

ALLOCATION OF ENERGY EFFICIENT DESIGN TAX DEDUCTIONS UNDER SECTION 179D OF THE INTERNAL REVENUE CODE

Background: As the University of Connecticut (“University” or “UConn”) prioritizes environmental responsibility and sustainability in planning and development, construction on UConn campuses becomes increasingly eligible for tax benefits under Section 179D of the Internal Revenue Code, which allows a deduction based on the cost of certain qualifying, energy efficient property. However, the University is unable to benefit directly from these deductions, because as a governmental unit, the University generally does not have taxable income against which to apply them. To this end, Section 179D and corresponding IRS guidance permit the University to allocate the deductions to parties responsible for designing the qualifying property. In the interest of promoting sustainability in construction and economic development, the University will allocate the deductions to qualifying designers, as described below.

I. WHO MAY APPLY?

An individual or entity who contracted directly with the University to design certain energy efficient building property may apply to the University’s Tax and Compliance Office for an allocation of Section 179D deductions. The application is only available to parties who contracted directly with the University to perform such design services, and the University will not accept applications from subcontractors, subconsultants, or other parties who do not have a direct contractual relationship with the University. Consistent with Section 179D and agency guidance, an eligible designer is a person that creates the technical specifications for the property. A person who merely installs, repairs, or maintains property is not a designer.

II. WHAT TYPES OF PROPERTY ARE ELIGIBLE?

A party may apply to the University for an allocation of Section 179D deductions if it designed energy-efficient property meeting the following criteria:

1. The property must be installed on or in a building owned by the University;
2. The property must have been required to meet or exceed the energy efficiency requirements set forth in ASHRAE Standard 90.1 or the relevant, updated ASHRAE standard, as applicable;
3. The property must be installed as part of systems that are identified in Section 179D as eligible for deductions, which include (a) interior lighting systems; (b) the heating, cooling, ventilation and hot water (“HVAC/HW”) systems; or (c) the building envelope; and
4. The property must have been placed in service after December 31, 2011.

III. WHAT IS THE PROCESS?

An applicant that believes that it may be eligible for an allocation of Section 179D deductions must apply to the University using the attached application form. The University will review the application, together with University records and any supporting information or documentation provided by the applicant, before determining whether to accept the application provisionally. Third party certifications prescribed by Section 179D need not be submitted at the time of the initial application.

The University will seek to reach a decision on the application and notify the applicant in writing within eight weeks of receipt of the application; noting, however, that the University reserves the right to request additional information from the applicant during this period. If the University accepts the application, then such acceptance will be provisional, and the University's final allocation of Section 179D deductions will be contingent upon (1) the applicant providing the University with the necessary third party certifications, as prescribed by Section 179D, together with such other information as the University may request; and (2) the applicant remitting the Administrative Processing Fee, described below, to the University.

The University will not allocate deductions that exceed, in the aggregate, the maximum amounts set forth in the tax laws with respect to any building or building system. The University will reject applications with respect to building property for which the maximum deduction has been allocated. In the event that the University receives multiple applications with respect to the same building property, then consistent with IRS Notice 2008-40, the University may (1) determine which applicant is primarily responsible and allocate the full deduction to that designer; or (2) at the University's discretion, allocate the deduction among multiple applicants.

All inquiries related to Section 179D and the application process should be directed to taxcompliance@uconn.edu.

The University will not provide applicants with individual tax advice and does not warrant that the deductions, if allocated by the University, will ultimately be allowed against the applicant's taxable income. The applicant ultimately assumes all risks associated with whether the property is eligible for Section 179D benefits.

For additional information or questions about Section 179D, please consult your personal tax advisor. Please also refer to IRS Notice 2008-40 and its modifications including IRS Notice 2012-26 for additional guidance.

[Notice 2008-40 \(Deduction for Energy Efficient Commercial Buildings\)](#)

The University reserves the right to revise or change these procedures at any time.

IV. ADMINISTRATIVE PROCESSING FEE

In the interest of promoting sustainability in construction and economic development, the University will allocate Section 179D deductions to qualifying designers pursuant to the process described above. The University incurs administrative costs in processing application and allocation forms, and as such the University will assess an Administrative Processing Fee of \$7,500 prior to issuing a final allocation letter to any qualifying applicant. The University reserves the right to adjust this Administrative Processing Fee at any time.

APPLICATION FOR ALLOCATION OF SECTION 179D DEDUCTION FOR ENERGY EFFICIENT DESIGNS

This is an application for the allocation of a tax deduction for qualifying energy-efficient commercial building property, as defined under Section 179D of the Internal Revenue Code. This document does not serve as an allocation of deductions. The University will evaluate the information provided in this application and, in the University’s sole discretion, determine whether the Applicant is eligible to receive a full or partial allocation. If the University determines that the Applicant is so eligible, then the final allocation will be contingent upon (1) the University’s receipt of documentation, as prescribed by law, certifying that the property described below qualifies for a deduction under Section 179D, and such other documentation as may be required by the University; and (2) the applicant remitting the Administrative Processing Fee to the University.

