BEFORE WE GET STARTED

Welcome and thank you for joining KBKG’s live webinar

- We will start the live webinar at **10am PT | 1pm ET**
- For the best audio, dial in using the telephone number provided
- Please enter questions into the Q&A module
- Download slides from **Handouts** pane on GoToWebinar
    - **“Inflation Reduction Act & The Real Estate Industry”**

The Real Estate Roundtable

KBKG

INFLATION REDUCTION ACT & THE REAL ESTATE INDUSTRY

CJ Aberin, CCSP

Principal - *KBKG*

With Guest Speaker

Ryan P. McCormick

Senior Vice President & Counsel - *The Real Estate Roundtable*

ABOUT KBKG

KBKG The Real Estate Roundtable

- Established in 1999 with offices across the US.
- Provide turn-key tax solutions to CPAs and businesses.
- Performed thousands of tax projects resulting in over $1 billion in benefits for our clients.
- Our team is a diverse mix of tax specialists and engineers from various disciplines. This combination of talent allows us to be the best at what we do and maximize results for our clients.
- A preferred provider for thousands of CPAs across the country.

The Real Estate Roundtable

TODAY'S PRESENTERS

KBKG

CJ Aberin, CCSP

Principal –
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Ryan P. McCormick

Senior Vice President & Counsel -
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About Inflation Reduction Act

- Effective August 16, 2022
- Reconciliation Bill – pared back from Build Back Better
  - $369 billion in energy security and climate change
  - $80 billion in increased IRS funding
- Impacts on Real Estate
  - Introduction of prevailing wage requirements in tax code (5x bonus)
  - §179D – Energy Efficient Building Tax Deduction
  - § 45L – New Energy Efficient Home Tax Credit
  - Other energy tax credits (Now transferrable)
    - §48 – Energy Investment Tax Credit
    - §48E – Clean Electricity Investment Tax Credit
    - §30C – EV Charging Station Tax Credit

179D Tax Deduction for Energy Efficient Buildings

To comply with NASBA standards for CPE, we will complete four Roll Calls during the presentation.

Polling Question #1:

Have you ever claimed 179D Tax Deductions for yourself or for a client?

179D Tax Deduction – 2006 through 2022

- Introduced in 2006; extended numerous times prior to permanency
- Made permanent in December 2020 & adjusted for inflation (Covid Relief)
- In 2022, tax deduction could range from $0.31 to $1.88 per sf
  - Partial deductions up to $0.63/sf
- Eligible buildings include:
  - Commercial buildings
  - Residential buildings (4+ stories)
  - Government buildings
- Eligible taxpayers include:
  - Building owners/investors
  - Designers of government buildings (requires allocation from government entity)

179D Tax Deduction – 2006 through 2022

- Eligible energy efficient property includes:
  - Interior lighting systems
  - HVAC & hot water systems
  - Building envelope

- Applicable to ground up construction & retrofits/improvements

179D Tax Deduction – 2006 through 2022

Eligible Time Period	Fully Qualifying Property	Partially Qualifying Property			
		Envelope	HVAC	Lighting Permanent Rule	Interim Lighting Rule
1/1/06 to 12/31/08: Energy & Power Cost Savings*	50%	16-2/3% or 10%	16-2/3% or 20%	16-2/3% or 20%	25% to 40% LPD Reduction (50% LPD Reduction for Warehouse) + other factors
1/1/09 to 3/11/12: Energy & Power Cost Savings*		10%	20%	20%	
3/12/12 to 12/31/13: Energy & Power Cost Savings*		10%	20% or 15%	20% or 25%	
1/1/14 to 12/31/20: Energy & Power Cost Savings*		10%	15%	25%	
1/1/21 to 12/31/22 Energy & Power Cost Savings*		10%	15%	25%	
Tax Deduction	$1.80/sf	$0.60/sf	$0.60/sf	$0.60/sf	$0.30 to $0.60/sf (using applicable % from IRS Notice 2006-52)

*Compared to a Reference Building that meets either 2001 or 2007 energy standards

