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# Energy Incentives for Commercial and Residential Real Estate with CLA's Real Estate Brothers

The Section 45L Tax Credit  
The Section 179D Deduction



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## THE RESIDENTIAL BUILDING ENERGY CREDIT

INTERNAL REVENUE CODE SECTION 45L

### Presenters:

**Jared Woiwode, CPA – Signing Director**

**Aaron Woiwode, PE, CEA – Director**





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# Learning Objectives

*At the end of the session, you will be able to:*

- Recall the different energy incentives available and how they may be applied in different situations
- Identify ideal candidates for the 45L Tax Credit and the 179D Tax Deduction
- Discuss changes to the energy tax incentives after 12/31/22



# The §45L Energy Tax Credit 12/31/2022 and Prior

Tax credit of \$2,000 per energy efficient dwelling unit

Credits go to developers and investors of: Apartments, Senior Living, Student Housing, Affordable Housing, Mixed Use Developments, Condo Developments, and Production Homes

Units must be leased or sold during an open tax year

Must be first time leased or sold since construction or substantial reconstruction and rehab

The building must be 3 stories or less



# The §45L Energy Tax Credit 12/31/2022 and Prior

General business credit – Extended as-is through 12/31/2022

Credit is still available for any open Tax Year

Tax credit is not “Refundable”

Tax credit is not subject to recapture rules

Tax credit does not reduce AMT

Carryforward 20 years, carryback 1 year (5 year carryback in 2010)

Must amend to retroactively claim credit



# §45L Ideal Candidates

Units sold or  
leased over the  
last 3 years

Apartment,  
Senior Living,  
Student  
Housing,  
Condo, or  
Production  
Home Projects  
with 20+ units

Affordable  
Housing  
(Starting in  
2023 45L will  
not reduce the  
basis of Low-  
Income  
Housing Tax  
Credit Projects)

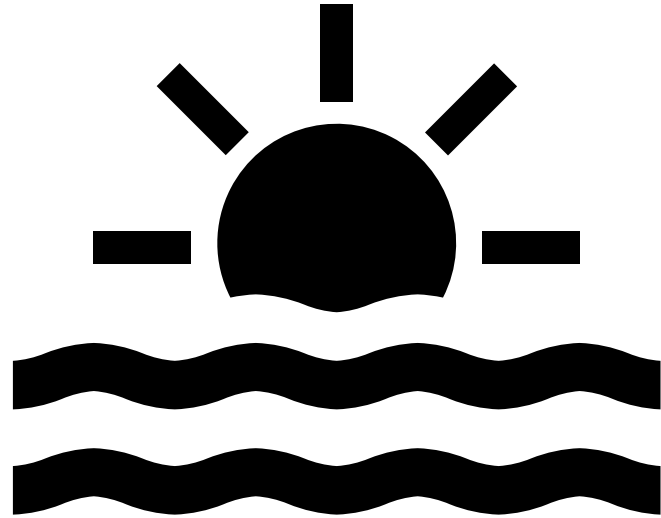
Focus on  
Energy  
Efficiency  
*i.e. LEED,  
Energy Star,  
NAHB Green,  
Rebate  
programs, etc.*  
Adoption of  
better energy  
codes



# §45L Ideal Candidates Continued

In southern climates – Not all are needed to Qualify:

- ☐ AC – SEER 16 or higher
- ☐ Insulation – R-13 or higher in walls
- ☐ R-30 or higher in attic
- ☐ Heating efficiency of 80% or heat pumps
- ☐ LED Lighting
- ☐ Windows with SHGC of .25 or lower
- ☐ Renovated properties should include substantially improved insulation and HVAC
- ☐ Shading over Windows or Balconies

