



National Electrical Manufacturers Association
Guidance on Energy Policy Act
Commercial Building's Tax Deduction
Certification Letters

October 3, 2006

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To claim the accelerated commercial buildings tax deduction provided by Internal Revenue Code section 179D in 2006 or 2007, the tax preparer working for the taxpayer will need a certification document signed by an engineer or contractor who is licensed in the jurisdiction in which the building is located and represents himself as being qualified to do this type of building analysis.

The certification document must contain the information stipulated in the IRS June 26th guidance document (Notice 2006-52). This document can be viewed at the following IRS website:

<http://www.irs.gov/pub/irs-irbs/irb06-26.pdf>

The certification information is located on (Adobe) pages 34-35.

The information to be included in the certification letter is discussed here:¹

The IRS Document states the following:

Before a taxpayer may claim the section 179D deduction with respect to property installed on or in a commercial building, the taxpayer must obtain a certification with respect to the property. The certification must be provided by a qualified individual and satisfy the requirements of section 179D(c)(1). A taxpayer is not required to attach the certification to the return on which the deduction is taken. However, section 1.6001-1(a) of the Income Tax Regulations requires that taxpayers maintain such books and records as are sufficient to establish the entitlement to, and amount of, any deduction claimed by the taxpayer. Accordingly, a taxpayer claiming a deduction under section 179D should retain the certification as part of the taxpayer's records for purposes of section 1.6001-1(a) of the Income Tax Regulations. A certification will be treated as satisfying

¹ IRS Circular 230 and other legal disclaimer: The National Electrical Manufacturers Association is not in the business of providing tax or legal advice. This document is for general discussion purposes only and is not intended or written to be used, and cannot be used or relied upon, by any taxpayer for any purpose, including for purposes of avoiding tax penalties. Any taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

the requirements of section 179D(c)(1) if the certification contains all of the following.

1. **The name, address, and telephone number of the qualified individual.**
2. **The address of the building to which the certification applies.**
3. **One of the following statements by the qualified individual:**

Choose one (or any number applicable) of the following statements to place in the letter:

If modifying the entire building using the Whole Building Cost Method:

- (1) Statement for energy efficient commercial building property:
“The interior lighting systems, heating, cooling, ventilation and hot water systems, and building envelope that have been, or are planned to be, incorporated into the building will reduce the total annual energy and power costs with respect to combined usage of the building’s heating, cooling, ventilation, hot water, and interior lighting systems by 50 percent or more as compared to a Reference Building that meets the minimum requirements of Standard 90.1-2001.”

If modifying only the lighting system using the Whole Building Cost Method (Permanent Rule):

- (2) Statement for energy efficient lighting property that satisfies the requirements of the permanent rule of section 2.03(1)(a) of this notice:
“The interior lighting systems that have been, or are planned to be, incorporated into the building will reduce the total annual energy and power costs with respect to combined usage of the building’s heating, cooling, ventilation, hot water, and interior lighting systems by 16 2/3 percent or more as compared to a Reference Building that meets the minimum requirements of Standard 90.1-2001.”

If modifying only the lighting system and reducing the watts-per-square of the lighting system from 25 to 40% below 90.1, including bi-level switching and meeting minimum IES illumination level requirements (Interim Rule):

- (3) Statement for energy efficient lighting property that satisfied the requirements of the interim rule of section 2.03(1)(b) of this notice:
“The interior lighting systems that have been, or are planned to be, incorporated into the building satisfy the requirements of the interim rule of section 2.03(1)(b) of this notice. The interior lighting systems that have

been, or are planned to be, incorporated into the building satisfy the requirements of the interim rule of section 2.03(1)(b) of Notice 2006-52.”

If modifying only the heating and cooling systems:

- (4) Statement for energy efficient heating, cooling, ventilation, and hot water property:
“The heating, cooling, ventilation, and hot water systems that have been, or are planned to be incorporated into the building will reduce the total annual energy and power costs with respect to combined usage of the building’s heating, cooling, ventilation, hot water, and interior lighting systems by 16 2/3 percent or more as compared to a Reference Building that meets the minimum requirements of Standard 90.1-2001.”

If modifying only the building envelope systems:

- (5) Statement for energy efficient building envelope property:
“The building envelope that has been, or is planned to be, incorporated into the building will reduce the total annual energy and power costs with respect to combined usage of the building’s heating, cooling, ventilation, hot water, and interior lighting systems by 16 2/3 percent or more as compared to a Reference Building that meets the minimum requirements of Standard 90.1-2001.”