179D Tax Deduction – Modified & Expanded for 2023 and later

- **Ground up construction & retrofits – Compare against ASHRAE 90.1**

  - New sliding scale deduction for energy efficiency
  - 25% to 50% energy cost savings vs ASHRAE 90.1
    - Base rate = $0.50 to $1.00/sf
    - Bonus rate = $2.50 to $5.00/sf (Prevailing wage & apprenticeship requirements)
      - ***Currently, every project qualifies for bonus rate due to safe harbor***
    - Rates will increase for inflation annually
    - Benefit example: 200,000 sf building is now eligible for up to $1m in 179D deductions

  - Bonus rate safe harbor
    - Applies to projects where installation of energy efficient building property begins prior to the date that is 60 days after the Treasury publishes guidance on prevailing wages & apprenticeship requirements

179D Tax Deduction – Modified & Expanded for 2023 and later

- **Ground up construction & retrofits – Compare against ASHRAE 90.1**
  - ASHRAE 90.1 standard
    - More recent of ASHRAE 90.1-2007 or the most recent ASHRAE 90.1 standard for which DOE has issued a final determination and which has been affirmed by Treasury
      - Currently, compared against existing ASHRAE 90.1-2007 standard
  - What's required?
    - Energy simulation modeling using DOE-approved software
    - Certification by third-party licensed PE in jurisdiction

179D Tax Deduction – Modified & Expanded for 2023 and later

- **Alternative path for retrofits – Compare against EUI**

  - All buildings that are 5 years or older are eligible (now including low-rise residential)
  - Similar sliding scale deduction
  - 25% to 50% annualized site EUI reduction against pre-retrofit annualized site EUI
    - Base rate = $0.50 to $1.00/sf
    - Bonus rate = $2.50 to $5.00/sf (Prevailing wage & apprenticeship requirements)
      - ***Currently, every project qualifies for bonus rate due to safe harbor***
    - Rates will increase for inflation annually

  - What's required?
    - Written "qualified retrofit plan" & certification by qualified professional (licensed PE or architect)
      - Certification of pre-retrofit EUI,
      - Certification of installation pursuant to plan
      - Certification of post-retrofit EUI (at least 1 year after installation)

179D Tax Deduction – Modified & Expanded for 2023 and later

- **Designers of tax-exempt buildings now eligible for 179D deductions in 2023 & later**

  - Government entities continue to be eligible to allocate deductions to designer.
    - Many states have prevailing wage laws for public projects creating potential for maximum deductions for designers, architects, engineers & design-build contractors.
  - Tax-exempt entities that can now allocate deductions to designers include the following:
    - Charitable organizations
    - Churches & religious organizations
    - Private schools & universities
    - Private foundations
    - Political organizations
    - Other non-profits
    - Native American tribal governments
    - Alaska Native Corporations

179D Tax Deduction – Modified & Expanded for 2023 and later

- **REITs can now use 179D deductions**
  - REITs gain 179D earnings & profits conformity
    - Prior, 179D was taken over 5 years for calculating E&P
    - Now, 179D is taken as a 1 year deduction for calculating E&P
      - One less hurdle for taking advantage of 179D deductions and more potential for:
        - REIT's to retain more cash
        - Shareholders to pay less tax on dividends

Summary of 179D Changes

	179D (2006 through 2022)	179D (2023 and forward)
Range of Deductions	\$0.30 to \$1.88 per sf	\$0.50 to \$1.00+ per sf
Range of Deductions w Prevailing Wages + Apprenticeship	N/A	\$2.50 to \$5.00+ per sf
Ground Up Construction Baseline	ASHRAE 90.1	ASHRAE 90.1
Retrofit Baseline	ASHRAE 90.1	ASHRAE 90.1 or Pre-Retrofit EUI
Age Requirement for Building to be eligible for Retrofit Deduction	None	5 years or older
Eligibility for Retrofits of Low-Rise Residential (3 stories or less)	No	Yes
Applicable to REITs	No	Yes
Allocable to Designers of Government Buildings	Yes	Yes
Allocable to Designers of Tax Exempt Buildings	No	Yes
Deduction reset for Commercial Buildings	None	After 3 years
Deduction reset for Government & Tax Exempt Buildings	None	After 4 years

To comply with NASBA standards for CPE, we will complete four Roll Calls during the presentation.

Polling Question #2:

Have you or your clients build homes or multifamily buildings?

