The Implications of the Inflation Reduction Act (IRA) for the Energy Industry

Jacob Goldman, VP, Energy Tax Savers, Inc.

Association of Energy Engineers

Index

- IRA enhanced Alternative Energy Credits
- 5-yr MACRS and Bonus Depreciation
- Time Value of Money
- Traditional 179D 2006-2022
- IRA Enhanced 179D
- Apprenticeship

Alternative Energy Credits(2022-…)

Technology	Base Credit	5x Bonus Credit (2022)	Made in USA (2023)	Energy Community (2023)	Low Income (2023)	Range
Solar Technologies(2022)	6%	30%	2%/10%	2%/10%	10%/20%	6%-70%
Ground Source Heat Pump(2022)	6%	30%	2%/10%	2%/10%	0%	6%-50%
Microrturbine	2%	10%	2%/10%	2%/10%	0%	2%-30%
CHP(2022?)	6%	30%	2%/10%	2%/10%	0%	6%-50%
Microgrid Controller(2023)	6%	30%	2%/10%	2%/10%	0%	6%-50%
Standalone Energy Storage Systems(2023)	6%	30%	2%/10%	2%/10%	0%	6%-50%
Thermal Energy Storage Systems(2023)	6%	30%	2%/10%	2%/10%	0%	6%-50%

Alternative Energy Credits(cont)

- **Tax credit from commercial clients can be Transferred to other Commercial Clients (Sec 6418)(2023-…)**
  - If Credit receiver does not have tax capacity, they can sell the credit to a taxpayer that does
  - Our reading is this does NOT allow Gov't Buildings/Not for Profits to sell the credit
- **Elective Payment of Applicable Credits (Sec. 6417)(2023-**
  - Some Gov't and Not For Profit can benefit from the credit
    - "(i) any organization exempt from the tax imposed by subtitle A,
    - "(ii) any State or political subdivision thereof, **…)(Not Federal)**
    - "(iii) the Tennessee Valley Authority,
    - "(iv) an Indian tribal government (as defined in section 30D(g)(9)),
    - "(v) any Alaska Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)), or
    - "(vi) any corporation operating on a cooperative basis which is engaged in furnishing electric energy to persons in rural areas.

