



**BUILD FAST.
BUILD GREEN.
BUILD HEBEL.**

Designers Benefit from Tax Incentives for Commercial Buildings with Hebel Autoclaved Aerated Concrete

The Federal tax laws provide a significant tax benefit for designers of energy-efficient commercial buildings for public entities, such as government buildings and public schools. A designer such as an architect, engineer, contractor, environmental consultant or energy services provider who creates the technical specifications can deduct the cost to the public entity of “energy-efficient commercial building property expenditures” up to a cap of \$1.80 per square foot of the energy-efficient commercial building property expenditures that are made.¹

The deduction is allowed in the year in which the property is placed in service and is in lieu of depreciating the amounts qualifying for the deduction over 39 years.²

This deduction generally is available to owners of buildings. However, because the owners public buildings, such as schools and government offices do not generally pay taxes, the tax laws provide a special rule allowing the owners to pass the benefit through to the designer. If there is more than one designer, the governmental owner of the building can allocate the full deduction to one designer that is primarily responsible for the design or, at the owner's discretion, allocate the deduction among several designers. The governmental owner of the public building is not required to include any amount in income on account of the deduction allocated to the designer, but is required to reduce the basis of the property by the amount of the deduction allocated. Note that a person who installs, repairs, or maintains the property is not a designer.³

The tax laws define energy-efficient commercial building expenditures as property:

1. Installed on or in any building located in the United States that is within the scope of Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America,
2. Installed as part of (i) the interior lighting systems, (ii) the heating, cooling, ventilation, and hot water systems, or (iii) the building envelope, and
3. Certified as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1-2001 (as in effect on April 2, 2003).¹

Hebel AAC's energy-efficient properties help meet their requirement for this tax-deduction credit level. Its unique closed cellular structure and thermal mass contribute to a high R-value and air-tightness, which reduce heating and cooling costs and improve indoor air quality. Buildings using Hebel Autoclaved Aerated Concrete have seen up to a 35 percent decrease in cooling costs.

¹ Code section 179D(d)(4); Notice 2008-40, 2008-14 I.R.B. 725.

² Code section 179D.

³ Notice 2008-40, section 3.

In the case of a building that does not meet the overall building requirement of a 50-percent energy saving, a partial deduction is allowed with respect to each separate building system: (1) the interior lighting system, (2) the heating, cooling, ventilation and hot water systems, and (3) the building envelope. The maximum allowable deduction is \$0.60 per square foot for each separate system.

Case in Point 1: 50% Energy Savings

A school spends \$200,000 in qualifying costs on a new 100,000 square feet, energy-efficient building using Hebel AAC.

100,000 sq. ft. X \$1.80 = \$180,000 Tax Deduction to the Designer

Case in Point 2: <50% Energy Savings

Same school as above, yet only the Hebel AAC building envelope qualifies.

100,000 sq. ft. X \$.060= \$60,000 Tax Deduction to the Designer

Certain certification requirements must be met in order to qualify for the deduction. The IRS has published guidance concerning how to meet these requirements.⁴ In general, these calculations must be performed using energy simulation models found in computer software approved in the guidance and not by measuring actual electricity usage. Under this guidance, calculations are made by comparison to a reference building that is based on a building that is located in the same climate zone as the taxpayer's building and is otherwise comparable to the taxpayer's building except that its interior lighting systems, heating, cooling, ventilation, and hot water systems, and building envelope meet the minimum requirements of Standard 90.1-2001. Calculations must be certified by a licensed professional engineer or contractor that is not related to the taxpayer and meets certain other tests.

In determining energy and power cost savings for purposes of partial deduction described above for an energy efficient building envelope, the proposed building is a building that contains the building envelope that has been incorporated, or that the taxpayer plans to incorporate, into the taxpayer's building but that is otherwise identical to the reference building.

The deduction is effective for property placed in service after December 31, 2005 and prior to December 31, 2013.⁵

It may be possible to meet the energy efficiency standards set forth above using Hebel AAC.

Please consult your own tax advisor to determine whether your project can qualify for this significant tax benefit. IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice that may be contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding any penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction(s) or tax-related matter(s) that may be addressed herein.

Notice 2006-52 can be found: <http://www.irs.gov/pub/irs-drop/n-06-52.pdf>

Notice 2008-40 can be found: http://www.irs.gov/irb/2008-14_IRB/ar12.html

⁴ Notice 2006-52, 2006-26 I.R.B. 1175, *clarified and amplified*, Notice 2008-40.

⁵ Code section 179D(h).

