

117TH CONGRESS
1ST SESSION

H. R. 5181

To amend the Internal Revenue Code of 1986 to provide temporarily increase the deduction for energy efficient commercial buildings, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2021

Mr. BLUMENAUER (for himself and Mr. BEYER) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide temporarily increase the deduction for energy efficient commercial buildings, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Energy Efficient Com-
5 mercial Buildings Act of 2021”.

1 **SEC. 2. ENERGY EFFICIENT COMMERCIAL BUILDINGS DE-**
2 **DUCTION.**

3 (a) TEMPORARY INCREASE IN DEDUCTION, ETC.—
4 Section 179D is amended by adding at the end the fol-
5 lowing:

6 “(i) TEMPORARY RULES.—

7 “(1) PERIOD OF APPLICATION.—The provisions
8 of this subsection shall apply only to taxable years
9 beginning after December 31, 2021, and before Jan-
10 uary 1, 2032.

11 “(2) MODIFICATION OF EFFICIENCY STAND-
12 ARD.—Subsection (c)(1)(D) shall be applied by sub-
13 stituting ‘25’ for ‘50’.

14 “(3) MAXIMUM AMOUNT OF DEDUCTION.—

15 “(A) IN GENERAL.—The deduction under
16 subsection (a) with respect to any building for
17 any taxable year shall not exceed the excess (if
18 any) of—

19 “(i) the product of—

20 “(I) the applicable dollar value,
21 and

22 “(II) the square footage of the
23 building, over

24 “(ii) the aggregate amount of the de-
25 ductions under subsection (a) and para-
26 graph (6) with respect to the building for

1 the 3 taxable years immediately preceding
2 such taxable year (or, in the case of any
3 such deduction allowable to a person other
4 than the taxpayer, for any taxable year
5 ending during the 4-taxable-year period
6 ending with such taxable year).

7 “(B) APPLICABLE DOLLAR VALUE.—For
8 purposes of paragraph (3)(A)(i), the applicable
9 dollar value shall be an amount equal to \$2.50
10 increased (but not above \$5.00) by \$0.10 for
11 each percentage point by which the total annual
12 energy and power costs for the building are cer-
13 tified to be reduced by a percentage greater
14 than 25 percent.

15 “(C) APPLICATION OF INFLATION ADJUST-
16 MENT.—Subsection (g) shall be applied—

17 “(i) by substituting ‘2022’ for ‘2020’,

18 “(ii) by substituting ‘subsection
19 (i)(3)(B)’ for ‘subsection (b) or subsection
20 (d)(1)(A)’, and

21 “(iii) by substituting ‘2021’ for
22 ‘2019’.

23 “(D) LIMITATION TO APPLY IN LIEU OF
24 CURRENT LIMITATION AND PARTIAL ALLOW-

1 ANCE.—Subsections (b) and (d)(1) shall not
 2 apply.

3 “(4) ALLOCATION OF DEDUCTION BY CERTAIN
 4 TAX-EXEMPT ENTITIES.—

5 “(A) IN GENERAL.—A specified tax-ex-
 6 empt entity shall be treated in the same manner
 7 as a Federal, State, or local government for
 8 purposes of applying subsection (d)(4).

9 “(B) SPECIFIED TAX-EXEMPT ENTITY.—
 10 For purposes of this paragraph, the term ‘spec-
 11 ified tax-exempt entity’ means—

12 “(i) the United States, any State or
 13 political subdivision thereof, any possession
 14 of the United States, or any agency or in-
 15 strumentality of any of the foregoing,

16 “(ii) any Indian tribal government
 17 (within the meaning of section 139E), and

18 “(iii) any organization exempt from
 19 tax imposed by this chapter.

20 “(5) ALTERNATIVE DEDUCTION FOR ENERGY
 21 EFFICIENT RETROFIT BUILDING PROPERTY.—

22 “(A) IN GENERAL.—In the case of a tax-
 23 payer which elects (at such time and in such
 24 manner as the Secretary may provide) the ap-
 25 plication of this paragraph with respect to any

1 qualified building, there shall be allowed as a
2 deduction for the taxable year which includes
3 the date of the qualifying final certification with
4 respect to the qualified retrofit plan of such
5 building, an amount equal to the lesser of—

6 “(i) the excess described in paragraph
7 (3) (determined by substituting ‘energy
8 usage intensity’ for ‘total annual energy
9 and power costs’ in subparagraph (B)
10 thereof), or

11 “(ii) the aggregate adjusted basis (de-
12 termined after taking into account all ad-
13 justments with respect to such taxable year
14 other than the reduction under subsection
15 (e)) of energy efficient retrofit building
16 property placed in service by the taxpayer
17 pursuant to such qualified retrofit plan.