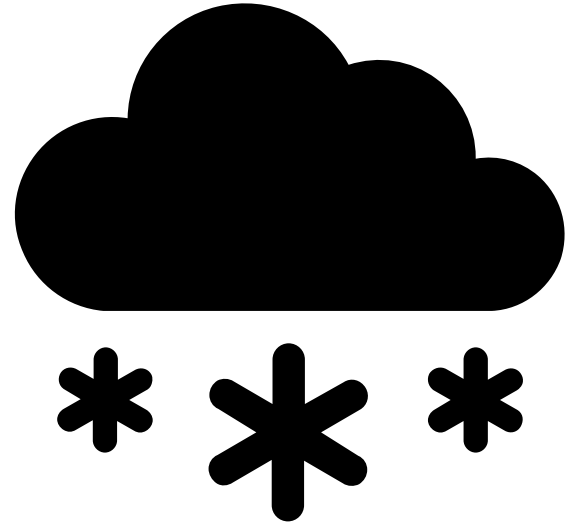




# §45L Ideal Candidates Continued

In northern climates – Not all are needed to Qualify:

- AC – SEER 13 or higher
- Insulation – R-21 or higher in walls
- R-49 or higher in attic
- Heater efficiency of 90% or higher
- Vinyl windows and exterior doors with U-Value of .25 or lower
- Renovated properties should include substantially improved insulation and HVAC



# The §45L Energy Tax Credit After 12/31/2022

Tax credit of \$2,500 or \$5,000 per single family home, duplex or townhome

Tax credit of \$500, \$1,000, \$2,500, or \$5,000 for Multifamily projects

Credits go to developers and investors of: Apartments, Senior Living, Student Housing, Affordable Housing, Mixed Use Developments, Condo Developments, and Production Homes

Units must be leased or sold during an open tax year

Must be first time leased or sold since construction or substantial reconstruction and rehab

There is no longer a limit on height



# The §45L Energy Tax Credit After 12/31/2022

General business credit – In effect through 12/31/2032

Tax credit is not “Refundable”

Tax credit is not subject to recapture rules

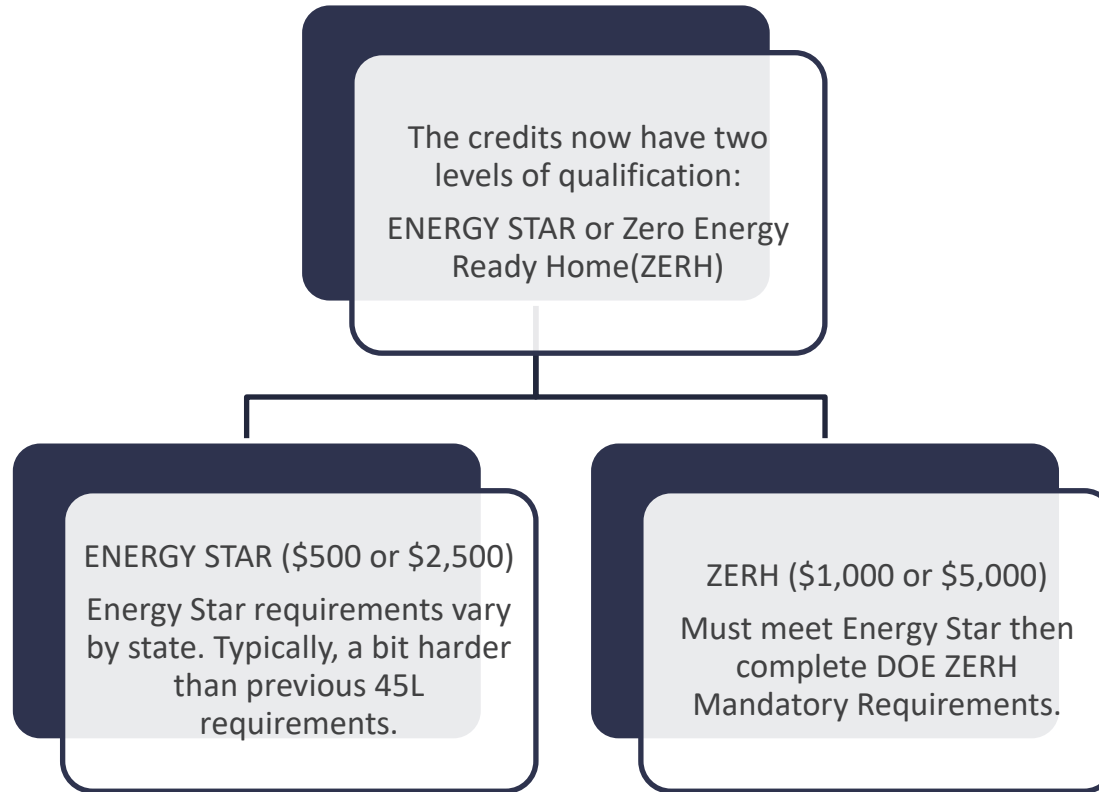
Tax credit does not reduce AMT

Carryforward 20 years, carryback 1 year (5-year carryback in 2010)

