

179D: Energy Efficient Commercial Buildings Deduction

NASEO

*National Association of
State Energy Officials*



Enhanced Federal Energy Tax Incentives
for Buildings, Transportation, and Energy
Production - Overview and Use Cases



179D: Energy Efficient Commercial Buildings Deduction

**Note: The information in this brief does not represent tax advice. Please consult a tax advisor before applying for this incentive as part of your building construction or retrofit plan.*

Overview

Section 179D of the Internal Revenue Code enables property owners of commercial buildings to claim deductions for installing qualifying energy-efficiency equipment in their buildings.¹ This tax deduction was established as part of the Energy Policy Act of 2005 and was updated in 2022 by the Inflation Reduction Act. To qualify for the minimum deduction of \$0.50/sq. ft., a building must achieve at least a 25 percent reduction in energy usage compared to a reference building based on ASHRAE Standard 90.1. The deduction then increases on a sliding scale with increased building efficiency until a building achieves a 50 percent reduction in energy cost savings. The maximum baseline credit available for a building meeting these standards is \$1.00/sq. ft. Prevailing wage and apprenticeship bonuses apply to this incentive, increasing the amount of the credit by five times. 179D is not eligible for Elective Pay.

With the Inflation Reduction Act, Congress expanded 179D's transferability to include additional types of public and nonprofit entities.² They include owners of Tribal government buildings; Alaska Native Corporations; and tax-exempt MUSH market building owners, tenants, or any other tax-exempt entities that make retrofits to existing properties. (This is in addition to privately-owned commercial building owners.) Owners of public buildings are allowed to allocate the benefits of the deduction to the designers of their retrofit projects, which can include architects, engineers, Energy Service Companies (ESCOs), or other contractors. A designer must prove that they are responsible for the installation of the energy-efficient improvements and have the improvements certified for their energy savings through a qualified third-party. Designers also need an allocation letter that clarifies that the building owner is passing on the deduction to them. Once those steps are completed, a designer can leverage the deduction for themselves.

Table 1: Summary of 179D Tax Deductions³

Deduction Without Prevailing Wage and Apprenticeship Requirements		Deduction With Prevailing Wage and Apprenticeship Requirements Satisfied)	
Minimum (for 25% energy cost savings)	Maximum (for 50% energy cost savings)	Minimum (for 25% energy cost savings)	Maximum (for 50% energy cost savings)
\$0.50/sq. ft.	\$1.00/sq. ft.	\$2.50/sq. ft.	\$5.00/sq. ft.

¹ "Energy Efficient Commercial Buildings Deduction," Internal Revenue Service, <https://www.irs.gov/credits-deductions/energy-efficient-commercial-buildings-deduction>.

² Transferability allows entities that cannot use Elective Pay but do qualify for eligible tax credits to transfer all or a portion of the credits to third-party buyers in exchange for cash. A buyer and seller will agree to the terms and pricing. Several third-party online sites provide services to match tax credit sellers with buyers. For public buildings, a building owner will transfer the incentive to the designer of the retrofit project (typically an ESCO or similar entity) as part of the payment.

³ These numbers are for taxable year 2023 only, and rates will change annually based on inflation. Chart reprinted from "179D Commercial Buildings Energy-Efficiency Tax Deduction," U.S. Department of Energy, <https://www.energy.gov/eere/buildings/179d-commercial-buildings-energy-efficiency-tax-deduction>.

How to Leverage this Tax Incentive

Example 1: A local university leverages 179D as part of an Energy Savings Performance Contract

A local university outside a major metropolitan area wishes to leverage 179D as part of an Energy Savings Performance Contract (ESPC) agreement to make deeper retrofits to its facilities through the monetization of this tax deduction. During the Investment Grade Audit step of the ESPC process, the university indicates to the ESCO that it wishes to monetize 179D as part of the financing for the project. The ESCO and the university could then negotiate how to monetize and share the tax deduction as part of the repayment process for installing qualifying measures, such as lighting or heating, ventilation, and air-conditioning (HVAC) upgrades, in addition to leveraging the energy savings provided by those upgrades. Once the upgrades are installed, the ESCO must get certifications for the improvements it installs to ensure they meet the standards required by the deduction. The ESCO also needs an allocation letter that clarifies that the building owner consents to pass the deduction to the ESCO. After that, the university transfers the deduction to the ESCO to leverage as needed.

