

Long Island Drives EPAct Tax Savings to Avoid Power Plant

By Charles R. Goulding, Spencer Marr and Christopher Winslow

Charles Goulding, Spencer Marr and Christopher Winslow focus on Long Island, an area that is overdue for a region-wide energy retrofit overhaul due to an aging building sector, high energy costs and the desire to eliminate a new power plant investment while taking advantage of their EPAct tax incentives.

Introduction

Long Island is a 120-mile land mass with strong ties to the New York City economy. The area has a mature commercial building inventory that is on average very energy-inefficient compared to today's building energy code standards. Common building categories include light industrial warehouses, office buildings, retail and a growing apartment and senior care sector. Long Island's commercial properties have always been subject to some of the highest energy costs in the United States. The combination of high energy costs and a mature building inventory generates one of the nation's largest opportunities for energy-cost reduction supported by large tax savings. Ironically, despite this opportunity, Long Island might be forced to build an expensive new power plant unless it materially reduces current building energy use.

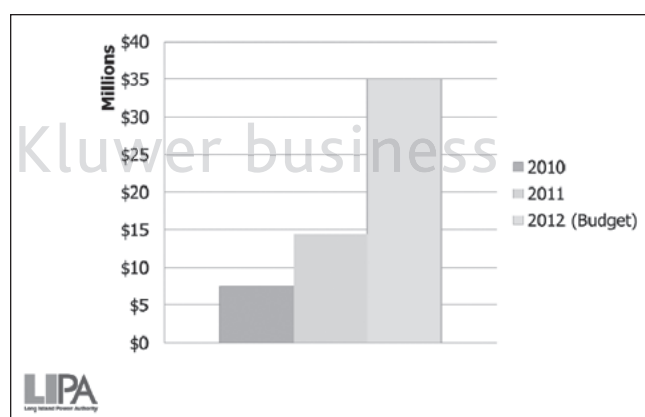
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Recognizing this challenge, the Long Island Power Authority (LIPA) utility has shrewdly decided to place an unprecedented emphasis on improving commercial building energy efficiency. Chart 1, provided by LIPA, presents the utility's trend in cash utility rebates:

Chart 1.



It is important to realize how large the economic payback can be from the right rebate investments. LIPA's investment metrics indicate that the \$14 million in 2011 rebates resulted in almost equivalent \$14 million one-year energy savings even before considering tax savings.

The Code Sec. 179D EPAct Tax Opportunities


Pursuant to Code Sec. 179D, enacted as part of the Energy Policy Act (EPAct),¹ commercial property owners in Long Island 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 doesn't 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; heating, ventilating and air conditioning (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.

Combining Rebates with Tax Savings

LIPA has smartly gone public with the concept that if Long Island rapidly improves its commercial energy efficiency it won't have to build a currently planned expensive power plant. By avoiding the construction of a power plant, LIPA will also circumvent the traditional problems that come with siting such a facility, such as the complaints of "Not in my back yard." In order to facilitate this transition, the utility is simultaneously offering commercial end users rebates while encouraging property owners to utilize EPAct tax incentives. If successful, the combined use of rebates and the tax law to prevent the construction of more power plants should serve as a national model that all utilities will aim to follow.

Chart 2.



Potential EPAct 179D Tax Deductions Available for Energy Efficient Building Improvements

