



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

February 01, 2012

Number: **2012-0004**
Release Date: 3/30/2012

CC:PSI:B06
CONEX-102095-12

UIL: 179D.00-00

The Honorable Fred Upton
Member, U.S. House of Representatives
800 Centre, Suite 106, 800 Ship Street
St. Joseph, MI 49085

Attention:

Dear Congressman Upton:

This letter responds to your inquiry dated January 13, 2012, on behalf of your constituent who asked about tax incentives for lighting property. Your constituent is a small business owner who is interested in upgrading to more energy efficient lighting fixtures and light bulbs in several of his stores.

Your constituent may be eligible for a tax deduction for the cost of the energy efficient lighting property if the installation of the property will achieve a specified level of reduction in annual energy and power costs of the commercial building. (See enclosed section 179D of the Internal Revenue Code).

Under section 179D, a taxpayer who owns, or is a lessee of, a commercial building may claim a deduction for part or all of the cost of depreciable property that the taxpayer installed as part of the commercial building's interior lighting systems, heating, cooling, ventilation, and hot water systems, or building envelope. The taxpayer must place the property in service by 2013.

A taxpayer could be eligible for the deduction in one of the following ways:

1. The interior lighting system is certified to reduce the total annual energy and power costs for the combined use of the building's heating, cooling, ventilation, hot water, and interior lighting systems by at least 50 percent as compared to a reference building that meets the minimum requirements of Standard 90.1-2001¹.

¹ Standard 90.1-2001 refers to ANSI/ASHRAE/IESNA Standard 90.1-2001, Energy Standard for Buildings Except Low-Rise Residential Buildings, developed for the American National Standards Institute by the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (as in effect on April 2, 2003).

The maximum amount of the deduction for any building for any taxable year cannot exceed the excess (if any) of the product of \$1.80 multiplied by the square footage of the building, over the aggregate amount of the deductions under section 179D for the building in all prior taxable years.

2. Partially qualifying: the interior lighting system is certified to reduce the total annual energy and power costs by at least 20 percent. The law allows a partial deduction of up to \$.60 rather than \$1.80 per square foot.
3. Interim lighting rule: the interior lighting system is certified to achieve a reduction in lighting power density of at least 25 percent of the minimum requirements in Table 9.3.1.1 or Table 9.3.1.2 of Standard 90.1-2001. The deduction is equal to the applicable percentage of the deduction otherwise allowable under section 179D. The applicable percentage for the building is 100 percent if the lighting system achieves at least 40 percent reduction in lighting power density. If the reduction is less than 40 percent, the applicable percentage for the building is 100 percent reduced at a rate of 3 1/3 percentage points per percentage point by which 40 percent exceeds the percentage reduction in lighting power density. Additionally, the maximum amount of deduction allowed is same as #2 above.

We issued Notice 2006-52 and Notice 2008-40 to provide guidance about the energy efficient commercial buildings deduction, and I am enclosing these notices. The notices provide in depth information about the certification procedure, qualified individuals who can provide a certification, qualified computer software used to prepare a certification, and other important guidance. Although your constituent should refer to the notices in their entirety, in particular, section 2.03 of Notice 2006-52 and sections 5 and 6 of Notice 2008-40, which describe energy efficient lighting property and the interim lighting rule as well as certification requirements, may be helpful. Additionally, please see section 7 of Notice 2008-40 that describes the updated percentages for partially qualifying property.

I hope this information is helpful. If your constituent or you have additional questions about section 179D or the notices, please contact _____ or me at () _____ for further assistance.

Sincerely,

Charles B. Ramsey
Chief, Branch 6
Office of Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (3)