The New Cashless Tax-Enhanced Commodity Financed Energy Project Model

By Charles R. Goulding, Jacob Goldman and Charles G. Goulding

Charles R. Goulding, Jacob Goldman and Charles G. Goulding explain how businesses with large balance sheets are offering cashless energy project management financing to optimize commodity prices and take advantage of the large tax incentives that may be available.

In the energy management area, commodity refers to the supply of fuel sources, with the two largest building fuel sources being electricity and natural gas. Large property owners typically use energy service intermediaries to optimize commodity prices. The current environment of flat electricity prices and very low natural gas prices has made the commodity supply business become very competitive. To augment their commodity, businesses with large balance sheets are increasingly offering cashless energy project management financing. These projects are often eligible for large tax incentives.

Code Section 179D EPAct Tax Opportunities

Pursuant to Code Sec. 179D, as enacted by the Energy Policy Act of 2005 (EPAct),[1] commercial property owners or primary designers in government projects 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 $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.

Alternative Energy Tax Credits and Grants

There are multiple 30-percent or 10-percent tax credits available for a variety of alternative energy measures with varying credit termination dates. For example, the 30-percent solar tax credit expires January 1, 2017, and the 10-percent Combined Power tax credit also expires January 1, 2017. The 30-percent closed loop and open loop biomass credit expires January 1, 2014.

Charles R. Goulding, Attorney/CPA, is the President of Energy Tax Savers, Inc., The EPAct 179D Experts, an interdisciplinary tax and engineering firm that specializes in the energy-efficient aspects of buildings.

Jacob Goldman, LEED A.P., is an Engineer and Tax Consultant with Energy Tax Savers, Inc., The EPAct 179D Experts.

Charles G. Goulding is a Senior Tax Analyst with Energy Tax Savers, Inc., The EPAct 179D Experts.

The Commodity Energy Business

Utility-Owned

Some commodity suppliers are deregulated subsidiaries of regulated utilities. An example of this model would be Con Edison Energy, a subsidiary of Con Edison Solutions, the regulated utility.

Oil Company-Owned

Some commodity suppliers are owned by major utilities. An example of this model would be Hess Corporation. Hess offers cashless commodity financed transactions for both commercial buildings and residential buildings, including New York City apartment buildings. Many existing New York City buildings use Number 4 and Number 6 fuel oil and are required by law to convert to a fuel source with lower emissions which typically is natural gas.

Equipment Company-Owned

Some commodity suppliers are owned by energy-efficient product companies. For example, in 2011 Summit Energy, a large industrial company commodity supplier was recently purchased by Schneider, the large lighting and building controls company.

> The current environment of flat electricity prices and very low natural gas prices has made the commodity supply business become very competitive.

Commodity Energy Project Financing Example

Presume a commercial property owner with a 300,000 square foot building is considering a $600,000 project with a simple economic payback of four years, meaning it saves $150,000 a year. Also presume this project is eligible for a $540,000 EPAct tax deduction ($1.80 × 300,000 sq. ft.) which is worth $216,000 using a combined 40 percent federal and state tax rate. On an after-tax basis, the project now has a simple economic payback of 2.6 years. With this transaction, the commodity supplier could offer five-year financing, and the transaction would remain cash positive from commencement to completion.

Property Owner Strategies

Property owners enter into these transactions for a variety of business reasons.

Excellent Stand-Alone Returns

The combination of energy cost savings, utility rebates and tax savings often makes energy projects excellent investments on a stand-alone basis.

Obsolete Equipment

Property owners with obsolete equipment often must replace existing equipment. Commodity financing allows for all required replacements without impacting regular budgets.

Increased Supplier Market Share

Many product suppliers can earn increased market share by meeting supplier energy cost reduction goals. For example Wal-Mart,[2] one of the world's largest goods purchaser, rewards suppliers that reduce energy costs with more purchases.[3]

Utility Rebate Timing

Many utilities offer lucrative cash rebates on a time-limited basis. Commodity financing allows a property owner to capture these rebates before they expire.

Conforming Sustainability Business Mission

Increasingly, many leading companies are committed to sustainability goals. Many major investment groups will not invest in a company unless there is a formal, comprehensive sustainability program. Other companies, including lighting, HVAC, building envelope and building controls companies, need to demonstrate that they practice what they market.

Preapproved Credit Authorization

Property owners that use a particular intermediary are already credit approved for large purchases by that intermediary. This means that energy projects can quickly be approved and implemented. Cashless building energy reducing transactions are now appealing to large property owners. The ability to implement a project on a cashless basis that remains cash positive and also includes large tax incentives can be a compelling business proposition.

Conclusion

The commodity project financing can meet the needs of two of the party's business goals. The commodity provider locks in a long-term supply contract, and the property owner can more efficiently commence a beneficial project.

Endnotes

1 Energy Policy Act of 2005 (P.L. 109-58) ("EPAct").

2 Charles Goulding, Jacob Goldman and Christopher Winslow, *The EPAct and Alternative Energy Tax Aspects of Walmart's Supplier Sustainability Program,* Corp. Bus. Tax'n Monthly, Jun. 2011, at 13.

3 Charles R. Goulding, Charles G. Goulding and Jennifer Pariante, *The Tax Aspects of the PepsiCo Sustainability Supply Chain,* Corp. Bus. Tax'n Monthly, Nov. 2012, at 15.