

INSTRUCTIONS AND FORMS FOR ALLOCATION OF SECTION 179D INCOME TAX DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY

INSTRUCTIONS

Background: Many County construction and renovation projects are eligible for tax benefits under Section 179D of the Federal Tax Code, which allows an income tax deduction based on the cost of certain qualifying energy efficient property. However, the County is unable to benefit directly from these deductions, because as a governmental entity the County generally does not have taxable income against which to apply deductions. To this end, Section 179D and corresponding IRS guidance permit the County to allocate the deduction to firms responsible for designing the qualifying property. In the interests of promoting sustainability in construction and economic development, the County will allocate the 179D deduction to qualifying designers on a free of charge basis as described below.

Who is eligible for an allocation of the tax deduction? Consistent with Section 179D and IRS guidance, an eligible designer is a firm that creates the technical specifications for the qualifying property. Under the IRS guidance, a designer may include an architect, engineer, construction manager or contractor who creates the technical specifications for a new building or an addition to an existing building that incorporates energy efficient building property. (A firm that merely installs, repairs or maintains the property is not a designer.) If several firms contributed to the creation of the technical specifications, then the County may allocate the deduction among several firms.

Who may apply? The FDO Department of the County will only accept applications for an allocation of the 179D tax deduction from the architect or engineer of record for the project. If several firms, including the architect/engineer of record, the construction manager or a contractor contributed to the creation of the technical specifications then these firms must coordinate with the Architect/Engineer of Record for the project to request an allocation of the 179D tax deduction. The Architect/Engineer of Record for the project is responsible for recommending to the County the percentage allocation of the deduction among the firms, based on the contribution of each to the technical specifications.

What types of property are eligible? To be eligible for the 179D deduction the property must meet the following criteria:

- a. the property must be installed on or in a building owned by the County;
- b. the property must meet or exceed the energy efficiency standards requirements of ASHRAE Standard 90.1-2007;
- c. the property must be part of the following systems – interior lighting systems; the heating, cooling, ventilation and hot water systems or the building envelope;
- d. the building must have been placed in service before January 1, 2018.

Because the Section 179D tax deduction expired on December 31, 2017, the County will not

allocate deductions with respect to property placed in service after December 31, 2017, unless and until Section 179D is extended to apply to such property.

What is the process? A firm that believes it may be eligible for an allocation of the Section 179D deduction must apply to the County using the attached forms through the architect or engineer of record for the project. The Architect/Engineer of Record for the project will recommend to FDO the allocation of the deduction among the firms that contributed to the creation of the technical specifications. The Architect/Engineer of Record will submit Appendix 1 “Application for Allocation”. FDO will review the application within 8 weeks of receipt. FDO reserves the right to request additional information from the applicant during this period. If FDO approves the application, then Appendix II “Allocation of Section 179D Deduction” will be prepared for each 179D designer listed in the Application for the percentages recommended by the Architect/Engineer of Record. All inquiries related to the Section 179D application process should be directed to FDO’s Business and Community Agreements Manager at 561-233-5252.

The County will not provide the applicant with individual tax advice and does not represent that the deduction, if allocated by the County will ultimately be allowed against the applicant’s taxable income. The applicant ultimately assumes all risks associated with whether the property is eligible for the Section 179D deduction and whether the applicant qualifies as a designer. For information or questions about section 179D, please consult with your individual tax advisor.

**APPENDIX I
APPLICATION FOR ALLOCATION OF SECTION 179D DEDUCTION**

NOTE: This application must be prepared and submitted by the Architect/Engineer of Record for the Project and include a list of the firms that contributed to the creation of the technical specifications. (See Section 8 below)

1. Name of Applicant: _____

2. Address of Applicant: _____

3. Name, Title, Telephone Number, Email of Applicant's Authorized Representative: _____

4. Address of County Building where the qualifying property was installed: _____

5. Project Name/Project Number: _____

6. Type and cost of Qualifying Property:

a. Interior lighting system \$ _____

b. Heating, cooling, ventilation, and/or hot water systems \$ _____

c. Building envelope \$ _____

7. Date the property was placed in service: _____

8. The Applicant is the Architect or Engineer of Record for the project and has consulted with the other design professionals, construction managers, and/or contractors that participated in the creation of the technical specifications ("179D Designers") for installation of the energy efficient commercial building property. Applicant represents that:

(Check One)

_____ Applicant as the Architect/Engineer of Record is the only firm that contributed to the creation of the technical specifications and should be allocated 100% of the deduction.

OR

_____ All other "179D Designers" have declined to request an allocation of the 179D deduction from the County and Applicant as the Architect/Engineer of Record is the only entity seeking the allocation and should be allocated 100% of the deduction.

OR

_____ The following "179D Designers," including Applicant (if applicable), contributed to the creation of the technical specifications and are seeking an allocation of a portion of the 179D deduction as follows:

Firm Name/Contact Info.	Allocation Amount
_____	_____
_____	_____
_____	_____
_____	_____

9. The Applicant will obtain a third party certification ("Certification") as required by the IRS that the property satisfies the energy efficiency requirements of section 179D(c)(1) and (d) of the Internal Revenue Code (26 U.S.C. §179D)) and will provide a copy of the Certification with the Allocation Form(s) (Appendix II).

10. Applicant shall protect, defend, reimburse, indemnify and hold County, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of Applicant's request for approval of a deduction allocation and/or the County's approval/denial of the request.

11. Applicant acknowledges that all information provided by, and representations made by, the Applicant are material and important and will be relied upon by the County in determining approval of the allocation.

Applicant Authorized Representative:

Signature: _____ Date _____

Printed Name & Title: _____

Firm Name: _____

Phone # and email: _____

**APPENDIX II
SECTION 179D ALLOCATION FORM**

NOTE: An Appendix II will be prepared for each of the "Designers" listed on Appendix I for the amounts listed on Appendix I

1. The name, address, and telephone number of an authorized representative of Palm Beach County (County).

Audrey Wolf
Director, Facilities Development & Operations
2633 Vista Parkway
West Palm Beach, Fl. 34111

2. The name, address, and telephone number of an authorized representative of the designer requesting the allocation for the 179D Deduction for Energy Efficiency Commercial Building Property: _____

3. The address of the County building where the energy efficient property was installed:

4. The cost of the energy efficient property: \$ _____

5. The date the energy efficient property was placed in service: _____

6. The dollar amount of the deduction for the Energy Efficiency Commercial Building allocated to the designer: \$ _____

7. Attached is the third party certification required by the IRS that the energy efficient property satisfies the energy efficiency requirements of § 179D(c)(1) and (d) of the Internal Revenue Code.
 YES NO (if "NO" is checked, Allocation will not be approved)

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

Designer Authorized Representative:

FDO Authorized Representative:

Signature and Date

Director, Facilities Development & Ops

Print Name and Title

Date