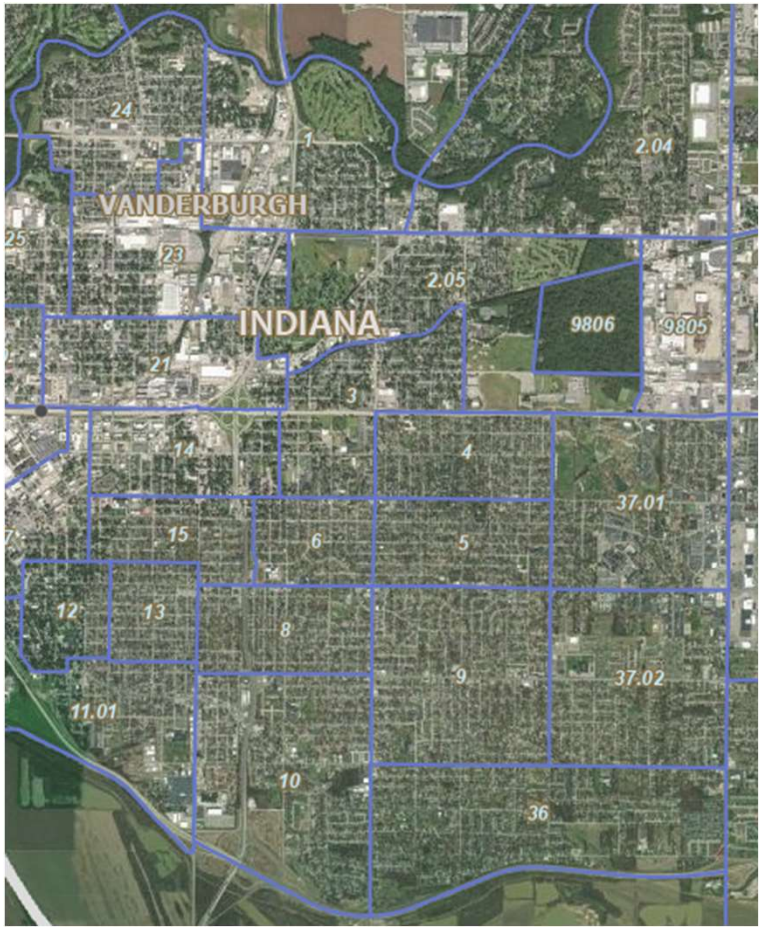
Alternative Energy Credits-Bonus

- **5 Times Bonus (6% x 5 = 30%)**
  - Project with a Net Output of less than 1 MW (284 Tons?) or
  - Meets the Prevailing Wage and Apprenticeship (P+A) Requirements or
  - Projects that begin Construction prior to release of P+A guidance(+60 days)
- **Domestic Content Bonus (Qualified Facility)**
  - 40% of the cost of steel, iron or manufactured product is produced in USA
  - 2% Bonus (6% + 2% = 8%)
  - If project meets 5x Bonus requirements, 10% Bonus (30% + 10% = 40%)

Alternative Energy Credits-Bonus

- **Energy Community Bonus**
  - Energy Community
    - Brownfield Site or
    - Area with 0.17% direct employment related to Coal, Oil or NG and higher then avg unemployment or
    - Area with 25% tax revenue related to Coal, Oil or NG and higher then avg unemployment or
    - Census Tract or adjoining tract with a Coal Mine closed since 2000 or
    - Census Tract or adjoining tract with Coal Fired plant closed since 2010 or
  - 2% Bonus (6% + 2% = 8%)
  - If project meets 5x Bonus requirements, 10% Bonus (30% + 10% = 40% + 10% Domestic = 50%)
- **Low Income**
  - Low-Income Community(20% below poverty?) or Indian Land 10% Bonus(2023 & 2024)
  - Qualified Low-Income(QLI) Residential Building or QLI Economic Benefit Project 20% Bonus(2023 & 2024)

Census Tracts can be Small



Closed Coal Plants(Small Sample)

https://www.eia.gov/electricity/data/eia860/

Utility Name	Plant Name	State	County
Alabama Power Co	Barry	AL	Mobile
Alabama Power Co	Gorgas	AL	Walker
Tennessee Valley Authority	Colbert	AL	Colbert
Tennessee Valley Authority	Widows Creek	AL	Jackson
East Kentucky Power Coop, Inc	J K Smith	KY	Clark
PowerSouth Energy Cooperative	Lowman Energy Center	AL	Washington
Seminole Electric Cooperative Inc	Seminole (FL)	FL	Putnam
JEA	St Johns River Power Park	FL	Duval
Duke Energy Florida, LLC	Crystal River	FL	Citrus
Gulf Power Co	Scholz	FL	Jackson
Gulf Power Co	Lansing Smith	FL	Bay
Tampa Electric Co	Big Bend	FL	Hillsborough
City of Lakeland - (FL)	C D McIntosh Jr	FL	Polk
Indiana Michigan Power Co	Tanners Creek	IN	Dearborn
Indianapolis Power & Light Co	Eagle Valley (IN)	IN	Morgan
Indianapolis Power & Light Co	AES Petersburg	IN	Pike
Northern Indiana Pub Serv Co	Bailly	IN	Porter
Northern Indiana Pub Serv Co	Dean H Mitchell	IN	Lake
Duke Energy Indiana, LLC	Edwardsport	IN	Knox
Duke Energy Indiana, LLC	R Gallagher	IN	Floyd
Duke Energy Indiana, LLC	Wabash River	IN	Vigo
Crawfordsville Energy LLC	Crawfordsville Power Plant	IN	Montgomery
City of Peru - (IN)	Peru (IN)	IN	Miami
Hoosier Energy R E C, Inc	Frank E Ratts	IN	Pike
Kentucky Power Co	Big Sandy	KY	Lawrence
Kentucky Utilities Co	E W Brown	KY	Mercer
Kentucky Utilities Co	Green River	KY	Muhlenberg
Kentucky Utilities Co	Tyrone	KY	Woodford
Louisville Gas & Electric Co	Cane Run	KY	Jefferson
Tennessee Valley Authority	Paradise	KY	Muhlenberg
Tennessee Valley Authority	Shawnee	KY	McCracken
Big Rivers Electric Corp	Kenneth C Coleman	KY	Hancock
Big Rivers Electric Corp	HMP&L Station Two Henderson	KY	Henderson
Big Rivers Electric Corp	Robert A Reid	KY	Webster
East Kentucky Power Coop, Inc	Dale	KY	Clark
Consumers Energy Co	B C Cobb	MI	Muskegon
Consumers Energy Co	J C Weadock	MI	Bay
Consumers Energy Co	J R Whiting	MI	Monroe
DTE Electric Company	Harbor Beach	MI	Huron
DTE Electric Company	Marysville	MI	St Clair
DTE Electric Company	River Rouge	MI	Wayne
DTE Electric Company	St Clair	MI	St Clair
DTE Electric Company	Trenton Channel	MI	Wayne
Wisconsin Electric Power Co	Presque Isle	MI	Marquette
City of Holland	James De Young	MI	Ottawa
Lansing Board of Water and Light	Eckert Station	MI	Ingham
City of Marquette - (MI)	Shiras	MI	Marquette
PSEG Fossil LLC	PSEG Mercer Generating Station	NJ	Mercer
GenOn Power Midwest, LP	Elrama Power Plant	PA	Washington
Portland Power, LLC	Portland (PA)	PA	Northampton
Titus Power, LLC	Titus	PA	Berks
TalenEnergy Montour LLC	TalenEnergy Montour	PA	Montour
Sunbury Generation LP	Sunbury Generation LP	PA	Snyder
Exelon Power	Cromby Generating Station	PA	Chester
Exelon Power	Eddystone Generating Station	PA	Delaware
Tennessee Valley Authority	Allen	TN	Shelby
Tennessee Valley Authority	John Sevier	TN	Hawkins
Tennessee Valley Authority	Johnsonville	TN	Humphreys
Tennessee Valley Authority	Watts Bar Fossil	TN	Rhea
Appalachian Power Co	Kanawha River	WV	Kanawha
Appalachian Power Co	Philip Sporn	WV	Mason
Monongahela Power Co	FirstEnergy Albright	WV	Preston

