

September 17, 2013

The Honorable Max Baucus
Chairman
Committee on Finance
U.S. Senate

The Honorable Orrin Hatch
Ranking Member
Committee on Finance
U.S. Senate

The Honorable Dave Camp
Chairman
Committee on Ways and Means
U.S. House of Representatives

The Honorable Sander Levin
Ranking Member
Committee on Ways and Means
U.S. House of Representatives

Re: 179D Tax Deduction for Energy Efficient Buildings

Dear Chairmen and Ranking Members:

Our organizations and companies represent a broad spectrum of the U.S. economy and include real estate, manufacturing, architecture, contracting, building services firms, financing sources, and environmental and energy efficiency advocates. Many of the entities we represent are small businesses that drive and sustain American job growth. We support the tax deduction at section 179D of the Internal Revenue Code, which encourages greater energy efficiency in our nation's commercial and larger multifamily buildings. As Congress continues to assess comprehensive tax reform, we support section 179D's extension and necessary reforms to spur retrofit projects in existing buildings.

The section 179D deduction is a key incentive to leverage significant amounts of private sector investment capital in buildings. It will help spur construction and manufacturing jobs through retrofits, save businesses billions of dollars in fuel bills as buildings become more energy efficient, place lower demands on the power grid, help move our country closer to energy independence, and reduce carbon emissions.

Section 179D provides a tax deduction (not a credit) that allows for cost recovery of energy efficient windows, roofs, lighting, and heating and cooling systems meeting certain energy savings performance targets. Without section 179D, the same building equipment would be depreciated over 39 years (business property) or 27.5 years (residential property). These horizons do not meaningfully encourage real estate owners to bear the immediate and expensive front-end costs associated with complex energy efficiency upgrades. Section 179D allows for accelerated depreciation of high performance equipment that achieves significant energy savings.

Current law has the perverse effect of discouraging energy improvements. Utility bills and the costs of energy consumption are part of a business's ordinary and necessary operating expenses, and are thus fully and immediately deductible. Section 179D is a critical provision because, by encouraging greater building efficiency, it aligns the code to properly incentivize energy *savings*. Moreover, relative to the code's incentives for energy creation, taxpayers get more "bang for the buck" through efficiency incentives like the section 179D deduction. Dollar for dollar, it is much cheaper to *avoid* using a kilowatt of energy than to *create* a new one (such as through deployment of fossil fuel or renewable technologies). As a matter of tax, budget, and an "all of the above" energy policy, section 179D checks all of the right boxes.

Regardless of the ultimate result of comprehensive tax reform, the section 179D deduction is scheduled to expire at the end of this year. While the provision should be carefully considered as part of the code's possible overhaul, Congress should also extend this important incentive with reasonable improvements that better facilitate "deep" energy retrofit improvements in buildings. In this regard, the *Commercial Building Modernization Act* (S. 3591) from last Congress – introduced by Senators Cardin and Feinstein, and former Senators Bingaman and Snowe – is a step in the right direction of a "performance based" and "technology neutral" deduction that both of your committees have emphasized must be the hallmarks of any energy tax incentive. Revisions of the sort proposed by S. 3591 would improve the section 179D deduction by providing a sliding scale of incentives that correlate to actual and verifiable improvements in a retrofitted building's energy performance. S. 3591 does not select technology "winners or losers" but respects the underlying contractual arrangements of building owners and their retrofit project design teams, who are best suited to decide which equipment options in a given structure may achieve high levels of cost-effective energy savings.

Furthermore, any 179D reform proposal should ensure that building owners have their own "skin in the game" of a retrofit project – such as S. 3591's specification that the financial benefits of the tax deduction cannot exceed more than half of project costs.

Congress should extend and improve the section 179D tax deduction before it expires at the end of 2013. We urge you to look to S. 3591 from last Congress as the starting point for further deliberations and refinements this fall.

cc:

The Honorable Benjamin Cardin
The Honorable Dianne Feinstein
Members of the Senate Finance Committee
Members of the House Ways & Means Committee
Members of the Senate Energy & Natural Resources Committee
Members of the House Energy & Commerce Committee

SUPPORTING ORGANIZATIONS

ABM Industries
Air Conditioning Contractors of America
Air-Conditioning, Heating and Refrigeration Institute
American Council for an Energy-Efficient Economy
American Gas Association
American Hotel & Lodging Association
American Institute of Architects
American Public Gas Association
American Society of Interior Designers
ASHRAE
Bayer MaterialScience LLC
Building Owners and Managers Association (BOMA) International
CCIM Institute
Concord Energy Strategies, LLC
Consolidated Edison Solutions, Inc.
Council of North American Insulation Manufacturers Association

Danfoss
Empire State Building Company/Malkin Holdings
Energy Systems Group
First Potomac Realty Trust
Independent Electrical Contractors
Institute for Market Transformation
Institute of Real Estate Management
International Council of Shopping Centers
International Union of Painters & Allied Trades (IUPAT)
Johnson Controls, Inc.
Mechanical Contractors Association of America (MCAA)
Metrus Energy, Inc.
NAIOP, the Commercial Real Estate Development Association
National Apartment Association
National Association of Energy Service Companies (NAESCO)
National Association of Home Builders
National Association of REALTORS®
National Association of Real Estate Investment Trusts
National Association of State Energy Officials
National Electrical Contractors Association
National Electrical Manufacturers Association
National Lumber and Building Material Dealers Association
National Multi Housing Council
National Roofing Contractors Association
Natural Resources Defense Council
Owens Corning
Plumbing-Heating-Cooling Contractors—National Association
Polyisocyanurate Insulation Manufacturers Association (PIMA)
Real Estate Board of New York
The Real Estate Roundtable
The Sheet Metal, Air, Rail and Transportation International Association
Sheet Metal and Air Conditioning Contractors' National Association
U.S. Green Building Council
Window and Door Manufacturers Association

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