

Tax Benefits Available for Designers of Government-Owned Green Buildings

Written by Chris Mayfield, Somerset CPAs, ACEC Indiana Board Member.

In the past years, several federal tax incentives have been extended and enhanced for designing and constructing energy efficient buildings. **A recent decision from Congress even allows a government, school or municipality building owner to allocate the deduction to the person primarily responsible for designing a property.**

The Energy Policy Act of 2005 allows a deduction for the cost of certain energy efficiency improvements installed on or in a depreciable building located in the U.S., effective for improvements placed in service after Dec. 31, 2005 and before Jan. 1, 2014.

For commercial buildings, Internal Revenue code section 179D provides a deduction of up to \$1.80 per square foot for energy efficient features of the building's construction or retrofit. The taxpayer must secure an analysis by a qualified person using software prescribed by the IRS. This deduction is effectively an acceleration of depreciation deductions that would have otherwise been spread over a 39-year recovery life, and reduces the tax basis accordingly.

Three primary building components are analyzed to determine the qualifying credit, with each available for a deduction of 60 cents per square foot:

- Interior lighting systems
- HVAC (heating, ventilation and air conditioning) systems
- Building envelope (defined as the outer shell used to protect the indoor environment as well as to facilitate its climate control)

An interesting application of this benefit occurs when the building is owned by a government, school or municipality. Since Congress' intent was to encourage energy conscious construction, and many energy efficient buildings across the country are owned by government agencies (which of course do not pay taxes), there was concern that the impact of the incentive would be dramatically reduced since it was not useful for these properties.

To address this concern, Congress made the unusual decision to allow the building owner to allocate the deduction to the person primarily responsible for designing the property (the designer), even though such person has no ownership interest in the property. A designer is defined as a person that creates the technical specifications for installation of energy efficient commercial building property. A designer may include an architect, engineer, contractor, environmental consultant or energy services provider who creates the technical specifications for a new

building or an addition to an existing building that incorporates energy efficient commercial building property.

If more than one designer is responsible for creating the technical specifications for installation of energy efficient commercial building property on or in a government-owned building, the owner of the building shall:

- (1) determine which designer is primarily responsible and allocate the full deduction to that designer, or
- (2) at the owner's discretion, allocate the deduction among several designers.

Before a designer may claim the deduction with respect to property installed on or in a government-owned building, the designer must obtain written allocation for the owner. A designer is not required to attach the allocation to the return on which the deduction is taken. However, income tax regulations require that taxpayers maintain records that are sufficient to establish the entitlement to, and amount of, any deduction claimed.

For additional information about this tax benefit, please contact Chris Mayfield with Somerset CPAs, P.C., at (317) 472-2116, or cmayfield@somersetcpas.com.

New Marketplace Energy Forum

Oct. 21, 11:30 to 5 p.m.

Sheraton Indianapolis City Centre Hotel

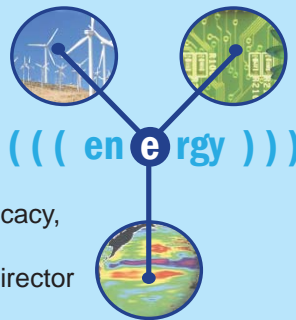
Luncheon speaker Lt. Gov. Becky Skillman

with guest speakers:

David Bear, Communications Manager/ Education Advocacy, Duke Energy

Phil Lehmkuhler, U.S. D.A./Rural Development State Director

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