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New IRS notice boon to commercial building owners seeking to qualify for 179D tax incentives

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Internal Revenue Code (IRC) Section 179D(a) allows a taxpayer, either a lessee or owner, to take a current deduction for part or all of the cost of energy efficient commercial building property that the taxpayer places in service prior to January 1, 2014. The maximum deduction is based on a combination of prescribed energy savings and square footage of the building although partial deductions are also allowed.

A recent IRS Notice modifies previous guidance by providing an additional set of energy savings percentages that taxpayers can use to qualify for a partial 179D section deduction for energy efficient commercial buildings. These new energy savings percentages, which are effective for property placed in service on or after March 12, 2012, are: 25% (formerly 20%) for the interior lighting system; 15% (formerly 20%) for the heating ventilation and air conditioning and hot water systems (HVAC), and 10% (no change) for the building envelope.

In general, an energy efficient commercial building property is depreciable property that: (1) is installed on or in any building that is located in the U.S. and is within certain prescribed standards, (2) is installed as part of the interior lighting systems, the heating, cooling, ventilation, and hot water systems (HVAC), or the building envelope and (3) is certified as being installed as part of a plan designed to reduce the total annual energy and power costs for the interior lighting and HVAC systems of the building by 50% or more in comparison to certain mandated minimum standards.

Based on these new standards, lighting systems will need to save more energy but HVAC systems will need to save less to qualify for the partial deduction. This should provide stimulus to the HVAC industry while also providing opportunities for additional tax savings for those seeking to upgrade energy efficient buildings. Because this valuable tax deduction is scheduled to expire at the end of 2013, it is important for eligible taxpayers to plan now to achieve the potential enhanced tax savings.

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