| Property | Total Square Footage | Lighting | | HVAC Maximum Deduction | Building Envelope Maximum Deduction | Total |
|---------------------------------|----------------------|-------------------|-------------------|------------------------|-------------------------------------|------------|
| | | Minimum Deduction | Maximum Deduction | | | |
| Coca Cola | 218,075 | \$ 65,423 | \$ 130,845 | \$ 130,845 | \$ 130,845 | \$ 392,535 |
| Sheralven Enterprises | 184,275 | \$ 55,283 | \$ 110,565 | \$ 110,565 | \$ 110,565 | \$ 331,695 |
| Allstate | 171,600 | \$ 51,480 | \$ 102,960 | \$ 102,960 | \$ 102,960 | \$ 308,880 |
| Accountemps | 171,600 | \$ 51,480 | \$ 102,960 | \$ 102,960 | \$ 102,960 | \$ 308,880 |
| Globecomm Network Services Corp | 128,000 | \$ 38,400 | \$ 76,800 | \$ 76,800 | \$ 76,800 | \$ 230,400 |
| Pods of Long Island | 125,000 | \$ 37,500 | \$ 75,000 | \$ 75,000 | \$ 75,000 | \$ 225,000 |
| Regent Sports Corporation | 120,000 | \$ 36,000 | \$ 72,000 | \$ 72,000 | \$ 72,000 | \$ 216,000 |
| Décor Moulding Supply | 111,300 | \$ 33,390 | \$ 66,780 | \$ 66,780 | \$ 66,780 | \$ 200,340 |
| Castle Rock Communications | 100,000 | \$ 30,000 | \$ 60,000 | \$ 60,000 | \$ 60,000 | \$ 180,000 |
| Sage Foods | 91,200 | \$ 27,360 | \$ 54,720 | \$ 54,720 | \$ 54,720 | \$ 164,160 |
| Directbuy of Suffolk County | 85,400 | \$ 25,620 | \$ 51,240 | \$ 51,240 | \$ 51,240 | \$ 153,720 |
| Applied Technology of NY | 75,000 | \$ 22,500 | \$ 45,000 | \$ 45,000 | \$ 45,000 | \$ 135,000 |
| Odot Funding | 70,225 | \$ 21,068 | \$ 42,135 | \$ 42,135 | \$ 42,135 | \$ 126,405 |
| Blue Ribbon | 68,250 | \$ 20,475 | \$ 40,950 | \$ 40,950 | \$ 40,950 | \$ 122,850 |
| Invagen Pharmaceutical | 66,000 | \$ 19,800 | \$ 39,600 | \$ 39,600 | \$ 39,600 | \$ 118,800 |
| Four Paws Products | 65,000 | \$ 19,500 | \$ 39,000 | \$ 39,000 | \$ 39,000 | \$ 117,000 |
| Virtue Paintball | 60,000 | \$ 18,000 | \$ 36,000 | \$ 36,000 | \$ 36,000 | \$ 108,000 |
| CMC Machine Corporation | 60,000 | \$ 18,000 | \$ 36,000 | \$ 36,000 | \$ 36,000 | \$ 108,000 |
| Crosstext International Inc | 60,000 | \$ 18,000 | \$ 36,000 | \$ 36,000 | \$ 36,000 | \$ 108,000 |
| Louis Solomon | 60,000 | \$ 18,000 | \$ 36,000 | \$ 36,000 | \$ 36,000 | \$ 108,000 |
| G & L Precision Products | 58,850 | \$ 17,655 | \$ 35,310 | \$ 35,310 | \$ 35,310 | \$ 105,930 |
| Orbit International Corporation | 55,800 | \$ 16,740 | \$ 33,480 | \$ 33,480 | \$ 33,480 | \$ 100,440 |
| Donaldson Acoustics Co | 54,150 | \$ 16,245 | \$ 32,490 | \$ 32,490 | \$ 32,490 | \$ 97,470 |
| Audiovox | 54,000 | \$ 16,200 | \$ 32,400 | \$ 32,400 | \$ 32,400 | \$ 97,200 |
| American Pool Management | 52,800 | \$ 15,840 | \$ 31,680 | \$ 31,680 | \$ 31,680 | \$ 95,040 |
| Pennplax | 51,700 | \$ 15,510 | \$ 31,020 | \$ 31,020 | \$ 31,020 | \$ 93,060 |
| La Mendola Dance & Gymnastic | 50,600 | \$ 15,180 | \$ 30,360 | \$ 30,360 | \$ 30,360 | \$ 91,080 |
| Forest Laboratories | 50,000 | \$ 15,000 | \$ 30,000 | \$ 30,000 | \$ 30,000 | \$ 90,000 |
| Glaro Inc | 50,000 | \$ 15,000 | \$ 30,000 | \$ 30,000 | \$ 30,000 | \$ 90,000 |
| Foster & Garbus | 46,200 | \$ 13,860 | \$ 27,720 | \$ 27,720 | \$ 27,720 | \$ 83,160 |
| Josh Packaging Inc | 43,750 | \$ 13,125 | \$ 26,250 | \$ 26,250 | \$ 26,250 | \$ 78,750 |
| Mason Technologies | 43,750 | \$ 13,125 | \$ 26,250 | \$ 26,250 | \$ 26,250 | \$ 78,750 |
| Quantum Instruments | 40,000 | \$ 12,000 | \$ 24,000 | \$ 24,000 | \$ 24,000 | \$ 72,000 |
| Tyrolit Co | 39,600 | \$ 11,880 | \$ 23,760 | \$ 23,760 | \$ 23,760 | \$ 71,280 |
| APF Marine Group | 39,200 | \$ 11,760 | \$ 23,520 | \$ 23,520 | \$ 23,520 | \$ 70,560 |
| Panor Corporation | 36,000 | \$ 10,800 | \$ 21,600 | \$ 21,600 | \$ 21,600 | \$ 64,800 |
| Superior Washer and Gasket Corp | 34,200 | \$ 10,260 | \$ 20,520 | \$ 20,520 | \$ 20,520 | \$ 61,560 |
| Aladdin Packaging | 33,000 | \$ 9,900 | \$ 19,800 | \$ 19,800 | \$ 19,800 | \$ 59,400 |

