



Section 179D: Can you take advantage of this worthwhile deduction?

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In October 2008, Congress passed and President Bush signed the Emergency Economic Stabilization Act of 2008 (EESA). Perhaps most widely known for creating the Troubled Asset Relief Program (TARP), EESA also created or extended many energy efficiency and energy property tax incentives for both individual and business taxpayers.

A deduction for certain expenses incurred in making a commercial building energy-efficient (Code Sec. 179D), set to expire at December 31, 2008, was extended for five years, through December 31, 2013. To qualify as energy-efficient commercial building property, the improvements must be part of a plan to reduce annual energy and power costs by at least 50 percent.

The basis of the property is reduced by the deduction amount. The remaining asset value is depreciated over its tax life as otherwise allowed.

The deduction is based on the cost of depreciable property installed in the building's interior lighting, heating, cooling, ventilation or hot water systems or the building envelope. A qualified professional must certify that the property reduces total annual energy and power costs by 50 percent or more when compared to a similar reference building that meets minimum specified energy standards described in Standard 90. 1-2001.

The maximum amount of the deduction in any year is limited to the lesser of the cost of qualified property placed in service in the tax year OR \$1.80 per s/f of the building reduced by deductions claimed for the building in prior years. A partial deduction is available, based on a building system, if the energy efficiency expenses for the building do not meet the overall cost reduction standard. By system energy reduction requirements range from 10 to 20 percent for this partial deduction, and the partial deduction maxes out at \$.60 per s/f.

Generally, the deduction is claimed by the taxpayer who is entitled to depreciate the property - the owner or lessee who pays for and installs the property. However, to encourage energy efficient design and innovation, the deduction may be transferred to the party responsible for creating the energy-efficient environment in the case of public property owned by Federal, State or local government units or political subdivisions, such as public schools. It is unclear if the IRS would allow a nonprofit organization to allocate the deduction to the designers who created the technical specifications for the installation in the energy-efficient commercial building owned by a nonprofit.

The calculation of energy efficiency is intended to be fuel neutral. A building can qualify whether the heating source is a gas or oil furnace, a boiler or an electric heat pump. Methods of calculating and verifying energy and power costs are to use qualified computer software based on provisions of the 2005 California Residential or Non-Residential Alternative Calculation Method Approval Manual. Lighting systems may be a good place for building owners to assess first because of the ease and

availability of upgrading and because of the known efficiency improvements that can be gained.

New or existing commercial buildings as well as high-rise (greater than three stories above grade) apartment buildings qualify. Building areas can be addressed separately and the deduction claimed based on the associated square footage. Parking garages are also eligible for the deductions.

There is current legislation in Congress to increase the energy efficiency deduction from \$1.80 to \$3 per s/f. If you have made energy-efficient improvements to your commercial property, explore the possibility of utilizing the Section 179D deduction.

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