



Issue No. 2010-1

True Alert

February 2, 2010

Section 179D Deduction for Designers of Government-Owned, Energy-Efficient Buildings Provides Permanent Tax Savings

The Energy Tax Incentives Act of 2005 added Section 179D to the Internal Revenue Code, which allows a deduction for “energy-efficient commercial building property” is placed in service. If you own, lease, design, or build energy efficient commercial buildings, you may be entitled to a federal income tax deduction for the cost of energy-efficient property.

Section 179D caps this deduction at \$1.80 per square foot. For example, a 250,000 square foot building may result in a potential deduction of \$450,000 for qualifying energy-efficient property. To qualify for the deduction, several criteria must be satisfied, including an energy savings threshold requirement. Partial deductions are available for buildings not meeting the overall energy savings building requirement.

However, a special opportunity exists for government-owned buildings and the designers that install qualifying energy-efficient property. Although the Section 179D deduction is available for building owners, it is also available for qualifying designers and engineers who install energy-efficient commercial building property owned by a federal, state, or local government. More importantly, this deduction may be allocated to the person primarily responsible for designing the property in lieu of the owner (i.e., the government) of such property, which may result in a **permanent** tax benefit to the designer.

In general, the recipient of the Section 179D deduction is the organization that makes the qualified expenditures. In the case of energy-efficient commercial building property installed on government-owned property, the owner of the property may allocate the deduction to the individual primarily responsible for designing the energy-efficient property. The allocation of the deduction to the designer of the property must be made in writing and contain the required information provided in IRS Notice 2008-40.

Section 179D Deduction Requirements

The following is a summary of the Section 179D requirements that must be met for designers of government-owned, energy efficient buildings:

- The depreciable commercial property must be owned by a federal, state, or local government or political subdivision;
- Installed on or in any building located in the U.S. between January 1, 2006, and December 31, 2013;
- Deduction is available as part of interior lighting system; heating, cooling, ventilation, and hot water systems; or building envelope, and certified by a qualified individual
- Part of a plan designed to reduce the total annual energy and power costs with respect to the above installed systems by 50% or more as compared to a reference building meeting the minimum requirements of Standard 90.1-2001; and
- It must be accompanied by a written allocation statement with the required information.

With governments increasing their requirements to have new construction LEED certified, designers should be aware of the availability of the Section 179D deduction. Individuals and companies who have not taken advantage of this deduction may file an amended return for all open years.

Please contact us to discuss how this legislation might apply to your particular facts and circumstances.

Joanne Chun Hughes
Managing Director
(312) 235-3323
Joanne.Hughes@TPCtax.com

Allea Newbold
Managing Director
(813) 434-4022
Allea.Newbold@TPCtax.com

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