

## **IRS Notice 2012-22 Adjusts Energy Savings Percentage Guidelines for §179D of the Internal Revenue Code**

The Energy Policy Act of 2005 includes a tax deduction for investments in “energy efficient commercial building property” designed to significantly reduce the heating, cooling, water heating and interior lighting cost of new or existing commercial buildings placed into service between January 1, 2006 and December 31, 2013.

Building owners or tenants who have paid for qualifying energy efficient construction or improvement projects may be eligible for a tax deduction of up to \$1.80 per square foot if energy costs are reduced by 50% or more. A partial deduction of \$.60 per square foot is available for investments in lighting, heating and cooling, or building envelope that result in a 16 2/3% reduction in energy costs (one third of the 50% requirement). Under IRS Notice 2006-52, these percentages are effective for property placed into service between January 1, 2006 and December 31, 2008.

IRS Notice 2008-04, the Energy Improvement and Extension Act of 2008, changed the energy savings percentages for the three subsystems as follows: Interior lighting increased from 16 2/3% to 20%, HVAC increased from 16 2/3% to 20% and building envelope decreased from 16 2/3% to 10%. The reduction of the building envelope percentage to 10% is clearly beneficial to building owners taking on whole-facility construction or improvement projects, or those looking for alternative ways to receive a partial deduction.

Most recently, IRS Notice 2012-22 provides adjusted guidelines for energy savings percentages required to receive the 179D deduction. Interior lighting systems now require a 25% reduction in energy costs, while the HVAC percentage has been reduced to 15% and building envelope remains at 10%. These percentages are effective for property placed into service between the effective date of Notice 2012-22 and December 31, 2013. IRS guidelines further state that if §179D is extended beyond December 31, 2013, these percentages will be effective (except as otherwise provided in an amendment of §179D or the guidance thereunder) during the period of extension.



Summary of Energy Savings Percentages Provided by IRS Guidance			
	Energy Savings Percentages permitted under Notice 2006-52	Energy Savings Percentages permitted under Notice 2008-40	Energy Savings Percentages permitted under Notice 2012-22
Interior Lighting Systems	16⅔%	20	25
Heating, Cooling, Ventilation, and Hot Water Systems	16⅔%	20	15
Building Envelope	16⅔%	10	10
Effective for property placed in service	1/1/2006-12/31/2008	1/1/2006-12/31/2013	Effective date of Notice 2012-22 - 12/31/2013; if § 179D is extended beyond 12/31/2013, also effective (except as otherwise provided in an amendment of § 179D or the guidance thereunder) during the period of the extension

Source: IRS Document 2012-22

Lighting is one of the most common energy efficiency projects undertaken by building owners looking to qualify for the §179D deduction. Advances in lighting products and systems, as well as building automation systems and improved use of natural lighting such as daylighting, continue to result in greater reductions in energy use for commercial building owners. As these products and techniques continue to improve, greater savings are being recognized, often exceeding the 25% savings guideline.

To qualify for the §179D deduction it's important to note that IRS mandated software must be used and a third-party certificate is required for proposed or newly installed: lighting upgrades, HVAC, hot water and building envelope. The third-party would conduct a physical inspection by a qualified Engineer who performs an Energy Efficiency Study (EES) to calculate, determine and certify the allowable deductions for part or all of the cost of the Energy Efficient Lighting, HVAC, hot water, and building envelope – or any one of these Sub-Systems that have been placed in service after December 31, 2005 and before January 1, 2014. Statements of Certification and allowable deductions are then issued for properties/systems meeting the minimum requirements of ASHRAE





Standard 90.1-2001 for interior lighting systems, heating, cooling, and ventilation and hot water systems which reflect the appropriate energy reduction. Statements for Energy Efficient Lighting Systems meeting the requirements of the permanent rule Section 2.03(1)(a) – will be made satisfying a reduction according to the appropriate and applied IRS Notice: 2006-52, 2008-40 or 2012-22.

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