

# The 2005 Energy Policy Act

## Monetization of Energy Efficient Commercial Building Property Deduction (179D) for Government Entities

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# Energy Efficient Commercial Building Tax Deduction (CBTD)

- One-time deduction during year placed in service
- Applicable to both retrofit & new construction
- Includes :
  - Interior Lighting System
  - HVAC & Hot Water System
  - Building Envelope
- 100% of Project Cost UP TO \$1.80/sq.ft.
  - \$.60/sq.ft. Per Lighting, HVAC, Envelope System
- Certified by Independent 'Qualified Individual'
  - 3<sup>rd</sup> Party Contractor/Engineer Licensed in locale of Project
  - DOE-Approved Software



## Special Rule for Government - Owned Buildings



- Assignable by Governmental Entity to Designer of Qualified Project
- Architect, Engineer, Contractor, Environmental Consultant or Energy Services Company (ESCO)
- **3<sup>rd</sup> Party Validation & Valuation Required**



## Energy Policy Act Requirements



- IRS NOTICES 2006-52 and 2008-40
  - [http://www.irs.gov/irb/2006-26\\_IRB/ar11.html](http://www.irs.gov/irb/2006-26_IRB/ar11.html)
  - [http://www.irs.gov/irb/2008-14\\_IRB/ar12.html](http://www.irs.gov/irb/2008-14_IRB/ar12.html)
- January 1, 2006 thru December 31, 2013
- Draft legislation provides increase to \$3+/sq.ft and extension thru 2015



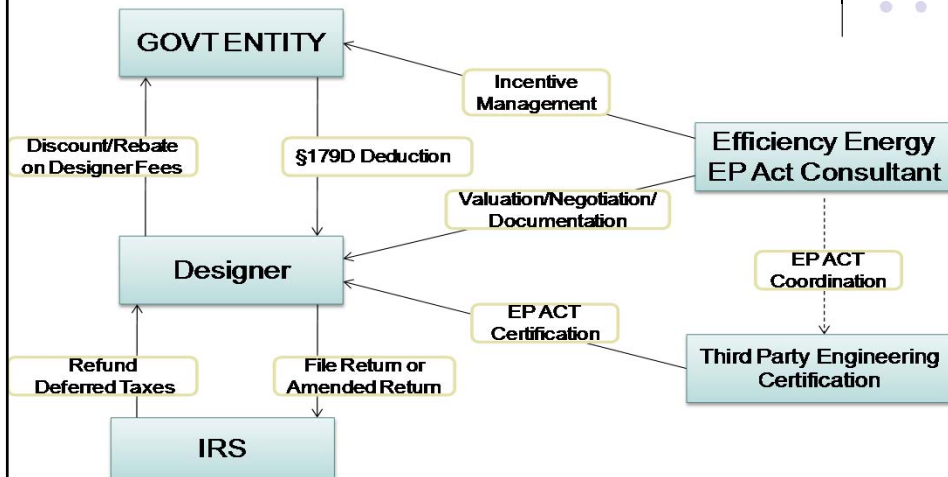
## What is it worth?



Building Size: 1,000,000 sq ft	One Bldg. System	Three Bldg. Systems
	\$0.60/sq ft	\$1.80/sq ft
179D Allocation	\$ 600,000	\$ 1,800,000
Benefit Value @ 35% Tax rate	\$ 210,000	\$ 630,000
Benefit Value @ 45% Tax Rate	\$ 270,000	\$ 810,000



## Direct Transfer Monetization



## Case Study: School District Lighting and HVAC upgrades



798,100 sqft affected in 9 Schools  
 x \$1.20/sqft = \$957,720 Deduction  
 x Designer Tax Rate 35%  
 = \$335,202 Tax Benefit  
 Less: Certification Fee \$54,400  
 Less: Legal/Accounting Fees \$17,000  
 Net Tax Benefit = \$263,802  
 50/50 split = \$131,901 savings on current project via  
 invoice credit in lieu of cash



## Case Study: University Campus Lighting Upgrade



- Campus wide lighting upgrade: 12,500,000 sq.ft.
- X \$.40/sq.ft. = \$5,000,000
- Tax Rate of Designer: 35%
- Tax Benefit Value to Designer: \$1,750,000
- 70% Discount Rate to Owner = \$1,225,000
  - Designer keeps 30% as inducement (to be negotiated)
- Less Certification, Legal & Accounting Fees
- Net: \$860,625



## Issues...

- Education, Certification, Valuation
- Tax Status: c-corp, s-corp, partnership
- Tax Rate: NOL vs. 0-49% tax payers
- Two Way Street
  - Participation is not 100% either way
- Negotiation
  - Relative Tax Benefit Value/Appetite of Designer
  - Certification, Legal, Accounting, Admin Fees
- Omission or Undervaluation



## Every Project is Different

- The certification fees, legal/admin fees, and negotiated percentages differ for each project based on size, complexity, counterparties.
- Lighting-only projects are among the most cost effective to complete.



## Efficiency Energy: Pioneering Energy Policy Act Consulting



1. Efficiency Energy LLC – [www.wesavegreen.com](http://www.wesavegreen.com)
  - Developers of EP Act Monetization Model
  - EPACT Project Management Experience
  - Former SEC Forensic Auditor
  - Public Finance / Investment Banking Backgrounds
2. Kutak Rock LP – [www.kutakrock.com](http://www.kutakrock.com)
  - Federal tax law and public finance law experts



## Bottom Line



- **Underutilized Tax Benefits to be Managed**
- Rebates & Reduced Upfront Cost on Energy Efficiency Lighting, HVAC and Envelope Projects

