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Energy Public Act of 2005
EPAct

A Synergy Consulting Engineers White Paper

Understanding the Basics of EPAct
Federal Tax Incentives for Energy Efficiency Initiatives in Buildings

Overview

EPAct is a Federal Tax Incentive for building owners who have or are considering energy efficient upgrades to their facilities. By meeting the minimum energy efficiency standards (consult your engineer), a building owner is eligible to receive up to $1.80 per square foot tax credit to be taken against the taxable liability of the building owner. Building owners who have made improvements after January 1, 2006 and meet the minimum energy efficient requirements can amend the year's taxes that the building came on-line for its intended use. The building owner also has the option to carry the incentive forward and apply it towards a future tax liability.

Commercial Buildings (Government and Private Owned)

What is the tax incentive for commercial buildings?

A tax deduction of up to $1.80 per square foot is available to owners or tenants (or designers, in the case of government-owned buildings) of new or existing commercial buildings that are constructed or reconstructed to save at least 50% of the heating, cooling, ventilation (HVAC), water heating, and interior lighting energy cost of a building that meets ASHRAE Standard 90.1-2001. Partial deductions of $.60 per square foot can be taken for improvements to one of three building systems that reduce total HVAC, water heating and interior lighting energy use by a certain percentage below ASHRAE 90.1-2001—the building envelope (16 2/3%), lighting (16 2/3%), or HVAC (16 2/3%). An interim system-specific goal for lighting is provided directly in the legislation and is valid until the IRS issues a final regulation. The interim lighting provision allows prorated deductions from 30 cents to 60 cents per square foot for lighting systems, as described below, placed in service prior to January 1, 2006.

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General Qualification:

Any building completed (occupied for intended use) after January 1, 2006 and meets energy efficiency standards is eligible for deductions by amending that year's tax forms or the receiver of the incentive may carry the incentive forward multiple years. (Unless using the Interim Rule)

Eligibility Requirements:

The person or organization that makes the expenditures for construction is generally the recipient of the allowed tax deductions. This is usually the building owner, but for some HVAC or lighting efficiency projects, it could be the tenant. For government-owned buildings, the deduction may be taken by the building or system designer. Click here for the complete IRS rules.

The designer, in the case of publicly-owned buildings, can take the deduction in the year the property was placed in service. The building or system must be certified, with inspection and testing, as meeting the energy cost savings goal according to guidance issued by the IRS in consultation with the Department of Energy (a link to this guidance is provided on the following page).

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Key provisions in the guidance include the following:
Certifications must be done by "qualified individuals". Qualified individuals must be licensed engineers or contractors, not be "related" to the taxpayer taking the deduction (as defined by the IRS), and self-certify to the taxpayer that he or she has qualifications to provide the certification. Certifications for energy savings shall be in accordance with the procedures in Appendix G of ASHRAE Standard 90.1-2004, supplemented with several provisions in the 2005 California Title 24 Nonresidential Alternative Calculation (ACM) Approval Manual. Generally calculations will be completed using computer software. Software must be on a list of products approved by the U.S. Department of Energy.

The certification must include a field inspection of the building after the building is placed in service to confirm that the building has met the savings goals. Specific inspection and testing procedures have been developed by the National Renewable Energy Laboratory and can be downloaded by clicking here.
Certifiers must also provide the building owner with an explanation and list of the energy efficiency features of the building and the projected annual energy costs.

What do I have to do to qualify for the incentives?
Follow the guidance issued by IRS(your engineer can assist you in this area) a link is provided below. For a taxpayer, they will need to know the square footage of the building (the IRS guidance explains how to calculate this), when the building was placed in service, and have a certification from a qualified individual stating which targets have been met (50% savings for three systems or 10% for the building envelope, 20% for lighting, or 20% for the heating and cooling system). There are no special forms to apply for this deduction, click here for details.

Click here to access IRS guidance on qualifying commercial property, or visit the IRS web site.
Where can I learn more about qualifying technologies and designs?
U.S. Department of Energy:
EERE information on Commercial Building tax incentives
NREL Energy Savings Modeling and Inspection Guidelines for Commercial Building Federal Tax Deductions (1.9 MB PDF)
Qualified Software

Cost for Qualification: Building size, scope and complexity will affect the cost of certifying. The building owner should carefully evaluate the cost of certifying versus the incentive received. In cases where the owner has received LEED® Certification prior to pursuing EPAct Certification, this information may be used with EPAct Certification and lower the overall cost of pursuing the EPAct Incentive.

Information listed above was obtained, in part, from the following website:
www.energytaxincentives.org

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