4. A statement by the qualified individual that the amount of such reduction has been determined under the rules of IRS Notice 2006-52.

Comment on 4:

Note: The IRS does not require the actual amount of the deduction to be included in the certification. The following discussion contains information that would be helpful for the tax preparer to calculate the allowable amount of the deduction.

In general, the amount of the deduction is equal to the lesser of: (1) the capitalized cost incurred with respect to the energy efficient property and (2) per-square foot allowance. “Capitalized cost” is a tax term that the tax preparer should be able to determine. In the case of the permanent rule applicable to a whole building, the per-square foot allowance is the product of \$1.80 and the number of square feet in the building. In the case of the permanent rule applicable to one of the three subsystems of the building, the per-square foot allowance is the product of \$.60 and the number of square feet in the building. In the case of the interim rule applicable to lighting systems, the per-square foot allowance ranges from \$.30 to \$.60 per square foot of the building, depending on the reduction in lighting power density.

If using the Interim Lighting Rules, the actual reduction from the ASHRAE/IESNA 90.1 watt-per-square foot number will be needed by the tax preparer to determine the allowable tax deduction. The lighting power reduction below 90.1-2001 tabular values must be at least 25%. For 25% to 40% below 90.1-2001, the tax preparer must complete the following calculation: $100\% - (3\frac{1}{3} \times (40\% - X\%))$, where X is the percentage below the 90.1 level.

The tax preparer will then multiply the result of this equation against the maximum deduction of 60 cents per square foot.

Warehouses must reduce the lighting power density by at least 50% below the 90.1 standard and, if so, are eligible for a 60 cents a square foot deduction.

Finally the tax preparer will multiply the resulting cents per square foot number by the building area. Therefore, this statement must also include the building area.

An **example** statement for the **interim lighting rule** using the whole building method:

*“The new lighting system investment was completed in an **{building type}** (for example: **Office**) building. The ASHRAE/IESNA 90.1 lighting power density number for **{building type}** (for example: **Office**) Building is **{enter applicable building energy code number, Table 9.3.1.1, ASHRAE/IES 90.1-2001}** (for example: Office is **1.3 watts per sq. ft.**). The lighting system after upgrades operates at **{enter calculated watts per square foot of new lighting system}** (for example: **0.85 watts per sq. ft.**).*

*This is a reduction of lighting power density of **XX.X%**. (For example: 34.6%)*

*The total area of the Office building that received a new lighting system is **XX,XXX sq.ft.** (for example: 50,000 sq. ft.).*

This reduction has been determined under the interim lighting rules of Notice 2006-52.”

A statement example for the interim lighting rule using the space-by-space method:

*“The new lighting system investment was completed in a **{building type}** (for example: **multiple-use**) building. The space-by-space method in the ASHRAE/IESNA 90.1 building standard was used to determine that the lighting power density number for the spaces receiving new lighting*

systems is enter calculated watts per sq. ft. value using the space-by-space method from values in Table 9.3.1.2, ASHRAE/IESNA 90.1-2001 (for example: **1.38 watts per sq. ft.**). The newly installed lighting system operates at enter calculated watts per square foot of new lighting system (for example: **0.96 watts per sq. ft.**). The space-by-space method uses a “tabular approach” of evaluating the square footage of each space type to develop a unique lighting power density for the areas receiving the lighting systems.

This is a reduction of lighting power density of XX.X%. (for example: **30.4%**)

The total area of the building that received a new lighting system is XX,XXX sq.ft. (for example: 15,000 sq. ft.).

This reduction has been determined under the interim lighting rules of Notice 2006-52.”

A statement example for the permanent lighting rule:

*“The new lighting system investment was completed in an {building type} (for example: **Office**) building. The total annual energy and power costs of this building have been reduced by more than 16-2/3% due to the installation of the energy efficient lighting system. This reduction has been determined under the permanent lighting rules of Notice 2006-52.” The total area of the Office building that received a new lighting system is XX,XXX sq.ft. (for example: 40,000 sq. ft.)*

5. A statement by the qualified individual that field inspections of the building performed by a qualified individual after the property has been placed in service have confirmed that the building has met, or will meet, the energy-saving targets contained in the design plans and specifications, and that the field inspections, were performed in accordance with any inspection and testing procedures that (1) have been prescribed by the National Renewable Energy Laboratory (NREL) as Energy Saving Modeling and Inspection Guidelines for Commercial Building Federal Tax Deductions and (2) are in effect at the time the certification is given.