Major Long Island Building Categories

As noted above, Long Island's major building categories are office buildings, light industrial warehouse, retail and a growing apartment and senior care sector. Following is a summary of the unique EAct opportunities available to property owners in each category.

Hauppauge Industrial Association (HIA)

The Hauppauge Industrial Park (HIP) is the economic engine of Suffolk County. HIP is home to over 500 buildings and 1100 commercial tenants. It employs over 55,000 Long Islanders. Recognizing this, the Hauppauge Industrial Association (HIA) recently unveiled its plans for an Energy Conservation Project with the stated goal of reducing the park's overall energy consumption by at least 15 percent.

The nine-step Energy Conservation Plan of Action involves:

- (1) determining current energy usage in the Park;
- (2) developing an introductory cover letter to invite HIP companies to get involved in the initiative;
- (3) creating a checklist with necessary questions to go to HIP companies;
- (4) creating an HIA-LI HIP Energy Conservation Working Committee;
- (5) evaluating data and creating initial energy utilization benchmark reports;
- (6) creating the "HIA-LI Energy Conservation Challenge";
- (7) presenting results at an executive breakfast/lunch at Green Conference in October 2012;

Chart 3.

- (8) creating a Green Resource Guide; and
- (9) developing a team to promote and to educate business owners on incentives and tax rebates through Code Sec. 179D federal tax deductions.

Chart 2 above presents the estimated EAct tax savings potential for a portion of the buildings at the Park.

Office Buildings

Due to rapid improvements in the energy efficiency of LED lighting technology, office buildings are excellent EAct tax deduction candidates. The latest low-wattage LED lighting allows office buildings to more easily meet the 0.78-watts-per-square-foot maximum tax deduction wattage target. The country's largest office buildings tend to be in major cities, many of which have recently enacted public benchmarking laws. These laws, generally applicable for buildings exceeding 50,000 square feet, compare building energy use by building category and assign a percentile. Landlords in the jurisdictions with benchmarking laws, including California, New York City, Washington D.C., Austin and Seattle, are moving quickly to make certain that they are not in the bottom 50 percentile.² One of the easiest ways to measurably improve one's rating is to install energy-efficient lighting, particularly LEDs. Office buildings with very energy-efficient HVAC³ and Leadership in Energy and Environmental Design (LEED) office buildings⁴ may be platformed for larger EAct tax deductions, which can be used to offset the high cost of LED lighting.

Long Island office building owners can use the benchmarking results to evaluate their own buildings' relative performance. Chart 3 illustrates the EAct tax savings potential for several of Long Island's largest and most recognizable office spaces.

| Property | Total Square Footage | Lighting | | HVAC Maximum Deduction | Building Envelope Maximum Deduction | Total |
|----------------------------|----------------------|---------------------|---------------------|------------------------|-------------------------------------|---------------------|
| | | Minimum Deduction | Maximum Deduction | | | |
| RXR Plaza | 1,068,250 | \$ 320,475 | \$ 640,950 | \$ 640,950 | \$ 640,950 | \$ 1,922,850 |
| The Omni | 639,302 | \$ 191,791 | \$ 383,581 | \$ 383,581 | \$ 383,581 | \$ 1,150,744 |
| 68 South Service Road | 308,718 | \$ 92,615 | \$ 185,231 | \$ 185,231 | \$ 185,231 | \$ 555,692 |
| 58 South Service Road | 286,914 | \$ 86,074 | \$ 172,148 | \$ 172,148 | \$ 172,148 | \$ 516,445 |
| 1000 Woodbury Road | 247,624 | \$ 74,287 | \$ 148,574 | \$ 148,574 | \$ 148,574 | \$ 445,723 |
| 50 Charles Lindbergh Blvd. | 221,488 | \$ 66,446 | \$ 132,893 | \$ 132,893 | \$ 132,893 | \$ 398,678 |
| 55 Charles Lindbergh Blvd. | 214,581 | \$ 64,374 | \$ 128,749 | \$ 128,749 | \$ 128,749 | \$ 386,246 |
| 6800 Jericho Turnpike | 209,255 | \$ 62,777 | \$ 125,553 | \$ 125,553 | \$ 125,553 | \$ 376,659 |
| 395 North Service Road | 195,491 | \$ 58,647 | \$ 117,295 | \$ 117,295 | \$ 117,295 | \$ 351,884 |
| 150 Vanderbilt Motor Pkwy. | 184,060 | \$ 55,218 | \$ 110,436 | \$ 110,436 | \$ 110,436 | \$ 331,308 |
| 1305 Walt Whitman Road | 166,067 | \$ 49,820 | \$ 99,640 | \$ 99,640 | \$ 99,640 | \$ 298,921 |
| 50 Marcus Drive | 163,762 | \$ 49,129 | \$ 98,257 | \$ 98,257 | \$ 98,257 | \$ 294,772 |
| Totals: | 3,905,512 | \$ 1,171,654 | \$ 2,343,307 | \$ 2,343,307 | \$ 2,343,307 | \$ 7,029,922 |

