

Green Building Design Provides Tax Incentives for Contractors

Congress has passed legislation to encourage property owners to build energy efficient real estate properties to promote reduction in energy consumption. The Emergency Economic Stabilization Act of 2008 extends these benefits through December 31, 2013, which means the deduction can be claimed for buildings placed in service from January 1, 2006 through December 31, 2013. The benefits are up to \$1.80 per square foot tax deduction for commercial property owners, architects, contractors, residential homeowners and site home builders.

Generally, the owner of a building is the taxpayer that qualifies for the energy efficiency tax deduction under §179D. However, when public buildings are built for governmental entities, the deduction is available to the “designer” of the energy efficient system. A designer may include, for example, an architect, engineer, contractor, consultant, or other energy services provider. The designer is the provider that creates the technical specifications for a new building or an addition to an existing building that incorporates energy-efficient commercial building property.

To qualify, the total annual energy and power costs related to interior lighting, HVAC and building envelope systems of the structure must be reduced by at least 16 2/3 percent when compared to the baseline standard established by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) 90.1-2001. Partial deductions are available for individual building systems. A deduction of up to \$.60 per square foot is available for each of these building systems. If the standards are fully met for all three systems, then the maximum \$1.80 per square foot deduction is available. Since the majority of states’ standard building codes are based on the subsequently developed ASHRAE 90.1-2004 or later iterations, virtually all buildings in these states will qualify for some or all of the deduction, even if built to only the minimum standards.

In order to claim the deduction, the taxpayer must obtain a certification required by the IRS that must be attached to their tax return with respect to the property. The certification requirements include:

1. Certification provided by properly licensed professional engineer or contractor.
2. The party certifying the qualified property cannot be related to the taxpayer claiming the deduction.
3. The party certifying must represent to the taxpayer in writing that they are qualified to certify.
4. The certifier must use IRS-qualified computer software.

The deduction must be claimed for the year the qualifying property was placed into service.

Please contact any of our Elliott Davis Construction Practice team members listed below for additional information regarding energy efficiency tax incentives.

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