1a. Name of Applicant:

_____ *Name of business or entity having contracted with the University*

1b. Address:

1c. Name and Telephone Number of Authorized Representative:

2. Address or Description of University Building on which or in which the Property is Installed:

2a. Contract Number or Purchase Order Number:

3. Type of Qualifying Property Designed by Applicant:

- Interior Lighting Systems
- Heating, Cooling, Ventilation and Hot Water (“HVAC/HW”) Systems
- Building Envelope

4. Cost of Qualifying Property: Interior Lighting Systems _____
HVAC/HW Systems _____
Building Envelope _____

Please supplement or attach documentation on which you base your cost assessment.

5. Date Property Placed in Service: _____

Please attach additional information or documents that you believe may be useful to the University in evaluating this Application.

By submitting this application, the Applicant represents, warrants and agrees as follows:

1. The Applicant was responsible for creating the technical specifications for the energy efficient commercial building property described above.
2. If this Application is accepted by the University, then the Applicant understands and agrees that all third party certifications required under Section 179D will be obtained at the Applicant's sole expense, and the Applicant agrees to provide such certification to the University prior to the University's allocation of any deductions.
3. If this Application is accepted by the University, then the Applicant understands and agrees that a non-refundable Administrative Processing Fee of \$7,500 will be due and payable before issuance of a final allocation letter.
4. The University will evaluate this Application together with the certifications provided by the Applicant, and in its sole discretion, provide a full or partial allocation of its Section 179D deduction(s). The Applicant acknowledges that the final allocation of any deduction by the University is contingent upon the Applicant remitting the Administrative Processing Fee to the University. The Applicant agrees to hold harmless, defend and indemnify the University and its agents against any and all claims, liabilities, losses, costs and expenses associated with this Application and any tax deductions allocated in connection therewith, including but not limited to:
 - a. Claims from third parties asserting eligibility for any deductions that may be allocated to the Applicant, or asserting a right to share in the financial benefits associated with such an allocation, including, for example, claims from other designers of energy efficient property or claims from subcontractors.

- b. Claims associated with the eligibility of the property for deductions under Section 179D and the adequacy of the certifications prescribed by statute. The Applicant assumes all risks associated with whether the property described herein is eligible for Section 179D benefits, and agrees to hold the University harmless in the event that the deductions are rejected by the IRS or become the subject of any audit.
- c. Claims relating to differences between the property as designed and as installed.
- d. Claims associated with the University's rejection of this Application or refusal to allocate 179D deductions for any reason made in good faith.
- e. Any and all claims and disputes of any type.

Signature of Authorized Representative of Applicant

Date

Name of Authorized Representative

Title

Please mail your completed application, together with supporting documents, to:

University of Connecticut
Tax and Compliance Office – Budds Building
343 Mansfield Road, Unit 1074
Storrs, CT 06269-1074

Please allow up to eight (8) weeks for the University to review and respond to this Application.
Questions may be directed to taxcompliance@uconn.edu

ALLOCATION OF SECTION 179D DEDUCTION TO THE DESIGNER OF GOVERNMENT-OWNED BUILDING

TEMPLATE ONLY – NOT VALID UNLESS COMPLETED AND SIGNED BY AUTHORIZED REPRESENTATIVES OF UCONN AND DESIGNER

Pursuant to Section 179D of the Internal Revenue Code and IRS Notice 2008-40, this is an allocation of deductions for energy efficient commercial building property from the University of Connecticut, an agency of the State of Connecticut (the “University”), and _____, having an address of _____ (the “Designer”).

(1) Name, title, address and telephone number of an authorized representative of the University:

Jeffrey Geoghegan, Executive VP for Finance & CFO
UConn Health – Unit 1920
Farmington, CT 06030-1920
(860) 679-3162

(2) Name, title, address and telephone number of an authorized representative of the Designer:

(3) The name, address and gross square footage of the government-owned building on or in which the property is installed:

(4) The cost of the qualifying property:

(5) The date the qualifying property was placed in service:

(6) The amount of the Section 179D deduction allocated to the Designer:

Under penalties of perjury, the undersigned declare that they have examined this allocation, including accompanying documents, and to the best of their respective knowledge and belief, the facts presented in support of this allocation are true, correct, and complete.

Jeffrey Geoghegan, Executive VP for Finance and
CFO, University of Connecticut

Date

Christopher Cipriani, Director, Tax & Compliance,
University of Connecticut

Date

Signature of Authorized Representative of the
Designer

Date

Name of Authorized Representative

Title