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REAL ESTATE WEEKLY

WEDNESDAY, MARCH 30, 2011

Take 179D deductions without amending your 2006 Tax Returns

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IRS Revenue Procedure 2011-14, which was recently released, now makes it possible for you to take tax deductions under section 179D (energy efficient building property) by way of an automatic “change of accounting” method instead of amending prior tax returns. Previously, taxpayers could only enjoy the benefits of the Energy Policy Act by amending tax returns. As a result of this change, it’s now possible to reach back and take deductions as far back as the 2006 tax year.

Although the IRS does not always make accounting easier when it issues new revenue procedures, it appears that they have handed a huge win to all taxpayers who can claim tax deductions under 179D.

Here’s how it works.

PROBLEM:

Under the standing interpretation of the Energy Policy Act tax before this Revenue Procedure, taxpayers wishing to take this tax deduction for qualifying energy efficient commercial buildings had to take the deduction in the current tax year. In addition, if they wanted to take the deduction for properties placed in service in prior tax years, they needed to amend their tax returns for those prior years before the statute of limitations expired, usually within three years.

As my previous article about the Energy Policy Act in the January 26th issue stated, a 179D tax deduction is available for a qualifying energy efficient commercial building beginning in the year the building was placed in service. However, a taxpayer currently desiring

a tax deduction for a building placed in service in 2006 would be precluded from taking the deduction for this building. This is because the statute of limitations would have expired since the 2006 return was filed.

SOLUTION:

This is where Rev. Proc. 2011-14 comes into play. This express guidance from the IRS tells us that instead of needing to amend a prior return (which you can still do), you can change your accounting method instead. This means that you don’t have to amend a prior return. You can adjust the current year’s income and expense using the “change of accounting” and make the adjustments on your current tax return.

Read on for more.

Deduction for Energy Efficient Commercial Buildings (§ 179D)

(1) Description of Change. The deduction for energy efficient commercial building property must be claimed in the taxable year in which the property is placed in service and is subject to the limits of §179D(b). The basis of the energy efficient commercial building property is reduced by the amount of the § 179D deduction taken and the remaining basis of the energy efficient commercial building property is depreciated over its recovery period.

(2) Applicability. This change applies to:

(a) energy efficient commercial building property that is installed on or in any building that is located in the United States.

(b) energy efficient commercial building property that is installed as part of the interior lighting systems; the heating, cooling, ventilation and hot water systems; or the building envelope of a commercial building; and

(c) it is certified that the interior lighting systems, heating, cooling, ventilation, and hot water systems, or the building envelope that have been incorporated into the building, or that the taxpayer plans to incorporate into the building subsequent to the installation of such property, will reduce the total annual energy and power costs with respect to combined usage of the building’s heating, cooling, ventilation, hot water and interior lighting systems by 50 percent or more as compared to a Reference Building that meets 2001 minimum requirements.

(3) Manner of making change. A taxpayer making this change must attach a statement with a detailed description of the tax treatment of the property under the taxpayer’s present and proposed methods of accounting.

(4) Additional filing requirement. In addition to the statement required, a taxpayer making this change must attach a certification to demonstrate the energy efficient commercial building property has achieved the reduction energy and power costs to qualify for the § 179D deduction. In the case of a publicly owned building for which a designer has been allocated a deduction under § 179D, the designer becomes the taxpayer for purposes of the deduction and must attach a certification.

Please consult your tax professional about whether this Revenue Procedure makes it possible for you to make adjustments to prior year’s tax deductions (2006 for example). You should definitely take this opportunity to make sure that your company is not missing out on tax deductions that are now more readily available through these new changes in accounting rules.