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Monongahela Power Co	FirstEnergy Rivesville	WV	Marion
Monongahela Power Co	FirstEnergy Willow Island	WV	Pleasants
AEP Generation Resources Inc	Kammer	WV	Marshall
Northern Indiana Pub Serv Co	R M Schahfer	IN	Jasper
Virginia Electric & Power Co	North Branch (WV)	WV	Grant
Norfork Southern Corp	Juniata Locomotive Shop	PA	Blair
Rayonier Advanced Materials	Fernandina Plant	FL	Nassau
Georgia-Pacific Crossett LLC	Georgia-Pacific Crossett LLC	AR	Ashley
Georgia-Pacific Consr Prods LP-Naheola	Georgia-Pacific Consr Prods LP-Naheola	AL	Choctaw
Bucksport Generation LLC	Bucksport Generation LLC	ME	Hancock
Wheelabrator Environmental Systems	Wheelabrator Frackville Energy	PA	Schuylkill
Florida Power & Light Co	Indiantown Cogeneration LP	FL	Martin
Vanderbilt University	Vanderbilt University Power Plant	TN	Davidson
Cadillac Renewable Energy LLC	Cadillac Renewable Energy	MI	Wexford
Wheelabrator Environmental Systems	Wheelabrator Ridge Energy	FL	Polk
WestRock Mill Company, LLC	WestRock Demopolis Mill	AL	Marengo
Georgia-Pacific Brewton LLC	Georgia-Pacific Brewton Mill	AL	Escambia
Stanton Clean Energy LLC	Curtis H Stanton Energy Center	FL	Orange
EPP Renewable Energy	Maidencreek Biomass Plant	PA	Berks
EPP Renewable Energy	Warren County Solar	NJ	Warren
Consolidated Edison Development Inc.	PA Solar Park	PA	Carbon
Humphrey Realty	Rinehart	FL	Seminole
SABIC IP Mt. Vernon, LLC	SABIC Innovative Plastics Mt. Vernon	IN	Posey
Penn State University	West Campus Steam Plant	PA	Centre
SunCoke Energy, Inc.	SunCoke Energy South Shore Facility	KY	Greenup
Goldman Sachs Renewable Power LLC	IFF Hazlet	NJ	Monmouth
AC Power 2 LLC	AC Power 2	NJ	Atlantic
Pettinos Solar LLC	Pettinos Solar	NJ	Camden
Freepoint Solar LLC	Alfred Solar	ME	York