Example 2: A private company elects to leverage 179D as part of a comprehensive retrofit of its buildings

A private company wishes to modernize its building portfolio and optimize its energy savings. The company would identify how and where it could leverage the deduction, and then apply for the deduction once the improvements are completed. The process for claiming the 179D deduction can be found [here](#).

Considerations for State Energy Offices

- **Which decision-makers need to know about this deduction?**
 - Officials for state agencies, school districts, and the MUSH market sector, including agencies/authorities that own or operate buildings/facilities, general services and landlord agencies, as well as building/facility managers and operators
 - State-run ESPC program managers
 - Licensed design, engineering, and contractor professionals who can act as qualified individuals to certify an installation's energy savings and eligibility for the deduction
 - Potential designers, ESCOs, and other companies that can take advantage of this deduction in the private sector, including small-to-medium sized commercial enterprises
- **What are avenues to reach those decision-makers?**
 - Communications through dedicated listservs
 - Help-line/answer-line e-mail addresses and phone numbers for inquiries
 - Webinars for specific types of entities
 - Participation at in-state conferences, roadshows, etc.
 - Presentations to state organizations such as associations of state school business officers, groups of local government officials that authorize or enforce existing building policies, etc.

- **What other sources of Infrastructure Investment and Jobs Act (IIJA) and/or IRA funds can organizations potentially leverage alongside this credit?**
 - **IIJA Section 40502** - Energy Efficiency Revolving Loan Fund Capitalization Grant Program funds could be leveraged as low-cost financing for projects.
 - **IIJA Section 40541** - Renew America's Schools Program grants to school districts could be leveraged to make improvements alongside ESPC and 179D. This program is administered by the U.S. Department of Energy (DOE).
 - **IIJA Section 40542** - Grants to nonprofits could potentially be leveraged if there is an energy-as-a-service agreement utilized as part of the retrofit financing structure.
 - **IIJA Section 40552** - Energy Efficiency and Conservation Block Grant funds could be leveraged to make improvements to buildings.
 - **IRA Section 50121** - Home Energy Performance-Based, Whole House (HOMES) Rebates could be leveraged alongside 25C to cover additional costs of home energy retrofits in multifamily properties.
 - **IRA Section 50122** - High-Efficiency Electric Home Rebate Program (HEEHR) Rebates could be leveraged to cover additional costs of upgrades for LMI homeowners in multifamily properties.

Resources

Internal Revenue Service Summary of 179D Provisions

This webpage provides information on 179D, including eligibility for the incentive, the incentive amounts available to qualifying buildings, and the building code standards to exceed to qualify for the incentive.

Link: <https://www.irs.gov/credits-deductions/energy-efficient-commercial-buildings-deduction>

Frequently Asked Questions About Prevailing Wage and Apprenticeship Requirements Under the Inflation Reduction Act

This webpage provides information about Davis-Bacon's prevailing wage and apprenticeship requirements and how the 179D incentive increases if those requirements are met by a building owner.

Link: [https://www.irs.gov/credits-deductions/frequently-asked-questions-about-the-prevailing-wage-and-apprenticeship-under-the-inflation-reduction-act#:~:text=In%20general%2C%20a%20taxpayer%20that,credit%20or%20deduction\)%20by%20five](https://www.irs.gov/credits-deductions/frequently-asked-questions-about-the-prevailing-wage-and-apprenticeship-under-the-inflation-reduction-act#:~:text=In%20general%2C%20a%20taxpayer%20that,credit%20or%20deduction)%20by%20five)

IRC 179D Energy Efficient Commercial Buildings Process Overview

This webpage provides information on the process that qualifying building owners must complete to obtain the 179D tax incentive. It also indicates the forms a building owner must complete as part of this process.

Link: https://www.irs.gov/pub/fatca/int_practice_units/irc-179d-energy-efficient.pdf

Energy Savings Modeling and Inspection Guidelines for Commercial Building Federal Tax Deductions for Buildings [Placed in Service?] in 2016 and Later

This document provides guidance on the modeling and inspection of buildings looking to qualify for the 179D tax incentive. It includes information on software requirements, model parameters, building [energy?] loads and schedules, and guidelines for inspection of building envelopes, interior lighting, and HVAC and service hot water systems.

Link: <https://www.energy.gov/eere/buildings/downloads/energy-savings-modeling-and-inspection-guidelines-commercial-building>



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