

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.
- 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.

BDO Seidman provides assurance, tax, financial advisory and consulting services to a wide range of publicly traded and privately held companies. BDO Seidman’s Cost Segregation Services practice has performed studies of nearly every conceivable type of commercial development during the last 25 years. We continually invest in improving our capabilities by adding experienced engineers and contractors. We complement this extensive knowledge of engineering with experienced real estate tax professionals who stay abreast of the changing tax environment.

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- 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.

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.

BDO Seidman's Energy Tax Incentives Initiative

BDO Seidman's **Cost Segregation Services** practice has teamed with a new BDO Alliance firm (Fishbeck, Thompson, Carr & Huber, Inc. ("FTC&H"), which is a Grand Rapids-based architectural/engineering firm) and several Specialized Tax Services ("STS") professionals within BDO to help clients who may be constructing new buildings or renovating existing buildings take advantage of the section 179D deduction and other energy tax incentives.

The **Cost Segregation Services** practice members will assess the opportunities, BDO STS professionals will provide tax oversight and help identify state and local credits and incentives, and FTC&H will provide technical support and perform any required certifications. Do not hesitate to call Mark Zettell or Matt Becker in Grand Rapids at (616) 774-7000 with any questions or opportunities.

To ensure compliance with Treasury Department regulations, we wish to inform you that any tax advice that may be contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

Material discussed in this tax alert is meant to provide general information and should not be acted on without professional advice tailored to your firm's individual needs.