Closed Coal Mines(Small Sample)

https://www.eia.gov/coal/data/browser/#/topic/38?agg=0,2

Kindill 2 Mine	1200329	Indiana
Kindill 3 Mine	1200332	Indiana
Little Sandy	1201590	Indiana
Viking Mine	1201946	Indiana
Solar Sources Preparation Plan	1201978	Indiana
Air Quality #1 Mine	1202010	Indiana
Sycamore Mine	1202063	Indiana
Eel Mine	1202096	Indiana
Monroe City Mine	1202103	Indiana
Columbia Mine	1202127	Indiana
Patoka River	1202165	Indiana
Freelandville Mine	1202167	Indiana
Farmersburg Mine	1202174	Indiana
Pride Mine	1202175	Indiana
Cypress Creek Mine	1202178	Indiana
Monroe City Mine Wash Plant	1202189	Indiana
Pride #1 Underground	1202193	Indiana
Somerville	1202207	Indiana
Wheatland Train Loadout	1202208	Indiana
Gibson Mine	1202215	Indiana
Rainbow Mine	1202219	Indiana
Flint Hill Mine	1202220	Indiana
Carbon #2	1202233	Indiana
Lewis Mine	1202234	Indiana
Prosperity Mine	1202249	Indiana
Miller Creek Mine-Sugar Ridge	1202294	Indiana
Discovery	1202296	Indiana
Martz Mine	1202300	Indiana
Range Line Mine	1202305	Indiana
Freelandville Underground	1202316	Indiana
Gibson #1	1202317	Indiana

* Compared mines “Active” in 2001 but did not exist in 2020 data. Likely closed.

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Ground Source Heat Pump (6% Base Credit)

- **Typical Qualified Equipment(Upstream of Heat Pump)**
  - Bore Field
  - Heat Pump
- **At least 75% energy used by equipment must be from ground source (Tax Interpretation (§1.48-9(c)(10)(iv))**
  - If not, equipment does not qualify as Ground Source Heat Pump Property
  - This may include downstream (after heat pump) items:
    - Pipes
    - Ductwork
    - Heat Exchangers
    - Diffusers
  - Items that do not use ground source energy do not qualify
- **Construction must begin before <u>1/1/35</u>**

Thermal Energy Storage(6% Base Credit)

- **Property comprising a system**
  - **Directly connected to a heating, ventilation, or air conditioning system**
    - This may indicate it is property separate from the HVAC system (maybe only the tanks?)
  - **Removes heat from, or adds heat to, a storage medium for subsequent use**
    - This may indicate chillers feeding a Thermal Storage Tank are eligible (maybe chillers and the tanks?)
  - **Provides energy for the heating or cooling of the interior of a residential or commercial building**
    - NOT for Heating/Cooling things other then a building
  - **Excludes:**
    - Swimming Pools
    - CHP
    - Buildings or its Structural Components
  - **Construction must begin before 1/1/25**

CHP(6% Base Credit)

- **CHP**
  - Uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications)
  - At least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof)
  - At least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof)
  - Energy efficiency percentage of which exceeds 60 percent
  - Construction must begin before 1/1/25
  - Reduced Credits for projects larger then 15MW or 20Khp or Combo
    - Multiplier to reduce credit 15MW/(Project Capacity)
  - No Credit for projects larger then 50MW or 67Khp or Combo
  - Does not include property used to transport the energy source to the facility or to distribute energy produced by the facility

Microturbine(2% Base Credit)

- **Stationary Microturbine Power Plant**
  - A nameplate capacity of less than 2,000 kilowatts
  - An electricity-only generation efficiency of not less than 26 percent at ISO conditions'
  - Credit shall not exceed an amount equal to $200 for each kilowatt of capacity
  - Construction must begin before 1/1/25
  - An integrated system comprised of a gas turbine engine, a combustor, a recuperator or regenerator, a generator or alternator, and associated balance of plant components which converts a fuel into electricity and thermal energy. Such term also includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

Microgrid Controller(6% Base Credit)

- **Microgrid Controller**
  - Includes equipment which is capable of generating not less than 4 kilowatts and not greater than 20 megawatts of electricity
  - is capable of operating—
    - In connection with the electrical grid and as a single controllable entity with respect to such grid, and
    - Independently (and disconnected) from such grid, and
    - Is **not** part of a bulk-power system
      - Bulk Power Systems
        - facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and
        - electric energy from generation facilities needed to maintain transmission system reliability.

