

# Hotels and Motels Most Favored Energy Policy Act Tax Properties

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Charles Goulding, Jacob Goldman and Taylor Goulding describe energy efficient tax deductions available for hotels and motels.

As a result of the severe economic downturn, many hotel and motel operators are taking advantage of the low occupancy period to install energy efficient equipment and reduce operating costs. On October 3, 2008, President Bush signed the Energy and Economic Stabilization Act of 2008<sup>1</sup> bill. This bill extended the Code Sec. 179D commercial building energy efficiency tax provisions for five years through December 31, 2013. Energy Policy Tax of 2005<sup>2</sup> (EPAcT) tax deductions are a function of square footage, and hotels and motels are often large properties. EPAcT tax deductions are available for qualifying energy reducing lighting, heating, ventilation and air-conditioning (HVAC) and building envelope investments.

## Lighting Tax Incentive Favors Hotels and Motels

The underlying rule set to qualify for the Code Sec. 179D lighting tax deduction makes hotels and motels the most favored property category for the tax incentive. The rule set requires at least a 25-percent watts-per-square foot reduction as compared to the 2001 American Society of Heating Refrigeration and Air Conditioning Engineers (ASHRAE) building energy code standard. Full

tax deduction is achieved with a 40-percent watts-per-square foot reduction compared to the ASHRAE 2001 standard. The ASHRAE 2004 hotel/motel building code standard requires 41-percent wattage reduction, which means that any hotel or motel lighting installation that meets that building code requirement will qualify for the maximum tax deduction.

## Hotel and Motel Occupancy Rooms

For most other building categories, the Code Sec.179D tax provisions require compliance with the bi-level switching requirement. The comparison is always based on wired rather than plug-in lighting. Hotels and motels have a major advantage in that they often use plug-in lighting, and hotels and motels are specifically excluded from the tax bi-level switching requirement. Since occupant rooms are usually the largest spaces in hotels and motels, this means that hotels and motels are typically able to use energy efficient lighting to generate large tax deductions for the majority of the facility.

## Back of the House Spaces

Hotels often have large kitchen and laundry (so called back of the house) spaces that have historically used T-12 fluorescent lighting. This lighting is so energy-inefficient compared to today's lighting products that it will be illegal to manufacture them in the United States after July 1, 2010. Once manufacturing of these products ceases, the cost of replacing these inefficient bulbs will increase. Simply stated, hotels should consider acting now to replace these lighting fixtures to save both energy and lamp replacement costs. The EPAcT lighting tax incentive can be used

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to address the opportunities related to these legally mandated product changes

### **Ball Rooms, Banquet Rooms and Restaurants**

In these areas, hotels and motels have historically used designer type lighting that is energy inefficient and often very expensive to maintain and replace. In particular, replacing bulbs and lamps in high ceilings is very costly since expensive mobile hydraulic platform equipment must be rented or purchased to handle the replacements. New lighting products and, in particular, light emitting diode (LED) products, use a fraction of the energy and have a much longer useful life and are now being substituted. The combination of large energy cost reduction, operating cost reductions, utility rebates and EAct tax deductions can greatly improve the economic payback from these more costly lighting upgrades.

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### **Parking Garages**

Many hotels have large adjoining parking garages that can save substantial energy costs and generate large tax deductions by upgrading to energy efficient fixtures. It is generally advisable to use vapor sealed lighting fixtures in these applications so that the auto exhaust fumes do not compromise the lighting fixture. In Notice 2008-40,<sup>3</sup> issued March 7, 2008, the IRS announced that parking garages are a property class that is specifically entitled to use the EAct tax deductions. Parking garages are excluded from the tax bi-level switching requirement. Please see the September, 2008 International Parking Institute article devoted to parking garages lighting deduction tax opportunities.<sup>4</sup>

### **LEED Hotels**

Many top hotels are seeking to become LEED (Leadership Energy Environmental Design) certified (See

*LEED Building Tax Opportunities* article).<sup>5</sup> Hotels find that certain categories of frequent travelers are very interested in staying in facilities that have clearly demonstrated they are focused on the environment and sustainable design. To become LEED certified, a hotel must have a building energy simulation model created by a qualified engineer. Modeling is also required for the EAct, HVAC and Building Envelope tax deductions. Qualified tax experts that know how to make the adjustments to convert LEED computer models to EAct tax deduction models can evaluate LEED models and determine whether large tax deductions are probable. For example, a 500,000 square foot LEED hotel that qualifies for the maximum EAct tax deduction will receive an immediate tax deduction of \$900,000  $= (500,000 \times \$1.80)$ . Hotel owners who understand the magnitude of these benefits can use the tax savings to help justify the costs related to achieving LEED status.

### **Conclusion**

Hotels and Motels are the most favored building category under the EAct commercial building tax deduction legislation. Owners who understand these opportunities can act during the current economic downturn to improve their facilities, reduce operating costs and potentially become LEED certified facilities.

### **ENDNOTES**

- <sup>1</sup> Energy and Economic Stabilization Act of 2008 (P.L. 110-343).
- <sup>2</sup> The Energy Policy Act of 2005 (P.L. 109-58) was the original act implementing these tax deductions.
- <sup>3</sup> Notice 2008-40, IRB 2008-14. 725.
- <sup>4</sup> Charles R. Goulding, Peter Kelly and Taylor Goulding, *EAct Tax Deductions for Parking Garage Lighting Projects Gain Wider Use*, THE PARKING PROFESSIONAL, Sept. 2008.
- <sup>5</sup> Charles R. Goulding, Jacob Goldman and Nicole DiMarino, *Leed Building Tax Opportunities*, CORP. BUS. TAX'N MONTHLY, Jan. 2008, at 11.