Chart 4.

| Long Island Retail EAct Tax Savings Potential | | | | | | |
|---|----------------------|---------------------|---------------------|------------------------|-------------------------------------|----------------------|
| Potential Tax Deductions Available for Energy Efficient Building Improvements | | | | | | |
| Property | Total Square Footage | Lighting | | HVAC Maximum Deduction | Building Envelope Maximum Deduction | Total |
| | | Minimum Deduction | Maximum Deduction | | | |
| Roosevelt Field Mall | 2,244,581 | \$ 673,374 | \$ 1,346,749 | \$ 1,346,749 | \$ 1,346,749 | \$ 4,040,246 |
| Green Acres Mall | 1,800,000 | \$ 540,000 | \$ 1,080,000 | \$ 1,080,000 | \$ 1,080,000 | \$ 3,240,000 |
| Broadway Mall | 1,500,000 | \$ 450,000 | \$ 900,000 | \$ 900,000 | \$ 900,000 | \$ 2,700,000 |
| Smith Haven Mall | 1,400,000 | \$ 420,000 | \$ 840,000 | \$ 840,000 | \$ 840,000 | \$ 2,520,000 |
| Walt Whitman Mall | 1,029,000 | \$ 308,700 | \$ 617,400 | \$ 617,400 | \$ 617,400 | \$ 1,852,200 |
| Americana Manhasset | 220,000 | \$ 66,000 | \$ 132,000 | \$ 132,000 | \$ 132,000 | \$ 396,000 |
| Totals: | 8,193,581 | \$ 2,458,074 | \$ 4,916,149 | \$ 4,916,149 | \$ 4,916,149 | \$ 14,748,446 |

Retail

Long Island is known for having a high density of retail centers catering to discount and luxury shoppers. Building lighting comprises a large portion of retail store energy use. Most retail stores that have not had a lighting upgrade to energy-efficient lighting in the last seven or eight years utilize prior generation metal halide or T-12 fluorescent lighting. It is also important to realize that effective January 1, 2009, most probe-start metal halide lighting may no longer be manufactured in or imported into the United States; and, effective July 1, 2010, most T-12 lighting may no longer be manufactured in or imported into the United States. This means that retail stores that still have this lighting technology are experiencing large price increases for replacement lamps and bulbs.

This prior generation T-12 and metal halide lighting is very energy-inefficient compared to today's LED lighting, and a lighting retrofit can easily reduce lighting electricity costs by 40 to 60 percent.⁵

It is widely presumed that virtually all buildings will eventually be converting to LED lighting. Many multi-location retailers are beginning the conversion now. The best economic payback will come from those locations with high electricity rates and large utility rebates. For that reason, Long Island's retail centers are primed for some of the best economic paybacks in the country, especially once LIPA's rebates are factored in. Chart 4 above shows the EAct tax opportunity for several of Long Island's most well-known retail centers.

Retailers should take their most efficient stores, combining the LED lighting discussed above and the most efficient HVAC, and have them modeled using IRS-approved software to see if they qualify for multiple EAct tax deductions. With this

approach, they could plan into \$1.20 to \$1.80 EAct tax deductions for every store retrofitted to that energy efficiency level or better on or before December 31, 2013. If they have any existing LEED stores, they already have a store that has an energy simulation model, and it could quickly be evaluated to see if multiple EAct tax deductions are in the offing. These companies should first determine whether existing LEED models already qualify them for tax savings.

