




MOODY, FAMIGLIETTI & ANDRONICO

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Federal Tax Alert



Subject:

Section 179D Deduction for Energy Efficient Commercial Buildings and Other Energy Tax Incentives

Details

The Energy Policy Act of 2005 (as amended by subsequent tax acts in 2006, 2008, and 2009) and other Internal Revenue Code provisions offer many energy tax incentives for taxpayers who are constructing or planning to construct new energy efficient buildings and energy efficient improvements to existing buildings. These energy tax incentives include:

- Section 179D deduction for energy efficient commercial buildings which may be as high as \$1.80/sq. ft. of the building area;
- Energy investment tax credit for qualifying solar, wind energy, and geothermal property; and
- A five year recovery period for alternative energy property and biomass property.

Section 179D Deduction

The section 179D deduction is equal to the cost of the energy efficient property subject to a cap of \$1.80/sq. ft. of the building area (*e.g.*, potential deduction of up to \$360,000 for a 200,000 sq. ft. facility). To qualify, the energy efficient property (pertaining to lighting, heating, ventilating, and air conditioning (“HVAC”), and building envelope) must reduce energy costs by 50% or more as compared to a reference building that meets the minimum requirements of Standard 90.1-2001 of the American Society of Heating, Refrigerating and Air Conditioning Engineers (“ASHRAE”) and the Illuminating Engineering Society of North America.

Important considerations are as follows:

- A partial deduction of up to \$.60/sq. ft. is available, individually, for lighting, HVAC, or building envelope (*e.g.*, potential deduction of up to \$120,000 for a 200,000 sq. ft. building).
- Lighting should be considered first; a special rule generally allows lighting to qualify for a deduction of \$.30/sq. ft. to \$.60/sq. ft. for a reduction in lighting power density of between 25% and 40% as compared to ASHRAE standards.

Should you have any questions regarding this alert, please contact:

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- Qualification under section 179D is not automatic, and consideration during the design process is essential; Leadership in Energy and Environmental Design (“LEED®”) certification and/or using LEED® design principles should help in meeting the section 179D criteria.
- In the case of Federal, state, or local government buildings (including K-12 public schools and public university buildings), the section 179D deduction can be allocated to the primary designer.
- Certification is required by an engineer or contractor who is licensed in the jurisdiction in which the building is located.
- The section 179D deduction expires on December 31, 2013.

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Additional Energy Tax Incentives

In addition to the section 179D deduction, other energy tax incentives include the following:

- An energy investment tax credit of 30% is available for solar, qualified fuel cell, and small wind energy property, and 10% energy investment tax credit is available for geothermal, micro turbine, combined heat and power system, and geothermal heat pump property.
- Alternative energy property (e.g., geothermal, solar, wind property) and biomass property (e.g., equipment modified to use certain substances other than oil or natural gas as a fuel) qualify for a five year recovery period. Alternative energy property and biomass property may also qualify for the 50% first year bonus depreciation deduction if acquired after December 31, 2007, and placed in service prior to January 1, 2010.

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