Multifamily must use and document prevailing wage to move from \$500 to \$2,500  
or \$1,000 to \$5,000



# §45L Energy Saving Requirements



# Energy Star Expectations for Peoria County, IL

Heating and Cooling Equipment	
Gas Furnace	95 AFUE, ENERGY STAR
Oil Furnace	85 AFUE, ENERGY STAR
Gas Boiler	90 AFUE, ENERGY STAR
Oil Boiler	86 AFUE
Heat Pump	9.25 HSPF / 15 SEER / 12 EER
Air Conditioner	13 SEER

Envelope, Windows, & Doors	
Insulation Install. Quality	Grade I
Ceiling Insulation U-Factor	0.021 (assembly)
Wall Insulation U-Factor	0.064 (assembly)
Floor Insulation U-Factor	0.033 (assembly)
Basement Wall Insulation	7.5
Slab Insulation	R-10; 2 ft
Infiltration Rate	<0.30 CFM50/ft2 of enclosure
Residential Windows	U-factor: 0.27 / SHGC: Any
Class AW Fixed Windows	U-factor: 0.36 / SHGC: 0.40
Class AW Operable Windows	U-factor: 0.43 / SHGC: 0.40
Doors, Opaque	U-factor: 0.17 / SHGC: Any
Door, ≤ 1/2 Lite	U-factor: 0.25 / SHGC: 0.25
Door, > 1/2 Lite	U-factor: 0.30 / SHGC: 0.40

Thermostats & Ductwork	
Thermostat Type	Programmable
Location of Ducts and Air Handlers	All within conditioned space

Lighting, Appliances, & Fixtures	
Refrigerators	ENERGY STAR
Dishwashers	ENERGY STAR
Clothes Washers	ENERGY STAR
Clothes Dryers	ENERGY STAR
Ceiling Fans	ENERGY STAR
Lighting	ENERGY STAR light bulbs or fixtures in 90% of Qualifying Light Fixture Locations
Bathroom Faucets	WaterSense
Bathroom Aerators	WaterSense
Showerheads	WaterSense



# Zero Energy Ready Home Mandatory Requirements

Area of Improvement	Mandatory Requirements
1. <b>ENERGY STAR for Homes Baseline</b>	<input type="checkbox"/> Certified under ENERGY STAR Qualified Homes Program Version 3, 3.1, or 3.2 (depending on state), or under ENERGY STAR Multifamily New Construction program Version 1.0 or 1.1 (depending on state) <sup>8, 9, 10</sup>
2. <b>Envelope</b>	<input type="checkbox"/> Fenestration shall meet or exceed ENERGY STAR requirements. See End Note for specific U, SHGC values, and exceptions. <sup>11</sup> <input type="checkbox"/> Ceiling, wall, floor, and slab insulation shall meet or exceed 2015 IECC levels <sup>12,13</sup>
3. <b>Duct System</b>	<input type="checkbox"/> Duct distribution systems located within the home's thermal and air barrier boundary or an optimized location to achieve comparable performance. <sup>14</sup> <input type="checkbox"/> HVAC air handler is located within the home's thermal and air barrier boundary.
4. <b>Water Efficiency</b>	<input type="checkbox"/> Hot water delivery systems (distributed and central) shall meet efficient design requirements <sup>15</sup> <b>or</b> <input type="checkbox"/> Water heaters and fixtures shall meet efficiency criteria <sup>16</sup>
5. <b>Lighting &amp; Appliances</b>	<input type="checkbox"/> All installed refrigerators, dishwashers, and clothes washers are ENERGY STAR qualified. <sup>17</sup> <input type="checkbox"/> 80% of lighting fixtures are ENERGY STAR qualified or ENERGY STAR lamps (bulbs) in minimum 80% of sockets <input type="checkbox"/> All installed bathroom ventilation and ceiling fans are ENERGY STAR qualified
6. <b>Indoor Air Quality</b>	<input type="checkbox"/> Certified under EPA Indoor airPLUS <sup>10</sup>
7. <b>Renewable Ready</b>	<input type="checkbox"/> Provisions of the <a href="#">DOE Zero Energy Ready Home PV-Ready Checklist</a> are Completed <sup>18</sup>



