

Energy Tax Aspects of Achieving Class A Office Buildings Designation

By Charles R. Goulding, Jennifer Pariente and Jacob Goldman

Charles R. Goulding, Jennifer Pariente and Jacob Goldman explain the advantage of achieving Class A building status in order to attract high quality tenants willing to pay higher rents and the benefits of installing energy-efficient building systems to achieve this designation and to realize tax savings.

Landlords endeavor to achieve Class A office building status in order to attract the best tenants who are willing to pay a higher rent. When considering office space, tenants will find that office buildings are generally classified as being either a Class A, Class B or a Class C building. Class A buildings represent the highest quality buildings. They typically are the best constructed buildings, possess high quality building infrastructure and generally have the best building appearance. Class A buildings also are well-located, have good access and are professionally managed. Therefore, they attract the highest quality tenants and also command the highest rents. Leading tenants seek Class A office buildings as part of their own imaging with the expectation these are qualitatively better and more cost efficient.

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As building standards evolve, the criteria for determining Class A status is constantly changing. The determination of whether a building currently meets Class A energy standards involves both objective and subjective standards. This article contains some subjective judgments based on the authors' own opinions. The federal tax system provides substantial tax incentives for many of the measures that will assist in accomplishing new era Class A office building status.

Code Sec. 179D

Under Code Sec. 179D, as enacted by the Energy Policy Act of 2005 (EAct),¹ building owners who make qualifying energy-reducing investments can obtain immediate tax deductions of up to \$1.80 per square foot.

If the building project does not qualify for the maximum \$1.80-per-square-foot immediate tax deduction, there are tax deductions of up to 60 cents per square foot for each of the three major building subsystems: lighting, heating, ventilation and air conditioning (HVAC) and the building envelope. The building envelope covers every part of the building's exterior perimeter that touches the outside world

including roof, walls, insulation, doors, windows and foundation.

New Era Class A Office Building Criteria

LEDs and Other Energy-Efficient Lighting

Increasingly, most Class A buildings are in the process of installing long-life energy-efficient LED lighting.² Regardless of the technology, office buildings must have energy-efficient lighting.

Lighting Controls

In addition to energy-efficient lighting, Class A office buildings must have a comprehensive lighting control system.³

Energy-Efficient HVAC

Air conditioning is the biggest energy cost item in an office building. Office buildings must have modern, highly energy-efficient HVAC.

Old HVAC units become less efficient, so with HVAC it is particularly important that units be replaced at the end of their lives. Any unit older than 15 to 20 years should be carefully monitored.

Some of the most energy-efficient HVAC technologies would include geothermal,⁴ thermal storage,⁵ energy recovery ventilation,⁶ magnetic bearing chillers and chilled beam.

HVAC Controls

In addition to energy-efficient HVAC, a Class A office building must have a comprehensive HVAC control system.⁷

LEED Status

A Class A office building should either be Leadership in Energy and Environmental Design (LEED) certified or be able to document that it has most of the elements of typical LEED-certified building. LEED

buildings are usually very well platformed for large EPC tax savings.⁸

Benchmarking

A Class A office building must have benchmarking data from the Energy Star System, which should be made readily available to all existing and prospective tenants. Benchmarking is mandatory in many office-building-intense markets, including Austin, Texas; California; New York City; Seattle; and Washington, D.C.⁹ Our view is that a Class A office building should either have a 90-percent Energy Star rating or be in the process of achieving 90-percent status.

Conclusion

Class A office building status is very important to both landlords and tenants. Knowledgeable office building and tenant tax advisers can offer valuable tax advice in this area.

ENDNOTES

- ¹ Energy Policy Act of 2005 (P.L. 109-58) ("EPAAct").
- ² Charles R. Goulding, Raymond Kumar and Jennifer Pariente, *LED Lighting Can Play A Key Role in Securing EPC Tax Benefits*, Imark Group, Apr. 2012. See www.imarkgroup.com/.
- ³ Charles R. Goulding, Spencer Marr and Charles G. Goulding, *The EPC Tax Aspects of Building Control Systems*, CORP. BUS. TAX'N MONTHLY, Oct. 2012, at 9.
- ⁴ Charles R. Goulding, Joseph Most and Spencer Marr, *The Energy Tax Aspects of Geothermal Heat Pumps*, CORP. BUS. TAX'N MONTHLY, Dec. 2010, at 13.
- ⁵ Charles R. 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.
- ⁶ Charles R. Goulding, Raymond Kumar and Kenneth Wood, *New Efficient HVAC Drives Large Tax Deductions for Buildings*, CORP. BUS. TAX'N MONTHLY, May 2009, at 11.
- ⁷ *Id.*
- ⁸ Charles R. Goulding, Taylor Goulding and Amelia Aboff, *How LEED 2009 Expands EPC Tax Savings Opportunities*, CORP. BUS. TAX'N MONTHLY, Sept. 2009, at 11.
- ⁹ Charles R. Goulding, Jacob Goldman and Joseph Most, *Using EPC Incentives to Enhance New Mandatory Building Energy Disclosure Requirements*, CORP. BUS. TAX'N MONTHLY, Oct. 2010, at 11.

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