45L Tax Credit for Energy Efficient New Homes

45L Tax Credit – 2006 through 2022

- Introduced in 2006; extended numerous times prior to last sunset at end of 2021

- Inflation Reduction Act extends retroactively for 2022
  - Tax credit remains at $2,000 per unit leased or sold until end of 2022
    - Benefit example: 100 units would be eligible for up to $200,000 in credits
    - Energy efficiency criteria is same as recent prior years
      - Heating & cooling savings simulated at 50% less compared to 2006 IECC
      - Building envelope related savings at least 10% less compared to 2006 IECC

- Eligible buildings include:
  - Single family homes
  - Low-rise residential buildings (3 stories or less)
    - Significant rehab & reconstruction is eligible

45L Tax Credit – 2006 through 2022

- Eligible taxpayers include:
  - Homebuilders
  - Multifamily developers

- What's required?
  - Energy simulation modeling using IRS approved software
  - Third party certification by qualified professional

45L Tax Credit – 2023 to 2032

- Inflation Reduction Act extends through 2032

- Energy efficiency requirements for single family homes:
    - Energy Star certification for $2,500 per sold home
    - Zero Energy Ready certification for $5,000 per sold home

- Energy efficiency requirements for multifamily:
    - Energy Star certification for $500 per leased unit
    - Zero Energy Ready certification for $1,000 per leased unit
    - Prevailing wage requirements lead to 5x the tax credit
        - $2,500 for Energy Star / $5,000 for Zero Energy Ready
        - No prevailing wage safe harbor like 179D

- Other key changes:
    - No height limit; mid-rise & high rise now eligible
    - 45L doesn't reduce basis eligible for LIHTC

Summary of 45L Changes

	45L (2019 to 2022)	45L (2023 to 2032)
Energy Efficiency Requirements	50% Savings vs 2006 IECC	Energy Star or Zero Energy Ready Homes
Credit per Single Family Home for Homebuilders	$2,000	$2,500 to $5,000
Credit per Unit for Multifamily Developers	$2,000	$500 to $1,000
Credit per Unit for Multifamily Developers (Meets Prevailing Wage Requirements)	$2,000	$2,500 to $5,000
Story Height Limit	3 Stories or Less	None
Reduce basis for calculating LIHTC	Yes	No

To comply with NASBA standards for CPE, we will complete four Roll Calls during the presentation.

Polling Question #3:

Do you anticipate that you or your clients will want to sell tax credits that they can’t utilize?

Other Energy Credits – §48/48E/30C

Transferring Certain Energy Credits Starts in 2023

- Taxpayers can now transfer certain energy tax credits such as:
  - §48 Energy Investment Tax Credit
  - §48E Clean Energy Investment Tax Credit
  - §30D EV Charging Station Tax Credit

- How is transfer made?
  - Transferor must make an irrevocable election
  - Transferor must reduce basis by amount of credit transferred
  - All or portion of credit can be transferred
  - Cannot transfer any portion of credit which has been previously transferred
  - Cannot transfer carryforwards or carrybacks
  - Transferee must pay cash to transferor
    - Payment is not tax deductible to transferee
    - Payment is not included in transferor's gross income

- REITs can transfer eligible energy tax credits

§48 Energy Investment Tax Credit – 2022 to 2024

- Energy credit is reduced, modified and expanded
  - 30% base credit rate is reduced to 6%
  - 10% base credit rate is reduced to 2% for microturbines
  - Higher base credit rate can apply if "energy project" has either:
    - Prevailing wage & apprenticeship requirements are met
      - ***Currently, bonus credit rate of 30% applies as similar 179D safe harbor in place until Treasury releases guidance***
    - Net output is less than 1 megawatt

- Timing
  - Construction must begin before 2025

§48 Energy Investment Tax Credit – 2022 to 2024

- Additional bonuses on top of base rate/bonus rate (+2%/+10%)
  - Placed in service within an "energy community"
    - Brownfield site
    - Certain areas with certain employment history with coal, oil, or natural gas
      - Other criteria here
  - Satisfies "domestic content" rules
    - Steel, iron, or manufactured component is made in the USA

- An even further bonus of 10% or 20% for a qualified solar and wind facility placed in service in a qualified low income community

- Maximum tax credit can be up to 70% of expenditure.

