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The Energy Tax Aspects of a Restructuring U.S. Mall Industry

By Charles Goulding, Jacob Goldman, and Raymond Kumar

In the aftermath of a severe economic downturn and the reemergence of General Growth Properties from bankruptcy, three huge U.S. mall developers are currently marketing 40 shopping malls for sale. The three large mall sellers are Westfield Group, Simon Property Group, and General Growth Properties. Some of these malls have not had a major facilities upgrade in many years and use far more energy than modern shopping facilities. According to the Wall Street Journal, the four malls being sold by Simon Properties are, on average, 27 years old and haven't had a major renovation in 13 years. Those four include Gulf View Square and Boynton Beach Mall in Florida, and Knoxville Center and Oak Court Mall in Tennessee.

Westfield Properties is selling Downtown Plaza in Sacramento California, Solano Mall in Milford Conn, and the Westland Mall in Hialeah, Florida. Westfield intends to utilize $2 billion in proceeds for the redevelopment and renovation of its remaining properties.

The Westfield Group facilities slated for upgrades include Century City in Los Angeles, Valley Fair Mall in San Jose California and Garden State Plaza in New Jersey.

The Section 179D EPAct Tax Opportunities

Pursuant to Section 179D of EPAct and its underlying ASHRAE (American Society of Heating Refrigeration and Air Conditioning) building energy code, commercial buildings are eligible for energy efficiency tax deductions of up to $1.80 per square foot. If a building's energy reducing investment doesn't qualify for the full $1.80 per square foot deduction, then deductions are available for any of the three major sub-systems, including:

1. Lighting

2. HVAC (Heating, Ventilation and Air Conditioning).

3. The building envelope.

Each component can qualify for up to 60 cents per square foot in EPAct tax deductions. The building envelope is anything on the perimeter of the building that touches the outside world including roof, walls, windows, doors, the foundation and related insulation layers.

Alternative Energy Tax Credits and Grants

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

All alternative measures that are eligible for the 30% and 10% tax credits are also eligible for equivalent cash grants for the three years staring January 1st 2009 and ending December 31st 2011.

The Potential EPAct Tax Deductions for the Malls Described Above:

Property	Total Square Footage	Lighting Minimum Deduction	Lighting Maximum Deduction	HVAC Maximum Deduction	Building Envelope Maximum Deduction	Total
Gulf View Square, Port Richey, FL[1]	1,050,000	$ 315,000	$ 630,000	$ 630,000	$ 630,000	$ 1,890,000
Boynton Beach Mall, Boynton Beach, FL[1]	1,014,000	$ 304,200	$ 608,400	$ 608,400	$ 608,400	$ 1,825,200
Knoxville Center, Knoxville, TN[1]	981,111	$ 294,333	$ 588,667	$ 588,667	$ 588,667	$ 1,766,000
Oak Court Mall, Memphis, TN[1]	885,627	$ 265,688	$ 531,376	$ 531,376	$ 531,376	$ 1,594,129
Garden State Plaza, New Jersey[2]	2,132,112	$ 639,634	$ 1,279,267	$ 1,279,267	$ 1,279,267	$ 3,837,802
Valley Fair Mall, California[2]	2,000,000	$ 600,000	$ 1,200,000	$ 1,200,000	$ 1,200,000	$ 3,600,000
Century City, California[2]	810,673	$ 243,202	$ 486,404	$ 486,404	$ 486,404	$ 1,459,211
Downtown Plaza, California[3]	1,188,000	$ 356,400	$ 712,800	$ 712,800	$ 712,800	$ 2,138,400
Solano Mall, California[3]	1,034,000	$ 310,200	$ 620,400	$ 620,400	$ 620,400	$ 1,861,200
Westland Mall, Florida[3]	820,000	$ 246,000	$ 492,000	$ 492,000	$ 492,000	$ 1,476,000
*Proposed Sales[4]	19,000,000	$ 5,700,000	$ 11,400,000	$ 11,400,000	$ 11,400,000	$ 34,200,000
Totals:	30,915,523	$ 9,274,657	$ 18,549,314	$ 18,549,314	$ 18,549,314	$ 55,647,941

