

Don't Leave Dollars on the Table: Valuable 2022 Tax Incentives for Restaurants



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- Co-founder and partner of Tri-Merit Specialty Tax Professionals.
- Host of The Unique CPA podcast, which is top 5% of all podcast.
- Author for articles in Accounting Today, AICPA Tax, CPA Trendlines, Intuit.
- Frequent speaker on webinars and at conferences.
- Listed in the "Ones to Watch" section of Accounting Today's 2021 "Top 100 Most Influential people in Accounting".
- On the Intuit Tax Council



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About Tri-Merit

- ▶ **Tri-Merit supports Tax Preparers** by serving as an extension of their advisory team to **lessen the tax burden and increase cash flow for their clients.**
- ▶ We **spend more time on qualifying, quantifying and documenting** which allows us to **spend less time on defending** credits and incentives.
- ▶ We work with companies to uncover tax savings opportunities through:
 - **R&D tax credit, Cost Segregation, WOTC** – The Work Opportunity tax Credit, **179D** – the energy efficient commercial building deduction and **45L** – a credit for developers of energy efficient residential property and **ERC.**

Tax Incentives for the Restaurant Industry:

- ▶ R&D Tax Credit
 - How can restaurants qualify?
 - IR-2021-203
- ▶ 179D – Energy Efficient Commercial Building Deduction
- ▶ Cost Segregation
- ▶ Work Opportunity Tax Credit (WOTC)



R&D Tax Credit



R&D Tax Credit

- ▶ R&D tax credit opportunities:
 - Who can qualify:
 - » Manufactures, Software Developers, Architects, Engineers, any taxpayer meeting the 4-part test, including restaurants (examples to follow).

- ▲ R&D Tax Credits for Restaurants Examples
 - Breweries
 - Test batches, first runs, seasonal beers, one offs.
 - Restaurants with Test Kitchens
 - Creating online ordering systems and programming modules to communicate with other new or existing programs. POS, inventory, shipping, purchasing etc.
 - Developing new ways of packaging
 - Developing ways to control quality during shipping
 - Developing additive-free formulations

R&D Tax Credit

- ▲ R&D Tax Credits
 - How to qualify
 - 4-part test to qualify
 - Permitted purpose.
 - Technological in Nature
 - Technical Uncertainty
 - Process of Experimentation

- ▲ R&D Tax Credits
 - Expenses that qualify
 - » Salaries and wages.
 - » Outside services.
 - » Supply costs. (potential increase due to 174 pilot/prototype rules)
 - » Rental of computer time.

- ▶ R&D Tax Credit Benefit
 - Benefit is about 6-10% of the qualified expenses.
 - Can be claimed on any open tax return.
 - » NOL years could be brought forward to the current year
 - Companies with \$50M or less in average gross receipts for the last 3 years that can claim the credit against AMT.
 - Companies can make an election to claim the credit against payroll taxes if they have:
 - » Less than \$5M in gross receipts in the current year.
 - » No gross receipts further back than the last 5 tax years.

§179D Energy Efficient Commercial Building Tax Deduction



179D–Energy Efficient Commercial Building Deduction

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- ▶ Potential restaurant users of the deduction:
 - Restaurant building owners
 - Lessees of restaurant property
 - Historically, best for larger buildings but beginning in 2023 smaller buildings will benefit
- ▶ Consolidated Appropriations Act, December 27th, 2020
 - The deduction was made permanent
- ▶ Inflation Reduction Act
 - Significant changes to the deduction

179D–Energy Efficient Commercial Building Deduction

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- ▶ Types of improvements that qualify
 - Completed new construction
 - Interior remodel
 - Additions
 - Enlargements
 - Retrofits
 - Improvements

179D–Energy Efficient Commercial Building Deduction

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- ▶ Current Program Benefits
 - Accelerated depreciation for energy efficient commercial buildings.
 - A 50% reduction in energy or more results in a \$1.80/\$1.88 ft² deduction.
 - Partial deductions (this changes in 2023)
 - » HVAC | requires a 15% reduction* in energy for 60¢/SF
 - » Lighting | requires a 25% reduction* in energy for 60¢/SF
 - » Building Envelope | requires a 10% reduction* in energy for 60¢/SF

179D—Energy Efficient Commercial Building Deduction

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- ▶ Program Changes from the Inflation Reduction Act
 - Expands the Section 179D tax deduction for energy efficient commercial buildings to include not only government buildings but now also **nonprofit organizations**.
 - Raises the maximum deduction value from \$1.80/ft² to \$2.50-5.00 ft² beginning 1/1/2023.
 - Reduces the threshold to qualify to 25% with credit increases as efficiency increases.
 - The deduction can now be taken on a specific commercial building every 3 years (previously, the deduction was permitted once over the life of the building).

179D–Energy Efficient Commercial Building Deduction

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- ▶ Current 179D Program Example:
 - 100,000 square foot building
 - HVAC all qualified @ \$0.60 for \$60,000 deduction.
 - Lighting all qualified @\$0.60 for \$60,000 deduction.
 - Envelope all qualified @\$0.60 for \$60,000 deduction.
 - Total deduction of \$180,000 at 37% created a tax savings of \$66,000
- ▶ For the building owner that is a time value of money benefit.