Comment on 5:

If using the interim lighting rules, the qualified individual must field inspect the building after the installation to certify that the specified energy efficiency lighting system has been properly installed and that each space, other than public lobbies, storerooms, restrooms and guestrooms, has bi-level switching; and that

each space meets minimum IES light level requirements. Two considerations from a 2005 NREL document *Procedure to Measure Indoor Lighting Energy Performance* (Technical Report NREL/TP-550-38602) that are relevant to the interim lighting rule are 1) the wattage of the lamp and ballast combination (not just the lamp watts) must be included and 2) all permanent task-lighting wattage must be included in the wattage total. Divide the connected lighting wattage total by the applicable building area to calculate the watts-per-square foot of the lighting system.

Example Statement for interim lighting rule:

“A qualified individual has field inspected the property after the lighting system has been placed in service and certifies that the specified energy efficient lighting system was installed, and has met, the energy-saving targets contained in the design plans and specifications. In addition, each required space contains bi-level switching and meets minimum IES light level requirements. This inspection was performed in accordance with applicable sections of the National Renewable Energy Laboratory (NREL) as Energy Saving Modeling and Inspection Guidelines for Commercial Building Federal Tax Deductions that were in effect at the time of certification.”

If using the permanent rules, operating energy costs must be determined using the National Renewable Energy Laboratory’s (NREL) Energy Saving Modeling and Inspection Guidelines for Commercial Building Federal Tax Deductions that are in effect at the time the certification is given.

Example Statement for permanent lighting rule:

“A qualified individual has field inspected the property after it has been placed in service and confirms that the building has met, or will meet, the energy-saving targets contained in the design plans and specifications, and that the field inspections, were performed in accordance with any inspection and testing procedures that (1) have been prescribed by the National Renewable Energy Laboratory (NREL) as Energy Saving Modeling and Inspection Guidelines for Commercial Building Federal Tax Deductions that were in effect at the time of certification.”

6. A statement that the building owner has received an explanation of the energy efficiency features of the building and its projected annual energy costs.

Comment on 6:

If using one of the building cost methods, DOE-approved software is required to calculate energy and power consumption and costs of the heating, cooling and lighting systems of the entire building. Use the DOE-approved software to provide the projected annual energy costs for the entire building.

The interim lighting rule does not require the calculation of energy and power costs for the entire building and therefore should not require the use of approved DOE software for this purpose. When applying the interim lighting rule, an estimate of projected annual energy costs for the lighting system should be provided based on the total connected lighting system wattage, projected annual operating hours of the lighting system and the current electric rate of the property.

Example of statement:

“The building owner has received an explanation of the energy efficiency features of the building and its projected annual energy costs.”

7. A statement that qualified computer software was used to calculate energy and power consumption and costs and identification of the qualified computer software used (see section 6 of this notice).

Comment on 7:

When using the permanent rule:

If using any of the building cost methods specified in the permanent rule, D.O.E. qualified software must be used to complete this analysis. A list of approved software can be found at the following DOE website:

http://www.eere.energy.gov/buildings/info/qualified_software/

As of August 2006, only two software packages were certified for this purpose. The certifier must list the approved software that was used for the energy and power consumption costs.

Example Statement for permanent lighting rule:

“Qualified computer software was used to calculate energy and power consumption and costs to certify that the required energy cost reductions were obtained. The DOE-approved software used to calculate energy and power consumption and costs is “xxxxxx”.”

When using the Interim Lighting Rule:

The interim lighting rule does not require the calculation of energy and power costs and therefore should not require the use of approved DOE software for this purpose. See comment on No. 6 above.

Example Statement for interim lighting rule:

“This project qualifies using the interim lighting rule. Calculations were performed in compliance with the requirements of the interim rule of

section 2.03(1)(b) of Notice 2006-52. The interim lighting rules require a calculation of lighting power density (total connected lighting watts divided by building area). The interim rule does not require the calculation of energy and power consumption and costs for the entire building. Qualified computer software is only required to calculate energy and power consumption and costs to certify that the required whole building energy cost reductions were obtained when using the permanent rule.”

8. A list identifying the components of the interior lighting systems, heating, cooling, ventilation, and hot water systems, and building envelope installed on or in the building, the energy efficiency features of the building, and its projected annual energy costs.

Comment on 8:

For lighting systems:

Attach to the Certificate of Compliance a list containing all of the components of the interior lighting systems along with energy efficiency features and projected annual energy costs.

This same list with the projected annual energy costs, when provided to the building owner, would also evidence compliance with the statement in number 6 requiring the owner to be provided with the projected annual energy costs. The following comments about statement (6) also apply to statement (8):

If using one of the building cost methods, DOE-approved software is required to calculate energy and power consumption and costs of the heating, cooling and lighting systems of the entire building. Use the DOE-approved software to provide the projected annual energy costs for the entire building.

