

# **Green Energy Tax Incentives For Real Estate**



**Presented by:**  
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# Definitions

**Tax Credit** - A tax credit is an item that reduces the taxpayer's actual tax. The benefit of a tax credit is a dollar-for-dollar reduction in the income tax.

**Tax Deduction** – A tax deduction is an expense item that reduces taxable income. The benefit of tax deduction is the reduction of taxable income multiplied by the taxpayer's income tax rate.

**Grant** – Grants are actual funds disbursed by the government or other agencies to the recipient. Grants do not have to be repaid.

**Loan Program** - A loan program is a program whereby a government or other agency will loan money to the taxpayer at below market interest rates or other favorable terms as an incentive.

**Rebate** – Refund provided by a utility company or manufacturer reducing the cost of assets that meet certain efficiency criteria.

# Tax Basics

## Federal and State Taxes

- Federal tax rate: Top rate for corporations and individuals – **35%**
- Georgia: Top rate for corporations and individuals – **6%**

## Deduction vs. Credit

- Deduction saves tax at amount of deduction times tax rate
- Credit reduces tax dollar for dollar



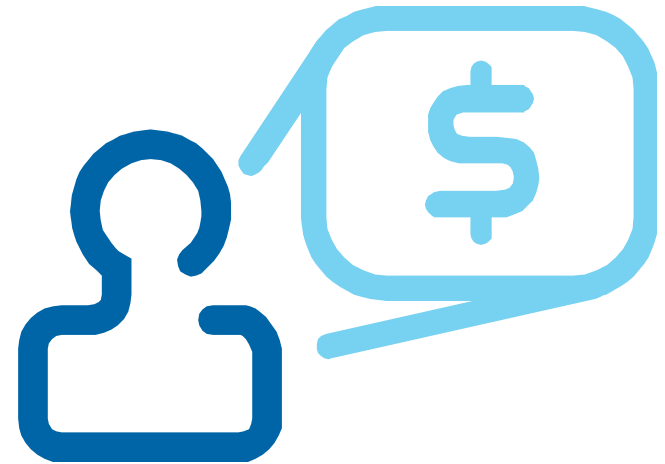
# Tax Basics – Deduction vs. Credits

## \$100 deduction

- Saves **\$35** federal tax
- Saves **\$6** Georgia tax

## \$100 federal credit

- Saves **\$100** federal tax
- Saves **\$0** Georgia tax



# Calculation of Net Present Value Impacted by:

1. When is deduction/credit allowed?

2. What is Taxpayers net tax rate?

35% - ordinary income

15% - long-term capital gain

28% - AMT tax rate

# Benefit of: (Examples)

		<u>Cost</u>	<u>Tax Benefit</u>	<u>Net Cost</u>	
<b>Credit</b>	If 100% Credit	100	(100)	0	
	If 30% Credit	100	(30)	70	
		<u>Cost</u>	<b>Tax Rate 40%</b> <u>Tax Benefit:</u>	<b>NPV of Tax</b> <u>Benefit</u>	<b>NPV of</b> <u>Costs</u>
<b>Deduction</b>	Formula	100	(40)		
	Bonus Depreciation (All in Year 1)	100	(40)	(40)	60
	5 Year Depreciation	100	(40)	(33)	67
	39 Year Depreciation	100	(40)	(14)	86
		<u>Cost</u>	<u>Grant</u>	<u>Net Cost</u>	
<b>Grant</b>	If 100% Grant	100	(100)	0	
	If 30% Grant	100	(30)	70	

Assumed tax rate = 40% fed and state/discount rate = 7%

# Deductions and Credits

## Limitations – Tier 1

Who is Beneficial Owner?	General Rule	
	<u>Benefit</u>	<u>No Benefit</u>
US Individual/Trust	√	
US Corporation	√	
Foreign Individual/Trust	√	
Foreign Corporation	√	
US Tax Exempt		√
REIT		√
Pass-through Entities: LLCs and Partnerships (Look to who the partners are)		

# Deductions and Credits

## Limitations – Tier 2

### 1. Does owner have current taxable income?

**Credit & deductions generally**

**Carry back and obtain refund - deductions and credits have different carryback periods**

**Carry forward and offset future – deductions and credits**

**This impacts the present value calculations**

### 2. If individual owner, is owner passive?

**Generally passive losses and credits are not allowed to offset non-passive income. Passive losses carryforward.**

# Federal Deductions And Credits For Businesses

## Section 179D –

### Deduction for Energy Efficient Commercial Buildings

- Up to **\$1.80** per square foot of building construction or retrofit
- Immediate expensing of costs otherwise would be depreciated over 39 years
- Limited to actual cost spent

**Components:** Deduction of **\$0.60** per square foot for each

- Interior lighting systems
- Heating, cooling, ventilation, and hot water systems
- Building envelope



# Federal Deductions And Credits For Businesses

## *Energy Efficient Commercial Buildings Deduction (Cont'd)*

### **Certification Requirements**

- All 3 components improved: Must meet specs of 50% energy reduction in comparison to reference building under ASHRAE Standard 90.1-2001
- Certification by professional engineer or licensed contractor, using software prescribed by IRS
- Property placed in service before 12/31/13
- Government-owned building: Building designer may take deduction

# Federal Deductions And Credits For Businesses

## *Energy Efficient Commercial Buildings Deduction (Cont'd)*

### **Partial Deductions**

- If whole building test not met: Deduction is \$0.60 per square foot
- Subsystems target of 10% to 20% reduction for partial benefit
- Most common is 40¢ - 60¢ /sq ft
- Allowed in year placed in service

# Federal Deductions And Credits For Businesses

## *Energy Efficient Commercial Buildings Deduction (Cont'd)*

### Side benefit of Section 179D for REITs

- Section 179D is a deduction from taxable income
- It reduces required distribution in year claimed
- Interaction with Bonus Depreciation
- No need to do Section 179D study if eligible for Bonus Depreciation in 2011.