18 “(B) QUALIFIED RETROFIT PLAN.—For
19 purposes of this paragraph, the term ‘qualified
20 retrofit plan’ means a written plan prepared by
21 a qualified professional which specifies modi-
22 fications to a building which, in the aggregate,
23 are expected to reduce such building’s energy
24 usage intensity by 25 percent or more in com-
25 parison to the baseline energy usage intensity of

1 such building. Such plan shall provide for a
2 qualified professional to—

3 “(i) as of any date during the 1-year
4 period ending on the date of the first cer-
5 tification described in clause (ii), certify
6 the energy usage intensity of such building
7 as of such date,

8 “(ii) certify the status of property in-
9 stalled pursuant to such plan as meeting
10 the requirements of clauses (ii) and (iii)
11 subparagraph (C), and

12 “(iii) as of any date that is more than
13 1 year after completion of the plan, certify
14 the energy usage intensity of such building
15 as of such date.

16 “(C) ENERGY EFFICIENT RETROFIT
17 BUILDING PROPERTY.—For purposes of this
18 paragraph, the term ‘energy efficient retrofit
19 building property’ means property—

20 “(i) with respect to which depreciation
21 (or amortization in lieu of depreciation) is
22 allowable,

23 “(ii) which is installed on or in any
24 qualified building,

25 “(iii) which is installed as part of—

1 “(I) the interior lighting systems,

2 “(II) the heating, cooling, ven-

3 tilation, and hot water systems, or

4 “(III) the building envelope, and

5 “(iv) which is certified in accordance

6 with subparagraph (B)(ii) as meeting the

7 requirements of clauses (ii) and (iii).

8 “(D) QUALIFIED BUILDING.—For pur-

9 poses of this paragraph, the term ‘qualified

10 building’ means any building which—

11 “(i) is located in the United States,

12 and

13 “(ii) was originally placed in service

14 not less than 5 years before the establish-

15 ment of the qualified retrofit plan with re-

16 spect to such building.

17 “(E) QUALIFYING FINAL CERTIFI-

18 CATION.—For purposes of this paragraph, the

19 term ‘qualifying final certification’ means, with

20 respect to any qualified retrofit plan, the certifi-

21 cation described in subparagraph (B)(iii) if the

22 energy usage intensity certified in such certifi-

23 cation is not more than 75 percent of the base-

24 line energy usage intensity of the building.

1 “(F) BASELINE ENERGY USAGE INTEN-
2 SITY.—

3 “(i) IN GENERAL.—The term ‘baseline
4 energy usage intensity’ means the energy
5 usage intensity certified under subpara-
6 graph (B)(i), as adjusted to take into ac-
7 count weather as compared to the energy
8 usage intensity determined under subpara-
9 graph (B)(iii)(I).

10 “(ii) DETERMINATION OF ADJUST-
11 MENT.—For purposes of clause (i), the ad-
12 justments described in such clause shall be
13 determined in such manner as the Sec-
14 retary, after consultation with the Admin-
15 istrator of the Environmental Protection
16 Agency, may provide.

17 “(G) OTHER DEFINITIONS.—For purposes
18 of this paragraph—

19 “(i) ENERGY USAGE INTENSITY.—The
20 term ‘energy usage intensity’ means the
21 site energy usage intensity determined in
22 accordance with such regulations or other
23 guidance as the Secretary may provide and
24 measured in British thermal units.

1 “(ii) QUALIFIED PROFESSIONAL.—

2 The term ‘qualified professional’ means an
3 individual who is a licenced architect or a
4 licenced engineer and meets such other re-
5 quirements as the Secretary may provide.

6 “(H) COORDINATION WITH DEDUCTION
7 OTHERWISE ALLOWED UNDER SUBSECTION
8 (a).—

9 “(i) IN GENERAL.—In the case of any
10 building with respect to which an election
11 is made under subparagraph (A), the term
12 ‘energy efficient commercial building prop-
13 erty’ shall not include any energy efficient
14 retrofit building property with respect to
15 which a deduction is allowable under this
16 paragraph.

17 “(ii) CERTAIN RULES NOT APPLICA-
18 BLE.—

19 “(I) IN GENERAL.—Except as
20 provided in subclause (II), subsection
21 (d) shall not apply for purposes of
22 this paragraph.

23 “(II) ALLOCATION OF DEDUC-
24 TION BY CERTAIN TAX-EXEMPT ENTI-
25 TIES.—Rules similar to subsection

1 (d)(4) (determined after application of
2 paragraph (5)) shall apply for pur-
3 poses of this paragraph.”.

4 (b) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, the amendment made by
7 this section shall apply to taxable years beginning
8 after December 31, 2021.

9 (2) ALTERNATIVE DEDUCTION FOR ENERGY EF-
10 FICIENT RETROFIT BUILDING PROPERTY.—Para-
11 graph (6) of section 179D(i) of the Internal Revenue
12 Code of 1986 (as added by this section), and any
13 other provision of such section solely for purposes of
14 applying such paragraph, shall apply to property
15 placed in service after December 31, 2021 (in tax-
16 able years ending after such date) if such property
17 is placed in service pursuant to qualified retrofit
18 plan (within the meaning of such section) estab-
19 lished after such date.

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