§48 Energy Investment Tax Credit – 2022 to 2024

- Existing eligible technologies with 30%/6% rate include:
  - Solar energy property
  - Solar lighting property
  - Small wind energy property
  - Geothermal property
  - Combined heat and power (CHP) system property

- In 2023, additional eligible properties will include:
  - Energy storage technology
  - Qualified biogas property
  - Microgrid controllers
  - Interconnection property
  - Clean hydrogen property (requires election)

§48E Clean Electricity Investment Tax Credit – 2025 & Later

- Transition from 48 to 48E
  - Construction starts in 2025 or later
  - Technology neutral
    - Anticipated greenhouse gas emissions rate doesn't exceed zero

- Similar 6% base rate/30% bonus rate rules like Section 48
- Similar additional +2%/10% bonuses
  - Placed in service within an "energy community" or
  - Satisfies "domestic content" rules
- Similar 10% or 20% bonus for placing in service in qualified "low-income communities"

- Credit Phase Out
  - Starts later of 2032 or year where Treasury determines annual greenhouse gas emissions from US electricity production are equal or less than 25% of those in 2022
    - Over time, goes to 0 for construction that begins after fourth year after the initial phase out year

§30C EV Charging Station Tax Credit – 2023 to 2032

- Extended through 2032
- Same 6% Base Rate/30% Bonus Rate
- Same prevailing wage/apprenticeship safe harbor
  - ***Currently eligible EV charging stations eligible for 30% bonus credit rate***
- Credit is capped at $100K (instead of $30K) for each charging station
- Must be in eligible census tract
  - Low-income or high-poverty Census tract under NMTC or
  - Not an “urban area” as designated by the Secretary of Commerce

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Polling Question #4:

Are you or any of your clients Designers of Government or Nonprofit Buildings?

Tax Planning Opportunities

Tax Planning Opportunities

- For maximum 179D deductions, place in service in 2023 instead of 2022 if possible.
  - Maximum deduction will be close to triple at $5.00 per sf instead of $1.88
  - Consider for states with 179D conformity but have addback for bonus depreciation (i.e. NY)
- Double dip on 179D deductions & 45L credits in 2023.
  - Mid-rise and high rise residential will be eligible for both 179D & 45L
  - And 179D will apply to retrofits of low-rise residential
- Use 179D to take more deductions in later years when Bonus Depreciation was wiping out taxable income for a given property.
- Claim prior missed 45L tax credits for partnerships (especially complex ones) by filing an AAR.
  - Building designers that are partnerships can file AAR for 179D.
- Use Cost Seg to increase the basis in Section 48/48E/30C credits and maximize credits and while further increasing accelerated depreciation benefit of 5 year property.

Tax Planning Opportunities

- REIT strategies for 2023
  - Increase energy credits via Cost Seg to monetize by selling to other taxpayers
  - Take advantage of 179D deductions, especially if there's state conformity;
    - Consider looking back; accounting method change via Form 3115 can push missed deductions as far back as 2006 into 2023 when E&P conformity exists

- Designers of government buildings & tax-exempt/nonprofit buildings
  - More opportunities for 5x deductions in states with prevailing wage laws (i.e. NY, CA)

- Advise clients to look at other financial incentives for energy efficiency & renewable energy before starting construction.
  - Dsireusa.org is a great database for incentives by technology & state

What Else to Expect in 2023 and Beyond

Tax Outlook

- Impact of Mid-Term Elections

- Tax Extenders at Year End
  - Business interest deductibility §163(j)
    - Short term or permanent extension of EBITDA standard
  - LIHTC
    - Extend 12.5% increase in LIHTC allocation to States
    - Reduce 50% private activity bon requirement for projects without state LIHTC allocation
  - Opportunity Zones
    - Extend initial capital gains deferral period beyond 12/31/26
    - Shorten 5/7-year holding period of basis-step-up of prior gain
    - Sunset certain high-income census tracts
  - 100% Bonus Depreciation
    - Extend 100% Bonus Depreciation for assets with tax life of 20 or less years

Tax Outlook

- Revitalizing Downtowns Act
  - Post-pandemic conversion of underutilized or vacant buildings to better offers economic, social, and environmental benefits
  - Creates 20% tax credit for qualified property conversion expenditures
    - Credit is modeled after historic rehabilitation tax credit
    - Office to residential conversions must meet affordability requirements

- Upcoming guidance from Treasury on Inflation Reduction Act

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QUESTIONS & ANSWERS

***Attendees, please stay on**

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