# §45L Study Procedures

Analysis of drawings & building specifications

Energy simulation modeling using IRS-approved software

Two separate site inspections required after 12/31/2022

1. Pre-drywall 2. Post Construction

Certification by an unrelated third party “qualified individual”  
accredited by RESNET or equivalent rating network

Issuance of IRS required Certification Report



# THE COMMERCIAL BUILDING ENERGY DEDUCTION

INTERNAL REVENUE CODE SECTION 179D



# Overview of the Deduction

Congress enacted Section 179D in 2005 to encourage property owners to build energy efficient real estate properties and to promote the reduction in energy consumption

For 2022, the deduction is up to \$1.88 per square foot for the implementation or design of energy efficient improvements or energy efficient new construction

Permanent provision in the tax code

For 2022, can be claimed by owners of qualifying property, or designers of government buildings (federal, state, or local)



# Eligible Building Components Prior to 12/31/2022

Three building systems eligible for the deduction

1. Interior lighting (e.g., LED)

2. HVAC, domestic hot water

3. Building envelope (insulation, exterior doors and windows, roofing material)



Each system is eligible for \$0.63 per square foot (\$1.88 per sq. ft. for fully qualifying property) in 2022

# Eligible Designers

- Person that creates the technical specifications for installation of the energy efficient property
- May include architect, engineer, contractor, environmental consultant or energy services provider
- Deduction can be allocated among multiple designers
- Government entity must provide designer with written declaration of the allocation of the deduction (with assistance of certifying third-party)
- Pre-allocation letter – requires signature
- Final allocation letter – provides final calculations and deductions



# Qualifying Specified Tax-Exempt Entities

- United States, any State or political subdivision thereof,
  - Public schools (Elementary, College, etc)
  - Federal buildings
  - Municipal buildings (courthouses, police/fire stations, libraries)
  - Military buildings
- Indian Tribal Government (for buildings placed in service after 12/31/2022)
  - Hospitals
  - Community Centers
- Any organization exempt from tax (for buildings placed in service after 12/31/2022)
  - Hospitals
  - Food Banks or other Community Outreach



# Building Qualification in 2022

Building is compared to  
an ASHRAE 90.1-2007  
Appendix G baseline  
reference building

If the building reduces  
energy costs by 50%, as  
compared to reference  
building, it is defined as  
a “fully qualifying  
property” eligible for  
\$1.88 per square foot

If building reduces  
energy costs at less than  
50%, it can be classified  
as a “partially qualifying  
property” – partial  
benefits are available for  
\$0.63 per square foot  
per system

# Changes to 179D Starting in 2023

90.1 baseline  
remains 2007  
through 2026

If 25% - 50%  
savings relative to  
baseline achieved,  
deduction is \$0.50  
- \$1.00 per sq. ft.

If prevailing wage  
and  
apprenticeship  
requirements met  
the deduction is  
\$2.50 - \$5.00 per  
sq. ft.

For Projects  
started before  
January 30<sup>th</sup> 2023  
the prevailing  
wage and  
apprenticeship  
requirements are  
waived.

# §179D Study Procedures

Analysis of drawings & building specifications

Energy simulation modeling using DOE-approved software

Site Inspection: third party verification of installed Energy Efficient systems

Certification by an unrelated third party “qualified individual”

Issuance of IRS Required Certification Report





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## THANK YOU

**Jared Woiwode, CPA – Signing Director**

Peoria, IL

309-495-8707

[jared.woiwode@claconnect.com](mailto:jared.woiwode@claconnect.com)

**Aaron Woiwode, PE, CEA – Director**

Peoria, IL

309-495-6934

[aaron.woiwode@claconnect.com](mailto:aaron.woiwode@claconnect.com)