Apartments

The key to minimizing apartment building energy costs is installing energy-efficient HVAC. With apartments, the tenant that bears the utility costs related to HVAC. New benchmarking rules in major apartment markets, including California, New York City, Washington, D.C., Austin and Seattle, will soon provide large amounts of data related to current apartment energy costs, and the information from benchmarking reports will be available to Long Island apartment owners.⁶

For apartments, building HVAC is the largest energy-cost item. New HVAC technology called VRV (Variable Refrigerant Volume system), also known as VRF (Variable Refrigerant Flow), is substantially reducing apartment building energy expenses. VRF/VRV's will annually reduce total energy costs for these two markets by at least 20 percent and may reduce current building energy costs by as much as 40 percent.⁷

Many apartment buildings are currently installing LED and other energy-efficient lighting technologies along with energy-efficient HVAC, and the total energy cost savings from both measures can often exceed 50 percent.

Chart 5.

| Long Island Senior Center EAct Tax Savings Potential | | | | | | |
|---|----------------------|-------------------|---------------------|------------------------|-------------------------------------|---------------------|
| Potential Tax Deductions Available for Energy Efficient Building Improvements | | | | | | |
| Property | Total Square Footage | Lighting | | HVAC Maximum Deduction | Building Envelope Maximum Deduction | Total |
| | | Minimum Deduction | Maximum Deduction | | | |
| Altria Senior Living, 11 locations* | 880,000 | \$ 264,000 | \$ 528,000 | \$ 528,000 | \$ 528,000 | \$ 1,584,000 |
| The Bristol, 7 locations* | 560,000 | \$ 168,000 | \$ 336,000 | \$ 336,000 | \$ 336,000 | \$ 1,008,000 |
| Sunrise Senior Living, 10 locations* | 800,000 | \$ 240,000 | \$ 480,000 | \$ 480,000 | \$ 480,000 | \$ 1,440,000 |
| Totals: | 2,240,000 | \$ 672,000 | \$ 1,344,000 | \$ 1,344,000 | \$ 1,344,000 | \$ 4,032,000 |

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* Presumes an average of 80,000 sq. ft. per center

Senior Care Centers

Another emerging trend in Long Island is the increase in the amount of senior centers, both in Nassau and Suffolk Counties. From an energy standpoint, these buildings are a lot like apartments in that they consume a proportionally greater amount of HVAC-related electricity. The sheer volume of senior care center square footage on the island means that there is a large EAct opportunity in this sector.

The three largest senior care center operators, with multiple locations across Long Island, are The Bristol, Sunrise Senior Living and Altria Senior Living. Chart 5 presents the combined EAct tax savings potential for these three companies.

Conclusion

Long Island is overdue for a region-wide energy retrofit overhaul. The area's aging building sector, high energy costs and the desire to eliminate a new power plant investment are all strong reasons for commercial property owners to move now to retrofit

their buildings while taking advantage of their EAct tax incentives.

ENDNOTES

- Energy Policy Act of 2005 (P.L. 109-58) ("EAct").
- Charles Goulding and Daniel Penza, *The Ten Least Energy Efficient Office Buildings in New York City*, Apr. 2011, available online at <http://www.energytaxsavers.com/articles/The%20Ten%20Least%20Energy%20Efficient%20Office%20Buildings%20in%20New%20York%20City.pdf>.
- Charles Goulding, Raymond Kumar and Kenneth Wood, *New Efficient HVAC Drives Large Tax Deductions for Buildings*, CORP. BUS. TAX'N MONTHLY, May 2009, at 13.
- Charles Goulding, Taylor Goulding and Amelia Aboff, *How LEED 2009 Expands EAct Tax Savings Opportunities*, CORP. BUS. TAX'N MONTHLY, Sep. 2009, at 11.
- Charles Goulding, Jacob Goldman and Joseph Most, *The Energy Tax Aspects of Discount Retail Stores*, CORP. BUS. TAX'N MONTHLY, Nov. 2010, at 11-12.
- Charles Goulding, Jacob Goldman and Joseph Most, *Using EAct Incentives to Enhance New Mandatory Building Energy Disclosure Requirements*, CORP. BUS. TAX'N MONTHLY, Oct. 2010, at 11-14.
- Charles Goulding, Andrea Albanese and Jacob Goldman, *New HVAC Hotel and Apartment Technology Obtains Large EAct Tax Incentives*, CORP. BUS. TAX'N MONTHLY, Aug. 2012, at 19.

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