whichever is greater.



TO BE CONSIDERED AFFORDABLE UNDER ACA, THE INSURANCE MUST PAY FOR AT LEAST 60 PERCENT OF COVERED HEALTH CARE EXPENSES, AND EMPLOYEES MAY NOT BE FORCED TO PAY MORE THAN 9.5 PERCENT OF THEIR FAMILY INCOME FOR COVERAGE OFFERED BY THEIR EMPLOYERS.





Affordable insurance

There are many references to “affordable insurance” in the ACA. To be considered affordable under ACA, the insurance must pay for at least 60 percent of covered health care expenses, and employees may not be forced to pay more than 9.5 percent of their family income (before deductions and adjustments) for coverage offered by their employers.

And don't forget, companies with at least 50 full-time employees must start providing insurance to workers beginning in 2014. If they don't, and a single worker turns to the government for a health care tax credit or subsidy on the exchanges, then the company can be fined. And it won't be cheap. The employers will have to pay an additional non-deductible tax of \$2,000 for all full-time employees.

If any employee actually receives coverage through the exchange, the penalty on the employer for that employee rises to \$3,000. If the employer requires a waiting period of 30 to 60 days to enroll in coverage, there is a \$400 tax per employee (\$600 if the period is 60 days or longer).

It's a stiff rule that many fear, but it doesn't

affect the majority of the nation's nearly 6 million employers. Government statistics show 200,000 small businesses will face the new rule. The rest, however, have no obligation to cover employees.

The exchanges

The ACA requires each state to establish an American Health Benefit Exchange and Small Business Health Options Program (SHOP) exchange to provide qualified individuals and qualified small business employers access to health plans.

Starting in 2014, sole proprietors and other small businesses can shop for less expensive insurance through exchanges in each state. One-person businesses can turn to exchanges for individuals. Businesses with up to 100 workers may turn to SHOP. Both have a similar approach to

STATE-OPERATED EXCHANGES ARE EXPECTED TO OFFER SMALL BUSINESSES LOWER RATES THAN INSURANCE COMPANIES CHARGE.



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