

IRC Section 179D

Energy Efficient Commercial Buildings Deduction



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Overview



- About PBMares, LLP
- What is IRC Section 179D?
- Calculation requirements
- Special rule for government-owned buildings
- Deduction limitations
- Additional considerations
- Questions

- Mid-Atlantic-based accounting and business consulting firm serving U.S. and international clients
- A Top 100 Firm as determined by *INSIDE Public Accounting*
- Provides third party administrator services, qualified retirement plan consulting and administration services

A Family of Services



- Provides additional services through affiliates:
 - Artifice Forensic Financial Services, LLC
 - Financial consulting division specializing in fraud investigations and forensic accounting
 - TMDG, LLC
 - National healthcare consulting firm specializing in medical claims audits
 - PBMares Wealth Management, LLC
 - Registered investment advisor

What Is IRC Section 179D?

- A deduction is allowed for an amount equal to the cost of energy efficient commercial building property placed in service during the taxable year
- Must be calculated by a qualified individual using qualified computer software
- Can not exceed the excess of
 - \$1.80 and the square footage of the building over aggregate amount of the deduction that has been deducted for all prior years (cost)

History of Section 179D

- The effective date is for properties placed in service after December 31, 2005
- Amended in 2006, 2008, 2014 and 2015

Energy Efficient Commercial Buildings



- Must satisfy the following conditions:
 - Property where depreciation or amortization is allowable
 - Which is installed as part of:
 - Interior lighting systems
 - Heating, cooling, ventilation (HVAC) and hot water systems
 - The building envelope and hot water systems

Energy Efficient Commercial Buildings (Continued)



- Must satisfy the following conditions:
 - Which is installed on or in a building:
 - Located in the United States
 - Within the scope of Standard 90.1-2007

Energy Efficient Commercial Buildings (Continued)



- Must satisfy the following conditions:
 - Certified as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the above by 50% or more when compared to a reference building which meets the minimum requirements of Standard 90.1-2007
 - Using methods of calculation the Secretary, in consultation with the Secretary of Energy and based on the provisions of the 2005 California Nonresidential Alternative Calculation Method Approval Manual and using qualified computer software...

Energy Efficient Commercial Buildings (Concluded)



- Must satisfy the following conditions:
 - Software meets all procedures and detailed methods required by the Secretary for calculating energy and power consumption and costs
 - Must be certified by a qualified individual
 - Only those recognized by an organization certified by the Secretary for such purposes

Qualified Computer Software



- Satisfies three conditions:
 - Certified by software designer that it meets all procedures and detailed methods for calculating energy and power consumption and cost as required by the IRS
 - Must provide whatever forms are required to be filed by the IRS in connection with energy efficiency of property and Section 179D
 - Must provide a notice form which documents the energy efficiency features of the building and its projected annual energy costs

Basis Reduction

- If a deduction is allowed for with respect to any energy efficient commercial property, the basis of such property will be reduced by the amount of the deduction

Lighting Systems Rules (Interim)



- Final regulations have not been issued
- Does not apply if systems' controls and circuiting do not comply fully with the mandatory and prescriptive requirements of Standard 90.1-2007
- Lighting system target shall be a reduction in lighting power density of 25% (50% in the case of a warehouse)

Lighting Systems Rules (Interim) (Concluded)



- If lighting reduction is less than 40% (other than a warehouse), only the applicable percentage of the amount of deduction otherwise allowable shall be allowed
- Other ratios and calculation are used as well

Standard 90.1-2007

- American Society of Heating, Refrigerating and Air Conditioning Engineers and the Illumination Engineering Society of North America (ASHRAE/IESNA)

Partial Allowance

- If certain requirements are not met (reducing the annual energy and power costs by 50% or more or not certified under the certification procedures as having been installed as part of a plan designed to reduce annual energy and power costs), a partial allowance can be obtained with energy efficient commercial building property installed by inserting \$.60 for \$1.80

Partial Allowance (Concluded)



- All other requirements must be met
 - Depreciation allowable
 - Part of the interior lighting systems
 - HVAC
 - Hot water systems
 - And/or building envelop and within the scope of Standard 90.1-2007

Allocation of Deduction for Public Property



- Property owned by a Federal, State, or local government or a political subdivision
- Allocation of deduction (including the partially qualifying property) to the person primarily responsible for designing the property
- Designer includes an architect, engineer, contractor, environmental consultant or energy services provider

Allocation of Deduction for Public Property (Concluded)



- If more than one designer is responsible for creating the technical specifications, the owner shall either determine the designer primarily responsible and allocate the full deduction or allocate the deduction among several designers
- All deductions allocated must be in writing

Limitations

- Must qualify as a designer on said project and receive this designation in writing
- Only transferable from the Government owner to the designer
- Deduction is available when the property is placed in service
- Since this is a deduction, generally reported on the other deduction line with a description of “Section 179D”

Limitations (Concluded)

- For flow through entities, the deduction can only be taken if the partner/member or shareholder has sufficient basis. If not, this can be carried over
- Can amend returns for open years
- Meets the minimum of Standard 90.1-2007 for full qualification

Additional Considerations...



- Have not found support for not-for-profits to be able to transfer the energy efficient deduction to a designer
- Most local government have not negotiated an fee reduction for the allocation of the Section 179D deduction
- The owner or the designer normally incurs the cost to determine the amount of the deduction

Even More to Consider...

- There are many companies advertising this deduction
 - Check for references!
- Section 179D allows to take into account new technologies regarding energy efficiency and renewable energy
- Schedule to expire December 31, 2016

Example

- For a \$100,000 Section 179D deduction, an “S” Corporate Shareholder at the maximum tax bracket of 39.6% federal and 5.75% Virginia could save \$45,350 plus reduce taxable income enough so the net investment income tax may not apply
- Given the above example, Federal, state and local government could renegotiate their costs
- The Governments must agree in writing

Questions?



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