

The HVAC Tax Aspects of Post-Internet Retail Stores

By Charles R. Goulding, Andrea Albanese and Raymond Kumar

Charles R. Goulding, Andrea Albanese and Raymond Kumar explain that the demise of brick-and-mortar dry goods retailers has changed the HVAC needs of retail tenants as more service-oriented businesses occupy retail space.

The U.S. retail sector is rapidly converting from hard goods sellers in dry stores to service businesses requiring enhanced heating, ventilation and air conditioning (HVAC). HVAC is expensive and inefficient; HVAC measurably increases operating costs. Retail category landlords and service business tenants need to carefully consider energy-efficient HVAC design when designing and purchasing new and replacement HVAC products. Numerous categories of energy-efficient HVAC are eligible for EPartax incentives.

The Code Sec. 179D Tax Opportunity

Pursuant to Code Sec. 179D, as enacted by the Energy Policy Act of 2005 (EPartax),¹ building owners and tenants making qualifying energy-reducing investments in their new or existing locations can obtain immediate tax deductions of up to \$1.80 per square foot.

If the building project does not qualify for the maximum Code Sec. 179D \$1.80-per-square-foot immediate tax deduction, there are tax deductions

of up to \$0.60 per square foot for each of the three major building subsystems: lighting, HVAC and the building envelope. The building envelope is every item on the building's exterior perimeter that touches the outside world including roof, walls, insulation, doors, windows and foundation.

Post-Internet Leading Retailers

We are all familiar with the total demise of many major hard goods manufacturers including Circuit City for electronics, Linens and Things for household goods and Borders for books. These products are increasingly purchased online, and the remaining retailers in these categories are also shrinking their selling spaces.

The retail categories refilling these spaces that require improved HVAC systems include:

1. Restaurants²
 - Capital Grille, P.F. Chang's, Morton's, and Houston's
2. Health clubs and gyms³
 - Some of the leading national chains include Gold's Gym, Bally's Total Fitness, LA Fitness, Town Sports International and Curves
3. Pharmacies with medi-clinics and refrigerated food products⁴
 - Including the "big three:" Walgreens, CVS and Rite Aid
4. Stand-alone medi-clinics
5. Salons and spas

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The Shrinking Dry Goods Retail Sector

Numerous dry goods retailers have recently announced systematic store closings. For example, Abercrombie & Fitch will close 180 stores by 2015, Blockbuster is to eliminate 300 stores, Barnes & Noble will close 200 locations (20 per year over 10 years), and Sears will close 62 locations.

Radio Shack will be closing 450 to 550 locations, Game Stop will get rid of 500 to 600 stores, pre-merger Office Depot indicated they would close 125 to 150 locations, and Office Max will be closing 150 to 175 locations.

Medi-Clinics

This already growing retail category is on the rise as pharmacies branch out into health care services. Rite Aid plans to open 58 locations with in-store medical clinics that will use web cams to provide virtual doctors. Rite Aid executive Robert Thompson says, "Health care in the future is certainly going to require a multifaceted approach," he adds that the virtual medical clinics are "a very efficient way to bring acute-care services to a pharmacy."⁵

CVS's chief health care officer, Helena Foulkes, says, "We have to reinvent pharmacy." CVS announced in December 2012 that there would be acceleration of MinuteClinics openings, from 100 per year to 150. CVS will have over 1,500 MinuteClinics by 2017. Medi-clinics should utilize more advanced HVAC systems with more frequent ventilation air changes.

Energy-Efficient Retail HVAC Technologies

The HVAC categories that typically qualify for the EPAct tax incentive include:

1. Coolerado units⁶ (in the south and western portions of the United States)
2. VRF⁷
3. Energy Recovery Ventilation
4. VAV in buildings less than 75,000 square feet
5. Chillers in buildings less than 150,000 square feet

6. Geothermal⁸
7. McQuay bearingless chillers⁹
8. Thermal Storage¹⁰
9. Very efficient package units

Long standing shopping mall and shopping center owners are often not familiar with today's high energy-efficiency HVAC equipment, and tenants will often need to request and negotiate upgrades if they want to manage their operating costs.

Conclusion

The retail sector is going through a major dry goods to replacement retailer transformation where typically more HVAC is required. Knowledge of highly efficient HVAC technologies can reduce tenant operating costs while utilizing tax incentives.

ENDNOTES

- ¹ Energy Policy Act of 2005 (P.L. 109-58) ("EPAct").
- ² Charles R. Goulding, Jennifer Pariente and Raymond Kumar, *The EPAct Tax Aspects of High Growth Specialty Restaurants*, ETSI Publ'g, July 2012. Available at www.energytaxsavers.com/articles/Article%20-%20The%20EPAct%20Tax%20Aspects%20of%20High%20Growth%20Specialty%20Restaurants.pdf.
- ³ Charles R. Goulding and Andrea Albanese, *EPAct Tax Incentives for Energy-efficient Fitness Centers*, ETSI Publ'g, July 2011. Available at www.energytaxsavers.com/articles/EPAct%20Tax%20Incentives%20for%20Energy%20Efficient%20Fitness%20Centers%20-%20Updated.pdf.
- ⁴ Charles Goulding, Amelia Aboff and Taylor Goulding, *Special Tax Savings Opportunities for Pharmaceutical and Biotech Campuses*, CORP. BUS. TAX'N MONTHLY, Oct. 2009, at 13.
- ⁵ John W. Miller, *Drugstores Expand Walk-In Clinics*, WALL ST. J., Mar. 1, 2013, at B5.
- ⁶ Charles R. Goulding, Daniel Audette and Jacob Goldman, *Tax Savings for Cooling Your Building with Sweat*, CORP. BUS. TAX'N MONTHLY, July 2013, at 9.
- ⁷ Charles R. Goulding, Andrea Albanese and Jacob Goldman, *New HVAC Hotel and Apartment Technology Obtains Large EPAct Incentives*, CORP. BUS. TAX'N MONTHLY, Aug. 2012, at 25.
- ⁸ Charles Goulding, Joseph Most and Spencer Marr, *The Energy Tax Aspects of Geothermal Heat Pumps*, CORP. BUS. TAX'N MONTHLY, Dec. 2010, at 13.
- ⁹ Charles R. Goulding, Jacob Goldman and Gary Savell, *EPAct Tax Aspect of McQuay Chiller LED Lighting Combinations*, CORP. BUS. TAX'N MONTHLY, Jan. 2013, at 9.
- ¹⁰ Charles Goulding, Jacob Goldman and Taylor Goulding, *The Tax Aspects of Thermal Storage and Time-of-Day Pricing*, CORP. BUS. TAX'N MONTHLY, Nov. 2009, at 13.

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