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”
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
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.

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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

<table>
<thead>
<tr>
<th>Eligible Time Period</th>
<th>Fully Qualifying Property</th>
<th>Partially Qualifying Property</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Envelope</td>
<td>HVAC</td>
</tr>
<tr>
<td>1/1/06 to 12/31/08:</td>
<td>16-2/3% or 10%</td>
<td>16-2/3% or 20%</td>
</tr>
<tr>
<td>Energy &amp; Power Cost Savings*</td>
<td>50%</td>
<td></td>
</tr>
<tr>
<td>1/1/09 to 3/11/12:</td>
<td>10%</td>
<td>20%</td>
</tr>
<tr>
<td>Energy &amp; Power Cost Savings*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3/12/12 to 12/31/13:</td>
<td>10%</td>
<td>20% or 15%</td>
</tr>
<tr>
<td>Energy &amp; Power Cost Savings*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/1/14 to 12/31/20:</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Energy &amp; Power Cost Savings*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1/1/21 to 12/31/22</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>Energy &amp; Power Cost Savings*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax Deduction</td>
<td>$1.80/sf</td>
<td>$0.60/sf</td>
</tr>
<tr>
<td></td>
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</tr>
</tbody>
</table>

*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

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

<table>
<thead>
<tr>
<th></th>
<th>45L (2019 to 2022)</th>
<th>45L (2023 to 2032)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Efficiency Requirements</td>
<td>50% Savings vs 2006 IECC</td>
<td>Energy Star or Zero Energy Ready Homes</td>
</tr>
<tr>
<td>Credit per Single Family Home for Homebuilders</td>
<td>$2,000</td>
<td>$2,500 to $5,000</td>
</tr>
<tr>
<td>Credit per Unit for Multifamily Developers</td>
<td>$2,000</td>
<td>$500 to $1,000</td>
</tr>
<tr>
<td>Credit per Unit for Multifamily Developers (Meets Prevailing Wage Requirements)</td>
<td>$2,000</td>
<td>$2,500 to $5,000</td>
</tr>
<tr>
<td>Story Height Limit</td>
<td>3 Stories or Less</td>
<td>None</td>
</tr>
<tr>
<td>Reduce basis for calculating LIHTC</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
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Polling Question #3: Do you anticipate that you or your clients will want to sell tax credits that they can’t utilize?
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
To comply with NASBA standards for CPE, we will complete four Roll Calls during the presentation.

Polling Question #4:
Are you or any of your clients Designers of Government or Nonprofit Buildings?
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 require rate 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
QUESTIONS & ANSWERS

*Attendees, please stay on
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