5Yrs MACRS & 100% Bonus Depreciation

- Energy Property is 5 yr MACRS (§168(e)(3)(B)(vi)(I))
  - Only reduce basis by 50% of the tax credit
- 100% Bonus Depreciation
  - Placed in service September 27, 2017 to December 31, 2022
    - Phases down to 80% in 2023, 60% in 2024, 40% in 2025, 20% in 2026 and 0% after
  - Tax Depreciation Schedules less than 20yrs
    - Examples
      - Energy property(Geothermal, Solar, Wind, etc.) §48
      - Outdoor Lighting not affixed to the building
      - Qualified improvement property
        - Nonstructural interior improvements to nonresidential real property pursuant to a lease.
        - Building must be at least 3 years old
        - Original use must commence with taxpayer
        - Interior Lighting Replacements

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Time Value of Money ($39,000, 35% tax rate)

	Year										
	1	2	3	4	5	6	…	36	37	38	39
39yr Depreciation (Deduction)	$1,000	$1,000	$1,000	$1,000	$1,000	$1,000		$1,000	$1,000	$1,000	$1,000
39yr After Tax (35%)	$350	$350	$350	$350	$350	$350		$350	$350	$350	$350
39yr NPV (4% discount rate)	**$6,854**										
39yr NPV (8% discount rate)	**$4,158**										
5yr Depreciation (Deduction)	$7,800	$12,480	$7,488	$4,493	$4,493	$2,246					
5yr After Tax (35%)	$2,730	$4,368	$2,621	$1,573	$1,573	$786					
5yr NPV (4% discount rate)	**$12,252**										
Immediate Deduction	$39,000										
Immediate After Tax (35%)	**$13,650**										

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EPAct 179D Deduction for Commercial Building Owners

- Accelerated depreciation of equipment costs
  - Typically, equipment costs must be depreciated over 39-year period
  - EPAct 179D allows for immediate tax deduction (write-off in year 1)
  - *Time-value of money concept ($1 today worth more than $1 in 39-years
- Commercial building owners can take EPAct 179D for building projects completed since 1/1/2006
- EPAct 179D combined with utility rebates and other tax incentives can potentially bring project payback to within 1-3 years
  - Often the case with building renovations

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Completed Project Map: U.S.

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Important IRS Notice Rev. Proc. 2011-14 (For Commercial Building Projects)

- IRS Form 3115 process allows catch-up on all prior year EPAct 179D deductions that were unclaimed
  - Normally: taxpayers need to amend prior year tax returns and have a 3-year window to amend tax returns
  - IRS 2011-14: allows taxpayer to claim EPAct 179D deduction on upcoming return for any project since 1/1/2006, and no amending needed
  - Not available for designers of Tax Exempt projects:
    - Designers must amend prior year returns and can only go back 3 yrs

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EPAct 179D Updates (Inflation Reduction Act of 2022)

- **Changes go into effect on 1/1/2023**
- **Includes buildings owned by not-for-profits, instrumentalities, and Indian Tribal Governments**
  - Deduction can be taken by designers of these buildings
- **New Deduction Levels to Replace Current Levels**
  - $2.50-$5.00 per square foot for projects meeting prevailing wage and apprenticeship labor requirements
  - $0.50-$1.00 per square foot if prevailing wage requirements not met
  - Overall building energy efficiency must be 25%-50% more efficient than standard to get the above levels (sliding scale)
  - No more individual system deductions (lighting/HVAC/envelope) → entire building must qualify
- **Two Methods for Taking EPAct 179D Deduction**
  - Energy model the entire building (building energy usage compared to ASHRAE 90.1)
  - Energy use intensity reduction (building energy usage compared to prior state of building)
- **Deduction Reset**
  - Commercial buildings – every 3 years
  - Tax Exempt buildings – every 4 years

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Increased 179D Deduction Levels Effective 1/1/2023

Building Square Footage	Minimum Deduction Level ($2.50 Per Square Foot)	Maximum Deduction Level ($5.00 Per Square Foot)
50,000	$ 125,000	$ 250,000
100,000	$ 250,000	$ 500,000
250,000	$ 625,000	$ 1,250,000
500,000	$ 1,250,000	$ 2,500,000
1,000,000	$ 2,500,000	$ 5,000,000

*For projects meeting prevailing wage and apprenticeship standards

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EPAct 179D Deduction for Designers of Tax-Exempt Entities

- Gov't Buildings:
  - Federal
    - Offices, military bases, courthouses, post office, labs
  - State
    - Offices, transportation facilities, state universities, courthouses
  - County, city, town, village etc.
    - Offices, K-12 public schools, town halls, police, fire, libraries, municipal parking garages
- Not For Profits
  - Hospitals, Churches, Private Universities etc.
- Tribal Gov't
  - Shopping Plazas, Hotels, Offices, Casinos etc.