[1] Indicates the specified mall is part of Simon Property Group

[2] Indicates the specified mall is part of Westfield Group

[3] Indicates the specified mall is part of General Growth Properties

[4] Is an estimate of 19 malls with approximately 1 million square feet each

Energy-Efficient Lighting Provides the Best Economic Payback

Energy-efficient lighting often provides a very favorable two to three year economic payback where EPAct tax savings is readily achievable.

Many mall tenants are national retailers or restaurants. Increasingly these national tenants are upgrading to low wattage long life LED lighting. Prospective mall tenants should make sure that their store lighting conforms to the best of breed LED lighting standards for their national organization.

For new purchasers of these malls it is particularly important that the parking garage lighting be retrofitted to energy-efficient lighting.

Many older mall parking garages have now federally banned metal halide or T-12 lighting that uses twice the energy of today's replacement lighting.[1]

HVAC is the Biggest Energy User

Malls are air conditioned properties and HVAC is the biggest energy user. Typically the mall owner is responsible for common space air conditioning and tenants are responsible for their own premises after lease commencement. With these older malls new tenants should make certain that the HVAC supporting their retail space is at the beginning of its life cycle and is at the highest energy efficiency levels available. Energy-efficient chillers dedicated to facilities less than 150,000 square feet typically qualify for the EPAct HVAC tax incentives.

[1] Charles Goulding, Jacob Goldman, and D. Malcolm Thomas, *Multiple Lighting Technologies Drive Large EPAct Tax Deductions for Parking Garages*, August 2010 at Corp. Bus. Tax'n Monthly

Alternative Energy Tax Incentives

Investments in roof top solar P. V. and fuel cells generate large 30% tax credits and/or cash grants. Even REIT mall owners can reap the economic benefits from these large tax incentives by either entering into power purchase agreement or utilizing cash grants.

Fuel Cells

Due to their large size and HVAC energy use malls make excellent fuel cell candidates.

Fuel cells convert chemical energy into electric energy through use of a reactant (hydrogen fuel cells use hydrogen as a reactant) and an oxidizing agent. Combustion is not involved in this process, making fuel cells quite environmentally friendly.

The following table is an example of year 2011 fuel cell purchase with an $800,000 utility rebate:

Fuel Cell Tax Planning Example:

1)	Project Cost		$2,000,000
2)	Project Cost (after rebate)		1,200,000
3)	Tax Credit or Grant 30%	(2 X 0.30)	360,000
4)	After 30% Tax Credit	(2-3)	840,000
5)	Remaining Basis (with 50% add on)	4 + ½(3)	1,020,000
6)	Bonus Depreciation		1,020,000
7)	Value of above at 35%	6 X 0.35	357,000
8)	Total First Year Tax Benefit	(3+7)	717,000
	Net Investment	(2-8)	$483,000

Solar P.V.

With their large roof square footage, malls make excellent solar P.V. candidates. Solar is currently particularly popular for shopping centers and malls in California, Florida, and New Jersey where many of the proposed mall sales or upgrades are now taking place. After a new owner or existing owner retrofits the purchased mall it is the perfect time to install solar P.V. Arguably with the level of solar installations now taking place in California and New Jersey a mall will be at a competitive disadvantage if it can't offer the lower electricity costs available from solar P.V. or the fuel cells described above.

Conclusion

A major restructuring of the U.S. mall industry is now underway. Purchasers of existing malls have to make facilities upgrades. The existing large mall sellers have signaled that they intend to take the sales proceeds and redeploy them into facilities upgrades. Both the mall purchasers and the seller have the opportunity to use EPAct tax deductions, and alternative energy tax credits and cash grants to improve the economic return on all of these required or strategic energy reducing investments.

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