NAR Issue Summaries

Commercial / 179-D Energy Commercial Building Tax Provision

NAR Committee:

Commercial Federal Policy Committee

What is the fundamental issue?

Section 179D, the Energy Efficient Commercial Buildings Deduction, was made permanent by the December 21, 2020 Omnibus Spending bill, which was signed into law on December 28, 2020. The bill also provides for an inflation adjustment for taxable years beginning after 2020, tied to the cost-of-living adjustments in IRS 26 Sec. 1(f)(3). In addition, it updated the ASHRAE (American Society of Heating, Refrigerating, and Air-Conditioning Engineers) standard (to "Reference Standard 90.1"), which properties will be required to meet no later than 2 years after the date construction begins. This applies to property placed in service after December 31, 2020.Following that, the Inflation Reduction Act (IRA) of 2022 further revamped the 179D tax deduction. Beginning January 1, 2023 the total potential deduction available was increased and eligibility for building owners was expanded, via relaxing the minimum requiring energy savings standard.

Enacted as part of the Energy Policy Act of 2005, this tax provision allows commercial building owners who improve the building's energy-efficiency (via the building envelope, HVAC system, hot water, or the interior lighting system) to receive a deduction of as much as $5.65 per square foot if the upgrade goes into service in 2024 , after receiving the proper third-party certification. It is available for both new construction and retrofits, and does not favor any particular method of conserving/reducing energy use.

I am a real estate professional. What does this mean for my business?

Section 179D encourages commercial building owners to make energy-efficient improvements to their properties, while giving them the flexibility to make their own choices of how to accomplish this. In addition to reducing energy consumption and saving owners and tenants' money, these improvements can also increase the property's attractiveness to new tenants and help them retain value as they age. Making the 179D tax provision permanent supports its efficacy and provides certainty to building owners when deciding whether to make improvements to their properties and determining those costs.

NAR Policy:

NAR supports deductions such as Section 179D, which are designed to encourage property owners to make improvements to and/or rebuild real property in order to conserve energy and satisfy environmental goals. NAR supports encouraging improving energy usage in commercial buildings through voluntary, market-based programs which leave flexibility in the way that is achieved.

Opposition Arguments:

No specific policy arguments against this deduction have been identified, other than the cost of extending

500 New Jersey Avenue, NW
Washington, DC 20001
(800) 874-6500
nar.realtor

the deduction would either have to be offset in some way, or be added to the budget deficit.

Legislative/Regulatory Status/Outlook

Section 179D was reauthorized several times in the years leading up to its being made permanent by the December 21, 2020 Omnibus Spending bill passed by Congress.Further updates were made to the deduction by the Inflation Reduction Act of 2022.

NAR belongs to multiple industry coalitions that advocated for real estate tax extenders and 179D permanence specifically, and continues to work with the Administration to update the regulations which control its standards and the total deduction amount.

Current Legislation/Regulation (bill number or regulation)

U.S. IRS: Energy Efficient Commercial Buildings Deduction

Legislative Contact(s):

Erin Stackley, estackley@nar.realtor, 202-383-1150
Evan Liddiard, eliddiard@nar.realtor, 202-383-1083

Regulatory Contact(s):

Evan Liddiard, eliddiard@nar.realtor, 202-383-1083
Erin Stackley, estackley@nar.realtor, 202-383-1150