**2011 – 100% of assets with  $\leq$  20 year depreciable life**

**2012 – 50% of assets with  $\leq$  20 year depreciable life**

**2013 – No Bonus Depreciation**

# Federal Deductions And Credits For Businesses

## Credits

Type	Credit	
Solar	30%	
Fuel Cells	30%	5kw or greater
Small Wind	30%	100kw or less
Geothermal heat pump systems	10%	
Micro Turbine	10%	2mw or less
Combined Heat & Power Systems	10%	50mw or less

Placed in Service by 12-31-16, (Energy Improvement & Extension Act)  
– 2012 for Wind

# Federal Deductions And Credits For Businesses

## *Grants In Lieu Of Credits*

- July 2009: Guideline document released
- Same rate as could have been claimed by credit
- Property placed in service
  - In 2009, 2010 or 2011
  - After 2011, if begun in 2009, 2010 or 2011 and completed by 1/1/2017
- Application: Online at <https://treas1603.nrel.gov/>

# Federal Deductions And Credits For Businesses

## *Grants In Lieu Of Credits (Cont'd)*

- Documentation
  - Projects over \$500,000: Attestation qualification of costs
  - Annual performance reporting
- Not taxable income for federal tax purposes. May be taxable in some states
- Only taxable entities may apply for grants
- Limit for depreciation is reduced by 50% of grant or credit

# GRANTS NOT CREDITS

## *Grants In Lieu Of Credits (Cont'd)*

**Treasury will pay within 60 days of later of :**

- **Date Project is Completed**
- **Date Application is Filed**

**Grants NOT available to**

- **Government Agencies**
- **501 (c) (3) entities**
- **Issuers of Clean Renewable Energy Bonds**
- **Partnerships (or LLCs) with one of the above as a Partner**

# When is a Tax Credit better than a Grant?

## *Grants In Lieu Of Credits (Cont'd)*

**Corporations and Individuals must pay estimated tax payments throughout the year.**

**Credits are treated as paid equally during year**

**Example: Assume qualifying property placed in service Oct 2011**

<b>If Credit Claimed</b>	<b>Estimated Tax Liability</b>	<b>Projected Tax Credit</b>	<b>Required Estimated Payments</b>
04-15-2011	100	(100)	0
06-15-2011	100	(100)	0
09-15-2011	100	(100)	0
01-15-2012	<u>100</u>	<u>(100)</u>	<u>0</u>
	<u>400</u>	<u>(400)</u>	<u>0</u>

# When is a Tax Credit better than a Grant?

**Example: Assume qualifying property placed in service Oct 2011**

<b>If Credit Claimed</b>	<b>Estimated Tax Liability</b>	<b>Projected Tax Credit</b>	<b>Required Estimated Payments</b>
04-15-2011	100	0	100
06-15-2011	100	0	100
09-15-2011	100	0	100
01-15-2012	<u>100</u>	<u>0</u>	<u>100</u>
	<u>400</u>	<u>0</u>	<u>400</u>
Grant Received			
12-01-12		<u>400</u>	

# Websites

**DSIRE – Database for State Incentives for  
Renewables and Efficiency - Dsire.Org**

**US Dept of Energy: Consumer Energy Tax Incentives  
- Energy.Gov**

**Solar – estimate.org**

# Clean Renewable Energy Bond Credits (CREBs)

**Interest free or low interest borrowing for projects that:**

- **Generate electricity**
- **Meet the definition of a Clean Project**

**Who:**

**If you can borrow with tax-exempt debt**

- **Municipal entities**
- **Electric co-ops**
- **Some not-for-profit corporations**

**See [www.crebs.org](http://www.crebs.org)**

# The Better Building Initiative

## **Highlights of The Plan announced by President Obama on February 3, 2011:**

- **Increase energy efficiency in commercial buildings by 20% in the next ten years.**
- **Reduce companies' energy bills by about \$40 billion a year.**
- **Convert the Section 179D deduction to a tax credit.**

# Warning for Individuals about State Tax Credits

## Example

### GA Resident

	Without Credits GA (All income)	MO
Taxable Income	<u>1,000,000</u>	<u>100,000</u>
Tax	60,000	5,000
MO Tax Paid		<u>(5,000)</u>
Credit for Taxes Paid to Other States	<u>(5,000)</u>	<u>0</u>
Tax Liability	<u>55,000</u>	<u>0</u>

# Warning for Individuals about State Tax Credits

## Example Cont.

	<b>With Credits GA (All income)</b>	<b>MO</b>
Taxable Income	<u>1,000,000</u>	<u>100,000</u>
Tax	60,000	5,000
MO Credit Used		<u>(5,000)</u>
Credit for Taxes Paid to Other States	<u>0</u>	<u>0</u>
Tax Liability	<u>60,000</u>	<u>0</u>

Conclusion – In this instance, taxpayer received no benefit for credits used.



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Brent Wilkinson leads Windham Brannon's real estate and construction practice area. He has over twenty years experience in income tax planning and compliance. Brent is a graduate of the University of Georgia and earned a Law Degree from Georgia State University College of Law.