The interim lighting rule does not require the calculation of energy and power costs for the entire building and should not require the use of approved DOE software for this purpose. When applying the interim lighting rule, an estimate of projected annual energy costs for the lighting system should be provided based on the total connected lighting system wattage, projected annual operating hours of the lighting system and the current electric rate of the property.

The list should also include the total capitalized cost of the project, including the cost of all lamps, ballasts, fixtures, controls, wiring and any other associated equipment and the capitalized cost of labor. The tax preparer cannot deduct more than the capitalized value of the investment, so they will need to know the total capitalized cost.

Example for lighting installation statement:

“Attached to this document is a list identifying the components of the interior lighting systems installed on or in the building, the energy efficiency features of the building, and the projected annual energy costs. The total equipment cost of this project is: \$xxxx.00. The total installation labor cost of this project is: \$xxxx.00.

9. A declaration, applicable to the certification and any accompanying documents, signed by the qualified individual, in the following form:

“Under penalties of perjury, I declare that I have examined this certification, including accompanying documents, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this certification are true, correct, and complete.”

End with Certifier Signature:

Signature: _____ Date: _____

_____ *Professional Engineer*

PE ID Number: _____

OR

_____ *Licensed Contractor*

License No.: _____

Example Letter for Interim Lighting Rule

...On Certifier Letterhead....

**Certificate of Compliance
Commercial Buildings Tax Deduction
Section 179D, Internal Revenue Code**

June 30, 2006

01) Building Certifier Information

Certifier Name: _____
Company Name: _____
Street Address: _____
City, State, Zip: _____
Phone: _____
Email: _____

02) Building Information

Building or Owner Name: _____
Street Address: _____
City, State, Zip: _____

Energy Efficient System installed and placed in service during
_____2006 _____ 2007.

03) Type of Project and Type of Rule Statement

The interior lighting systems that have been, or are planned to be, incorporated into the building satisfy the requirements of the interim rule of section 2.03(1)(b) of this notice. The interior lighting systems that have been, or are planned to be, incorporated into the building satisfy the requirements of the interim rule of section 2.03(1)(b) of Notice 2006-52.

04) Energy Reduction Certification

*The new lighting system investment was completed in an **OFFICE** building. The ASHRAE/IESNA 90.1 lighting power density number for **OFFICE** Building is **1.3 watts/sq.ft.** The newly installed lighting system operates at **0.85 watts/sq.ft.***

*This is a reduction of lighting power density of **34.6%**.*

*The total area of the Office building that received a new lighting system is **50,000 sq.ft.***

This reduction has been determined under the interim lighting rules of Notice 2006-52.

05) Field Inspection Statement

A qualified individual has field inspected the property after the lighting system has been placed in service and certifies that the specified energy efficient lighting system was installed, is operating properly, and will meet the energy saving targets contained in the design plans and specifications. In addition, each required space contains bi-level switching and meets minimum IES light level requirements. This inspection was performed in accordance with applicable sections of the National Renewable Energy Laboratory (NREL) as Energy Saving Modeling and Inspection Guidelines for Commercial Building Federal Tax Deductions that were in effect at the time of certification.

06) Statement on Energy Efficiency Features

The building owner has received an explanation of the energy efficiency features of the building and its projected annual energy costs.

07) Statement on Computer Software

This project qualifies using the interim lighting rule. Calculations were performed in compliance with the requirements of the interim rule of section 2.03(1)(b) of Notice 2006-52. The interim lighting rules require a calculation of lighting power density (total connected lighting watts divided by building area). The interim rule does not require the calculation of energy and power consumption and costs for the entire building. Qualified computer software is only required to calculate energy and power consumption and costs to certify that the required whole building energy cost reductions were obtained when using the permanent rule.

08) Statement on Components List

Attached to this document is a list identifying the components of the interior lighting systems installed on or in the building, the energy efficiency features of the building, and the projected annual energy costs.

The total equipment cost of this project is: \$325,000.00.

The total installation labor cost of this project is: \$250,000.00.

09) Declaration of Qualification

“Under penalties of perjury, I declare that I have examined this certification, including accompanying documents, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this certification are true, correct, and complete.”

Printed Name of Certifier: _____John Smith_____

Signature: _____

Date: _____9/1/2006_____

Check One:

___X___ Professional Engineer:

PE ID Number: _____00012345_____

OR

_____ Licensed Contractor

License No.: _____