



# Alternative & Renewable Energy Tax Newsalert

## IRS Tweaks Guidance on Section 179D Energy Efficiency Deduction

February 24, 2012

Yesterday, the IRS released Notice 2012-22, easing the energy savings thresholds that taxpayers must meet to obtain tax benefits for heating and cooling efficiency and building envelope projects.

Section 179D generally provides an immediate deduction for all or part of the cost of certain energy efficient commercial building property placed into service in the United States. To qualify for this special deduction, a taxpayer must install property as part of a building's (1) interior lighting systems, (2) heating, cooling, ventilation, and hot water systems ("HVAC systems"), or (3) the building envelope. These components must then be certified as reducing the building's total annual energy and power costs by 50% or more as compared to a "reference building" that meets the minimum requirements of Standard 90.1-2001, as set forth by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers ("ASHRAE 90.1-2001"). Buildings that meet these standards qualify for a deduction of up to \$1.80 per square foot.

Under administrative rules, the IRS will permit a partial deduction of \$0.60 per square foot for building components in each of the three categories outlined above. Notice 2006-52 spread the 50% energy efficiency standard pro rata, thus, for example, allowing a partial

deduction for lighting projects that achieved an energy efficiency percentage of at least 16 2/3%.

Notice 2008-40 allowed taxpayers to elect an energy efficiency percentage of 10% for building envelope projects, provided that they also applied a 20% energy efficiency percentage to lighting systems and HVAC systems.

Notice 2012-22 allows taxpayers to use energy efficiency percentages of 15% for HVAC systems and 10% for building envelope projects, provided the taxpayer also applies a 25% energy efficiency percentage to lighting systems.

Taxpayers may rely on either the energy savings percentages of either Notice 2012-22 or Notice 2008-40. It should also be noted that taxpayers may not retroactively use the percentages in Notice 2012-22 for projects that previously claimed, or failed to meet, the energy savings percentages in Notices 2006-52 or 2008-40.

The new notice is expected to take effect as of March 12, 2012, its official date of publication in the Internal Revenue Bulletin.

### ***PwC Observations***

The alternative standard outlined in Notice 2012-22 should make it easier to qualify both HVAC systems projects for section 179D benefits, at the cost of somewhat greater stringency for lighting projects. However, as a practical matter,



many new construction projects and retrofits significantly surpass the now-dated ASHRAE 90.1-2001 standard, so the practical effect of the higher threshold for lighting projects is likely to be limited. Finally, taxpayers should note that Section 179D is currently set to expire on December 31, 2013.

#### **For more information:**

For prior alerts on alternative and renewable energy tax issues, please see our [news archive](#). In addition to the Alternative & Renewable Energy Tax News alert, PwC also publishes a cross-disciplinary news alert providing updates on cleantech, sustainable development, and the business impacts of US climate and energy policy. For further information and to sign up for these alerts, click [here](#).

For more information about using energy tax incentives to meet your renewable energy goals, please contact a member of PwC's Sustainable Business Solutions tax team:

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