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How to Monetize the Benefit

Two things need to occur for a company to monetize an EPAct 179D benefit

1. Building project in an eligible year (2006 - present) related to lighting, HVAC, and/or envelope, such as:
   - Lighting installation
   - HVAC installation
   - Roof installation
   - Window installation
   - Lighting or HVAC controls installation

2. The building needs to meet the energy efficiency targets
   - ASHRAE 2001 standard for 2006-2015 completed projects
   - ASHRAE 2007 standard for 2016-2022(?) and 2023-2026(?) completed projects
   - ASHRAE 2016/2019(?) for most projects completed 2027+
   - For RETROFITS Only 25-50% EUI reduction

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What Tends to Qualify on the HVAC side?

1. **Geothermal (Ground Source Heat Pumps)**
2. High Efficiency Water Source Heat Pumps
3. **Thermal Storage**
4. High Efficiency VRF units in Rental Apartments/Dorms/Hotels
5. Centralized HVAC in Rental Apartments/Dorms/Hotels
6. Energy Recovery Ventilation
7. Demand Control Ventilation
8. VFD's on all major Motors and Compressors
9. Chillers in buildings < 150,000 sq ft
10. Direct fired heaters in non AC Industrial Spaces
1. Industrial Space >75,000sq ft with Constant Volume Package unit
11. VAV (variable air volume devices) in buildings <75,000 sq ft
12. Chilled Beam
13. McQuay Magnetic Bearing Chillers
14. Smardt Chillers
15. Arctic Cool Chillers
16. Gas fired chillers combined with electric chillers to peak shave
17. Coolorado in dry climates
18. **Combined Heat and Power**

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Where 179D Works

- **Designers of Tax-Exempt Buildings**
- **Commercial New Construction**
- **Retrofits where they have a Roof/Envelope project sitting on tax depreciation schedule in their past 2006-Present**

Data to Review for EPAct 179D Eligibility

- Ideal submission:
  - updated architectural, mechanical, electrical, and plumbing plans
  - ComCheck (Lighting, Envelope, HVAC, Hot Water)
  - Lighting and HVAC spec sheets
- If plans unavailable:
  - Lighting survey
  - Project square footage
  - HVAC unit schedule
  - Mechanical plans may be needed depending on building type

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What does an 179D Service Provider do?

1. Complimentary review of project data
2. Required 179D calculations/energy modeling
3. 179D study containing IRS required items
4. Interface with client tax department/preparer
5. Audit assistance (if necessary)

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EPAct 179D Updates Comparison

Pre-2023	2023+
• Maximum $1.88/square foot	•Maximum $5.00/square foot
• Individual systems can qualify	•Whole building must qualify
• Designers eligible – government	•Designers eligible: now includes non-profits and Tribal government
• Maximum deduction available once over building life	•Deduction reset every 3 years (commercial) or 4 years (tax exempt)
•Must beat ASHRAE 90.1-2007	•Multiple options for standard: ➢ Updated ASHRAE 90.1, or ➢ Prior state of building (retrofits)

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Apprenticeship Requirement

Projects Started:	Apprentices make up:
Before 1/1/2023	10% of Total Labor Hours
In 2023	12.5% of Total Labor Hours
After 12/31/2023	15% of Total Labor Hours

- If a project has 4 or more workers, at least 1 is required to be an Apprentice
- Apprentice must be part of a registered apprenticeship program (3131(e)(3)(B))

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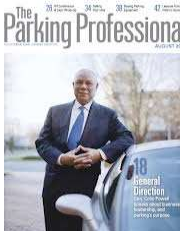
About Energy Tax Savers?

- First EPAct 179D service provider (founded 2005)
- Completed more EPAct projects than any other firm (15,000+)
- Diverse background of firm professionals
  - Attorney, CPA, MBA, LEED AP, Enrolled Agent, Big4 Accounting Experience
- Advisors to DOE, NEMA and NRDC for EPAct 179D extension and standards
- Over 150 published articles in various publications
  - *Corporate Business Taxation Monthly, Building Operating Management, IMARK Magazine, Retrofit Magazine, Parking Professional*



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