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PATH Act of 2015 Extends 179D Through 2016

CONSTRUCTION, TAX
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IMPACT OF THE PATH ACT OF 2015 ON 179D

On December 18, 2015, President Obama signed the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) that extended the Energy Efficient Commercial Building Deduction (179D) for two years, through December 31, 2016.

In addition, the PATH Act increases the energy efficiency standards for property placed in service after December 31, 2015. As a result, the 179D energy efficiency standards for 2015 will continue to be based upon the 2001 ASHRAE standards; however, the 179D energy efficiency standards for 2016 will be based upon the 2007 ASHRAE standards.

WHAT ARE THE TAX BENEFITS OF 179D?

The 179D deduction allows taxpayers to take a federal tax deduction of up to \$1.80 per square foot for the installation of energy-efficient interior lighting, HVAC and building envelope systems.

WHO QUALIFIES FOR THE 179D DEDUCTION?

The deduction is available to building owners and lessees who make energy-efficient improvements to their commercial buildings located in the United States between 2006 and 2016. Multi-family buildings over four stories are also eligible.

In addition, designers of government-owned buildings may also be assigned the 179D deduction from a government agency if they are the “primary designer” of the applicable system and the government agency allocates the deduction to them by signing a “municipal allocation letter.” A few examples of the type of public projects that may qualify for the assignment of the 179D deduction include:

PUBLIC PROJECTS THAT MAY QUALIFY FOR THE 179D DEDUCTION

- Schools, including state universities
- Libraries

- Airports
- Government offices
- Post offices
- Court houses

HOW THE 179D DEDUCTION WORKS

A building is eligible for the entire \$1.80 per square foot federal tax deduction if it saves at least 50% in energy and power costs for improvements in lighting, HVAC and building envelope, as compared to a building that meets the 2001 or 2007 ASHRAE standards, based upon the date the building is placed in service. If a building does not meet the full 50% energy savings standard, a partial deduction of \$0.60 per square foot is available for each subsystem that meets certain energy saving requirements.

To claim the 179D deduction, the property must be certified by an independent third party who is qualified to perform a study certifying that the energy standards have been met.

The deduction is generally available in the year that the property is “placed in service.” If a property is certified in a year after the building is placed in service, a taxpayer may be required to amend prior tax returns to claim the deduction. However, if the taxpayer owns or leases the commercial building (as opposed to being allocated the deduction from a government agency), the Internal Revenue Service allows taxpayers to file for a “change in accounting method” to claim the deduction in the year that the accounting method is changed. The advantage of utilizing an accounting method change is that it allows taxpayers to avoid the costs and other issues associated with amending tax returns.

It is important to note that taxpayers who own or lease the commercial building must reduce their tax basis of the building by the amount of the 179D deduction. In addition, a taxpayer that is allocated 179D deductions from a government agency must reduce his or her stock basis for the 179D deductions.

If you have any questions about the potential benefits of 179D, do not hesitate to contact us. Visit our [Construction](#) and [Real Estate](#) blogs for other articles pertaining to the industry.

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