

Sustainable Tax Practices

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While most architects in the public sector continue to miss out, a growing number of firms are recouping sizable 179D deductions with IPD principles applied to their financial portfolio.

“Saving energy, creating jobs” is a key challenge facing the design and construction industry as stated by the AIA in its 2013 Legislative Agenda, and a strengthened federal Energy Efficient Commercial Building Tax Deduction (179D) is the proposed solution. The Agenda echoes the AIA’s ongoing advocacy of this tax incentive, established by the Energy Policy Act of 2005 (EPAct), as well as its continued efforts to increase awareness of the benefits within the industry.

Reducing America’s energy use was EPAct’s overarching goal, and with commercial buildings as the hungriest of energy consumers, the 179D tax deduction was born to incentivize owners of commercial buildings to implement energy-efficient measures. Offering great potential to help advance the 2030 commitment of carbon neutrality, this incentive also provides sufficient flexibility to encourage retrofits of existing buildings, ultimately leading to job creation within the design and construction community.

Along with these benefits, architects working in the government and public sectors are eligible to claim the 179D tax deductions themselves. Though widely publicized, most firms do not realize the significant value they’re entitled to, and of the firms claiming the deduction, many are unknowingly failing to take full advantage of the benefits of the law. It’s important in this difficult economy that green-thinking architectural firms also think about how to keep more green in their wallets by fully realizing the benefits of 179D.

Greenest of the Green Building Incentives

Code provisions allow for federal, state, and local government owners of buildings to allocate deductions to the designers, including architects. After all, the government doesn’t pay taxes, but it still owns plenty of energy-consuming buildings. For architects of government buildings, 179D offers promising cash rewards, but the concept of an “energy-efficient commercial building” shared by many, creates misconceptions of a threshold that far exceeds what is required to qualify for the benefits of the law.

Take an example of a firm that is like so many in the country – it is among the majority with fewer than 50 employees and only a regional presence. The principals originally thought 179D was not for them, and pointed to the lack of LEED government projects in their portfolio, and the building owner’s reluctance to pay for the high upfront costs of their most innovative design solutions as the reasons.

Fortunately, this firm’s principals learned the true value of 179D before any deadlines were missed and decided to pursue its benefits. As they learned, qualification for 179D is met for implementing interior lighting, HVAC, or

envelope systems that are part of the plan to reduce a building's interior lighting and HVAC energy costs by 50 percent less as compared to a reference building meeting the minimum requirements of AHSRAE standard 90.1-2001. If you're thinking this is a low threshold, it can be and provides for large potential of benefits as a result.

This firm soon realized this potential in securing nearly \$700,000 in 179D tax deductions, previously unknown to them because of misconceptions that many architecture principals share. Perhaps more amazing than the sizable benefits is that they were generated from just five projects – two public elementary schools, a public high school, a government office building, and public healthcare facility. With deductions up to \$1.80 per square foot, a modest portfolio can add up quickly. It is important to remember that buildings and improvements placed in service in the last three years can potentially qualify for 179D.

Integrated Practices for Maximizing Sustainable Benefits

As readers know, in performing your work, you are already required to meet a wide range of energy code standards and guidelines of AHSRAE and the California energy commission. However, there is a silver lining to all these rules – in meeting them, your buildings are most likely qualifying for the tax benefits of 179D.

Looking at one such success story, a regional architecture firm with \$5 million in annual revenues was able to capture nearly \$400,000 in 179D tax deductions for a single year with the help from an integrated team comprised of subject matter experts in tax, legal analysis, architecture, engineering, energy modeling, and client relationships. The simple reality is to get the full benefit of 179D, you need an entire team working for you. Further, the law requires that there be an independent review of the energy efficiency of your building – think of it as 'trust but verify.'

For example, client relationship expertise was paramount to ensuring obtainment of the government allocations, both in the relationships with the owners as well as the relationships with the engineers and contractors who may also be entitled to allocations. We have found in practice working on hundreds of projects that getting the government's required allocation letter is one of the biggest hurdles.

Next is ensuring that you combine the engineering knowledge with knowledge of the law – that is vital. Too often, we see engineers engaging in energy modeling for 179D who do not understand the requirements of the law and either misapply the law or do not take full advantage of it. The end result is that an architectural firm either misses out on 179D benefits or receives reduced benefits. The bottom line: When it comes to 179D, you need to have your slide ruler in one hand and the tax code in the other.

Like the trends toward integrated project delivery of building design that show promise for increased sustainability by closely integrating all designers and contractors from the outset of design through completion of construction, IPD principles for 179D analyses has shown to be a best practice for architects maximizing 179D benefits. Building design is certainly more complex than 179D analyses, but what is common to both is how different elements, all based on different sciences and arts, and working in harmony can greatly affect the ultimate performance of the final product. Early and continued involvement of all relevant experts is the key to highest performance of 179D.

Embrace the 179D Commitment Now

The number of architecture firms embracing 179D is growing exponentially, and the benefits they are receiving from this powerful green building incentive is putting them at an advantage over their competitors. For those with government work but not yet taking advantage, the time to aggressively seek the benefits as part of their overall business portfolio is now. Tax returns can be amended within three years of filing – meaning you can look at build-

ings or improvements that have been put in place in the last three years as possibly qualifying. With engineers and contractors vying for the same deduction allocations, every day without 179D is a day of possible lost tax savings.

A firm's close consultation with its general tax accountant is critical, but seeking additional assistance from 179D specialty providers most often is the best approach in seeking maximum benefits. This is especially the case given the requirement of the law that there be an independent determination of the energy efficiency of the building, as well as the need to obtain the required certification from the government. From our own experience in helping nearly 1,000 design and construction firms save hundreds of millions of dollars in tax savings through credits and incentives – including 179D deductions – we have seen the integrated team approach, incorporating our in-house architects, engineers, tax attorneys, and relationship professionals, as an ideal manner to work with our clients and their tax accountants to provide the greatest benefit.

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