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FAQs About the 179D Deduction

Posted @ 12/2/2015 8:10 AM By **Barry Fischman and Dean Zerbe**
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The Energy Efficient Commercial Buildings Tax Deduction (179D) is a section of the tax code that rewards the design and installation of energy-efficient interior lighting, HVAC or building envelope systems in commercial buildings.

Congress created this incentive in response to the fact that 70 percent of electricity in this country is consumed by buildings—with nearly half of that attributed to commercial buildings. 179D is a common sense, technologically neutral way of encouraging energy efficiency in these specific types of power-demanding structures.

WHO CAN BENEFIT?

Not only can the owner of a commercial building potentially benefit, but so can architects, engineers and contractors that work on federal, state and local government buildings, including public schools and universities.

DO PROJECTS COMPLETED LAST YEAR STILL QUALIFY?

Yes, the Internal Revenue Service allows private commercial building owners to file amended returns as far back as 2006. In addition, government entities can allocate deductions associated with their buildings to designers for as many as three look-back years.

WHAT TYPES OF BUILDINGS DOES THIS APPLY TO?

Private commercial structures undergoing new construction or energy-reducing renovations are eligible, including office buildings, retail spaces, warehouses and four-story (or higher) apartment buildings. The benefit is applied in the form of accelerated depreciation and awarded to building owners.

New or retrofit AEC work on government-owned buildings also can qualify for the benefit under a special rule for public property. Because government-owned buildings don't pay tax, the benefit transfers to one or more contracted designers.

CAN ALL OF THE DESIGNERS AND CONTRACTORS OF A GOVERNMENT BUILDING TAKE ADVANTAGE OF THE CREDIT?

Designers must ask for an allocation letter from the government agency. Because there are often multiple contractors attached to a project, it's crucial to request a signed letter without delay. This tends to be a first-come, first-served system, and the government can assign all or a portion of the 179D deduction to any party that meets the definition of a designer. It can be helpful to have a dedicated government relations team to handle the procurement of allocation letters for clients.

After obtaining the allocation letter, the firm's energy-saving contributions to the project must be independently certified by qualified engineers via a field inspection. In addition, an energy modeling analysis must be conducted, which includes certifying plans and specifications. It can be an intricate and time-consuming ordeal for companies that aren't prepared to handle these crucial details.

HOW MUCH MONEY CAN THIS YIELD?

Congress does not require buildings to demonstrate an extraordinary leap in energy efficiency to at least partially qualify for the tax benefit. The standard modeled against is mainly based on ASHRAE 90.1-2001. It can be a complicated breakdown, but the short answer is the maximum deduction is \$1.80 per square foot.

Those dollars and cents can add up quickly in a large municipal building, so it's critical to examine and exhaust all of the partial and fractional qualifying activities in order to optimize the tax benefit.

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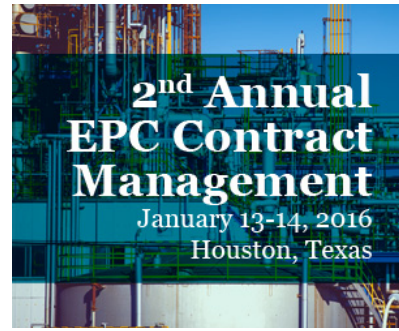


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