179D–Energy Efficient Commercial Building Deduction

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- ▶ Starting 2023 179D Example:
 - 25% reduction and **wage rules meet**
 - » 10,000 square foot building
 - » Total deduction of \$250,000 at 37% created a tax savings of \$9,250 ($10,000 \times \$2.50 \times .37$)
 - 50% reduction and **wage rules meet**
 - » 10,000 square foot building
 - » Total deduction of \$500,000 at 37% created a tax savings of \$18,500 ($10,000 \times \$5.00 \times .37$)

179D–Energy Efficient Commercial Building Deduction

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- ▶ 179D Example IRA -
 - 25% reduction and **wage rules not meet**
 - » 10,000 square foot building
 - » Total deduction of \$50,000 at 37% created a tax savings of \$1,850 ($10,000 \times \$0.50 \times .37$)
 - 50% reduction and **wage rules not meet**
 - » 10,000 square foot building
 - » Total deduction of \$100,000 at 37% created a tax savings of \$3,700 ($10,000 \times \$1.00 \times .37$)

Cost Segregation



Cost Segregation

- ▶ Commercial (restaurant, bar, theater, conference/convention center, banquet hall, etc.) or residential rental property owners.
- ▶ Breaking down depreciable real estate into individual components and identifying which components can be depreciated quicker.
 - Accelerating depreciation, deferring income taxes.
 - » Taking assets otherwise depreciated at 27.5 or 39 years and reclassify them to 5, 7 or 15 years.
 - » Certain assets can be bonus or 179 eligible.
 - New construction, purchases, remodels, additions, improvements.
 - Restaurants on average can accelerate 20-40% of the assets (excluding bonus depreciation)

- ▶ Bonus Depreciation
 - Eligible property must have a 20-year useful life or less.
 - Eligible property receives 100% bonus if acquired and placed in service after 9/27/17 and before 1/1/23.
 - Bonus will phase down by 20% each year from 2023-2026
 - Used property now eligible

- ▶ Qualified Improvement Property (QIP)
 - Defined in the PATH act
 - Mistake on asset life in the TCJA
 - CARES Act fixes the mistake and now allows bonus on QIP.
 - Improvement to the interior of a nonresidential building.
 - » Must be made after the building was placed in service.
 - » Excludes enlargements, elevators, escalators and internal structural framework of the building.
 - » Improvements must be made by the entity claiming the deduction.

Cost Segregation

- ▶ Example – remodel of restaurant in 2021.
 - Total costs were \$2,000,000 originally classified as 39-year
 - After cost seg – 5/7-year \$700,000, 15-year \$140,000, 15-year QIP \$1,000,000 and 39-year \$160,000.
 - First year accelerated depreciation \$1,840,000 compared to \$51K without a cost seg study.

Work Opportunity Tax Credit



Work Opportunity Tax Credit (WOTC)

▶ WOTC

- New hire credit
- Typically, employers that have at least 50 new hires per year are the best candidates
 - » Restaurants, Theaters, Bars, Concert Venues, Manufacturers, Nonprofit, etc.
- Was set to expired at the end of 2020 but was extended until 2025 in the CAA
- Incentivizes the hiring of individuals from targeted demographic groups who faced barriers to gaining/sustaining employment or with special employment needs

Work Opportunity Tax Credit (WOTC)

▶ WOTC

- Credit is between \$2,400 and \$9,600 per eligible employee
- Employees need to work at least 120 hours to qualify
- Need to apply within 28 days of hire
- For profit businesses offset federal income tax
- Nonprofit can qualify for veteran categories and use the credit to offset employer portion of SS taxes

Work Opportunity Tax Credit (WOTC)

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▶ Employee Target Groups

- SNAP Recipients - \$2,400
- Long-term Unemployed - \$2,400
- Temporary Assistance for Needy Families (TANF) - \$2,400
- Long-term TANF - \$9,000
- Supplemental Security Income Recipients - \$2,400
- Vocational Rehabilitation Recipients - \$2,400
- Ex-felons - \$2,400
- Designated Community Residents - \$2,400
- Summer Youth Program - \$1,200

Work Opportunity Tax Credit (WOTC)

▶ **Veteran Target Groups**

- Veterans receiving SNAP - \$2,400
- Service-related Disability - \$4,800 - \$9,600
- Temporary Assistance for Needy Families (TANF) - \$2,400
- Long-term Unemployed - \$5,600
- Short-term Unemployed - \$2,400

Employee Retention Credit



The Employee Retention Credit

	2020	2021
Credit Calculation	50% of up to \$10,000 of eligible wages per employee per year. (3/13-12/31)	70% of up to \$10,000 of eligible wages per employee per quarter (1/1/21-9/30/21)
Wages/Health Costs Capped	Annually	Quarterly
Maximum Credit Per Employee	\$5,000	\$21,000

The Employee Retention Credit

Qualifying Business

Any private-sector business or tax-exempt organization that carries on a trade or business and that meets EITHER of the following:

The business had a significant decline in gross receipts during any quarter.

50% in 2020

20% in 2021

Compared to 2019

The business was fully or partially suspended due to orders from the federal, state or local government limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID-19.



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**Thank you for your
time and attention.**



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