

Green Tax Deductions

NOVEMBER 10, 2008

BE IN A POSITION OF STRENGTH

IRS Allows Architects to Take Tax Deduction for Green Public Buildings

The Internal Revenue Service (IRS) has issued guidance that can enable architects and other designers to claim substantial tax deductions for certain energy-efficient features in government-owned buildings.

This allows the designer of the energy-saving portions of a government-owned building (such as the building envelope, HVAC system, or lighting) to receive the tax deduction, since government agencies have no tax liability and therefore cannot take advantage of the deduction.

Alternatively, a public agency could assign the credit to the building designer, negotiate a fee reduction and so realize the credit in that way.

A designer may include, for example, 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. The guidance also outlines the process that architects and others would have to follow to claim the deduction.

The guidance relates to the energy-efficient commercial buildings tax deduction enacted in the Energy Policy Act, which allows taxpayers to deduct the cost of energy-efficient equipment installed in commercial buildings they own. On October 3, 2008, President Bush signed into law H.R. 1424 and extended the Energy Efficient Commercial Building Tax Deduction as part of the Emergency Economic Stabilization Act of 2008 and extends the benefits of the Energy Policy Act of 2005 to January 1, 2014.

**GREEN TAX DEDUCTION
THAT BENEFITS
ARCHITECTS, DESIGNERS,
AND OTHERS.**

**Questions or comments?
E-mail us at taxbriefs@withum.com**



WithumSmith+Brown, PC
Certified Public Accountants and Consultants
New Jersey, New York, Pennsylvania, Maryland, Florida, Colorado

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Tax Deduction Certification

Before a taxpayer can claim the deduction, the taxpayer must obtain a certification (not to be confused with LEED certification) with respect to the property. The certification must be provided by a qualified individual and satisfy the requirements of section 179D (c)(1). The qualified individual must be properly licensed as a professional engineer or contractor in the jurisdiction in which the building is located, not be “related” to the taxpayer taking the deduction (as defined by the IRS), and represent to the taxpayer in writing that he or she has the requisite qualifications to provide the certification.

The certifier must also use IRS-qualified computer software. Software must be on a list of products approved by the U.S. Department of Energy.

If you have clients who are the designers of a government-owned energy-efficient commercial building, such as a public school, the tax deduction can be assigned to your client. Alternatively, a public agency can assign the credit to the building designer and negotiate a fee reduction and so realize the credit in that way.

The Green Credit can also apply to owners of certain buildings.

ADDENDUM TO TAX BRIEF #272

Allocation of Deduction for Public Property

In the case of energy efficient commercial building property installed on or in property owned by a Federal, State, or local government or a political subdivision thereof, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the owner of such property. Such person shall be treated as the taxpayer for purposes of this section.

If you have any questions, please contact the WS+B tax department.

#272

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