

# 179D TAX SAVINGS FOR ARCHITECTS AND ENGINEERS: **The Road Ahead**

BY DEAN ZERBE, former Senior Counsel to the Senate Finance Committee and alliantgroup National Managing Director

## **What does CohnReznick Think?**

“Given the magnitude of the potential tax savings architects and engineers can reap through 179D, CohnReznick is proud to partner with alliantgroup in its efforts to help the AEC community maximize the benefits of 179D and to educate congress as to the advantages of continuing and expanding this critical tax deduction.”

- Jack Callahan, Construction Industry Practice Leader

It is rare that tax issues generate excitement for architects and engineers – given their understandable focus on the brighter world of greener buildings, better bridges and other challenges. However, the significant tax benefits of 179D for architects and engineers who are engaged in the design and construction of energy efficient buildings for local, state and federal government has certainly garnered a great deal of attention.

Working with hundreds of architecture and engineering firms across the country, alliantgroup has seen tax savings commonly reach the hundreds of thousands of dollars. These tax savings have helped create and sustain jobs in the architecture and engineering sector – a part of the economy crucial to recovering from the economic downturn. In addition, these savings have helped government meet the demands for infrastructure and development.

For those architects and engineers unfamiliar with 179D – 179D is a section of the tax code. In short, a local, state or federal agency can receive tax benefits for placing into service an energy efficient building. Those tax benefits can then be transferred to the architect or engineer who designed the building. The tax benefits can be as much as \$1.80 per square foot depending on the level of energy efficiency.

The government buildings that qualify for potential 179D tax benefits are quite broad and include a state university dormitory; a military depot; an airport; a prison; a school; an office building – you name it. The law allows you to go back up to three years (i.e., a building placed in service up to three years ago). The tax benefits of 179D also include energy efficient improvements to an existing government building that were put in place over three years ago.

There are a number of ways to qualify (or partially qualify) for 179D – including improved energy efficiency of HVAC; lighting (and interim lighting); and the building envelope. In practice, we find that most government buildings adhering to best practices are good candidates for qualifying.

### **The Challenges**

There are two main challenges for architects and engineering firms when it comes to 179D – 1) securing the government's signature assigning the 179D tax benefits to the architecture or engineering firm; and, 2) maximizing the tax benefits.

**Signature.** The IRS requires that the architect or engineer receive a signed letter that assigns the tax benefits from the government. This letter has all sorts of bells and whistles that are required. Securing this signature has many times not been a walk in the park. We have a whole team assigned to getting the necessary letters signed – and have had good success, but it certainly takes time and effort. It is also a race against time because the three year look-back period is expiring and others involved in the design of the building may seek the same letter and tax benefits for the same project. Delay can cost.

**Maximize tax benefits.** The law requires that there be an independent determination of the energy efficiency (and therefore the amount of tax benefits) for a building. This must be done by an engineer. To ensure that the architect or engineer receives the maximum benefits available, we have found it vital to team with engineers who understand the tax implications of 179D as well as accountants and tax lawyers who are familiar with the engineering sector. We have too often seen architects and engineers leave money on the table because there is not the necessary expertise assisting them.

### **The Future**

Section 179D, along with a number of other energy provisions, expires at the end of this year. alliantgroup is very pleased to be partnering with the American Institute of Architects (AIA) to educate and inform Congress about the need to keep this important provision in place. The American Council of Engineering Companies (ACEC) is also pulling the oars on keeping 179D on the books.

The administration has been supportive of continuing – and expanding – Section 179D (looking to increase the benefit to up to \$3.00 per square foot). Bipartisan legislation – the Commercial Building Modernization Act – that would have kept 179D in place and expanded the benefits to \$3.00 per square foot was introduced in the Senate in the last Congress. Unfortunately, that legislation was introduced by Senators Bingaman (D-NM) and Snowe (R-ME), who have both since retired, and new legislation for this Congress has not yet been introduced.

It is vital that architects and engineers write, meet, and educate their elected representatives in the House and the Senate about the importance of 179D – for energy efficiency; energy independence; the benefits to the building sector; as well as cost-savings for federal, state and local governments. As the Congress looks to possibly enact tax reform and reshape energy tax policy, it is critical that the House and Senate understand the benefits of 179D.



**Dean Zerbe** is alliantgroup's National Managing Director based in the firm's Washington D.C. office. Prior to joining alliantgroup, Mr. Zerbe was Senior Counsel and Tax Counsel to the U.S. Senate Committee on Finance. He worked closely with then-Chairman and current Ranking Member of the Finance Committee, Senator Charles Grassley (R-IA), on tax legislation. During his tenure on the Finance Committee, Mr. Zerbe was intimately involved with nearly every major piece of tax legislation that was signed into law – including the 2001 and 2003 tax reconciliation bills, the JOBS bill in 2004 (corporate tax reform), and the Pension Protection Act. Mr. Zerbe is a frequent speaker and author on the outlook for short-term and long-term changes in tax policy, as well as ways accounting firms can help their clients lower their tax bill.