

# Bailout Provides Significant Expansion & Extension of Business Energy Tax Credit

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In keeping with the inauguration of our new President and a new focus on green/sustainable from the top office, I would like to discuss the Section 179D Energy Efficient Commercial Buildings Tax Deduction, which was extended by the Emergency Economic Stabilization Act of 2008 (again, the formal title for the \$700 million federal bailout that was passed back on October 3). As I also noted previously, the Bailout also significantly expands the Business Energy Tax Credit that was previously enacted as Section 48 of the 2005 Energy Policy Act. The duration of available tax credits for solar energy, fuel cell, and micro-turbine installations has been extended for 8 years until December 31, 2016. The Bailout also increases the available credit amount for fuel cell installations and provides new credits for small wind energy systems, geothermal heat pumps, and combined heat and power systems.

Generally speaking, in order to qualify for the Business Energy Tax Credit, the original use of the system must begin with the taxpayer, or the system must be constructed by the taxpayer. It must also meet any performance standards in effect at the time the system is acquired (such as those set forth by the manufacturer). The equipment must also be operational during the year in which the tax credit is claimed in order for the taxpayer to earn the credit. This article provides a brief overview of the available credits for each qualifying type of technology:

## Solar Power

The available credit is equal to 30 percent of expenditures on eligible solar property, which includes equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water in) a structure, and hybrid solar lighting systems (defined as those that use solar energy to illuminate the interior of a structure using fiberoptic-distributed sunlight). There is no maximum credit limit.

## Fuel Cells

By way of brief definition, fuel cells are basically large batteries that convert chemicals—like hydrogen and oxygen—into electricity without combustion. The available fuel cell credit is equal to 30 percent of the fuel cell's cost. Although no maximum limit is set forth with respect to the amount of that cost, the fuel cell credit itself is capped at \$1500 per .5 kilowatt of capacity that the fuel cell installation provides. Eligible equipment includes fuel cells with a minimum capacity of .5 kilowatts that have an electricity-only generation efficiency of 30 percent or higher.



## **Small Wind Turbines**

The available credit is equal to 30 percent of the cost of the system, but is capped at \$4000. “Small wind turbine” is defined as turbines that generate up to 100 kilowatts. Only turbines placed into service after October 3, 2008 (the date of the Bailout) are eligible for the credit.

## **Geothermal Installations**

The available credit is equal to 10 percent of the cost of the system and there is no credit limit set forth in the text of the Act. Eligible geothermal property includes geothermal heat pumps and equipment used to produce, distribute, or use energy derived from a geothermal deposit. The credit also only applies to installations that are placed into service after October 3, 2008, however this particular credit has no stated expiration date under the Act.

## **Microturbines & Combined Heat and Power Systems**

The available credit is equal to 10 percent of the cost of the system, but the credit is capped at \$200 per kilowatt of capacity. Eligible installations are microturbines up to 2 megawatts in capacity. (Just as a brief aside, a microturbine is a piece of power generating equipment that captures the heat waste from its own turbines as it produces electricity and transforms the heat into usable energy. Microturbines are up to 80 percent efficient (at transforming the energy they consume into useable electricity) as compared to 30 to 35 percent for most types of power generating facilities.)

Similarly, a combined heat and power system uses natural gas to produce heat and electricity simultaneously. The available credit under the Bailout is equal to ten percent of the cost of a qualifying system, with no maximum limit stated. Eligible systems include those up to 50 megawatts in capacity that exceed 60 percent efficiency. (It’s not uncommon for a combined heat and power system to achieve up to 90 percent efficiency). The equipment must also be put into service after October 3, 2008 in order to qualify for the credit.

Again, it goes without saying that a taxpayer seeking to secure any of the aforementioned credits should consult both with an attorney and accountant.

## **For Machen–Wingate Advisory Group PR & Services Please Contact:**

Office: 704–348–2431

Fax: 704–348–2433

Email: [info@magwag.com](mailto:info@magwag.com)

Web: [www.magwag.com](http://www.magwag.com)

402 West Trade Street, Suite 100 | Charlotte, NC 28202