

NAR Committee:

Commercial Federal Policy Committee

What is the fundamental issue?

Section 179D, the Energy Efficient Commercial Buildings Deduction, was made permanent by the December 21, 2020 Omnibus Spending bill, which was signed into law on December 28, 2020. The bill also provides for an inflation adjustment for taxable years beginning after 2020, tied to the cost-of-living adjustments in IRS 26 Sec. 1(f)(3). In addition, it updates the ASHRAE (American Society of Heating, Refrigerating, and Air-Conditioning Engineers) standard (to "Reference Standard 90.1"), which property will be required to meet no later than 2 years after the date construction begins. This applies to property placed in service after December 31, 2020.

Enacted as part of the Energy Policy Act of 2005, this provision allows commercial building owners who improve the building's energy-efficiency (via the building envelope, HVAC system, hot water, or the interior lighting system) to receive a deduction of as much as \$1.80 per square foot in the year the upgrade goes into service, after receiving the proper third-party certification. It is available for both new construction and retrofits, and does not favor any particular method of conserving/reducing energy use.

I am a real estate professional. What does this mean for my business?

Section 179D encourages commercial building owners to make energy-efficient improvements to their properties, while giving them the flexibility to make their own choices of how to accomplish this. In addition to reducing energy consumption and saving owners and tenants' money, these improvements can also increase the property's attractiveness to new tenants and help them retain value as they age. Short-term extensions of 179D and allowing it to expire, even for short periods that are covered retroactively, can undermine its purpose, as building owners may be unsure as to whether it will apply to improvements they hope to make and opt not to take the risk.

NAR Policy:

NAR supports deductions such as Section 179D, which are designed to encourage property owners to make improvements to and/or rebuild real property in order to conserve energy and satisfy environmental goals. NAR supports encouraging improving energy usage in commercial buildings through voluntary, market-based programs which leave flexibility in the way that is achieved.

Opposition Arguments:

No specific policy arguments against this deduction have been identified, other than the cost of extending the deduction would either have to be offset in some way, or be added to the budget deficit.

Legislative/Regulatory Status/Outlook

Section 179D was reauthorized several times in the years leading up to its being made permanent by the December 21, 2020 Omnibus Spending bill passed by Congress.

NAR belongs to multiple industry coalitions that advocated for real estate tax extenders and 179D permanence specifically, and will continue to work with the Administration to develop regulations that enact these changes.

Current Legislation/Regulation (bill number or regulation)

[Consolidated Appropriations Act, 2021](#)

[H.R. 3301 - The Taxpayer Certainty and Disaster Tax Relief Act of 2019](#)

[Read the Senate Finance Committee Report of the Cost Recovery Temporary Tax Policy Tax Force here.](#)

[H.R. 1865 - Further Consolidated Appropriations Act, 2020](#)

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