

### **The Issue:**

For many years, Congress has been unable to pass truly comprehensive and effective energy legislation. In July 2005, Congress finally (after several years of effort) passed the Energy Policy Act of 2005 (Public Law 109-58) which included a commercial building tax deduction (CBTD) applicable to high-performance systems. The legislation created a tax deduction for energy-efficient building construction and renovation equal to a maximum of \$1.80 per square foot. However, the 50 percent improvement in energy efficiency required to meet the standard is largely out of reach for retail real estate. Fortunately, a partial deduction of up to 60¢ per square foot is available for smaller improvements in lighting or HVAC (with a goal of 16 2/3 percent overall energy savings derived solely from heating, cooling, ventilation, hot water, and interior lighting systems). In addition, the deduction only applies to properties placed into service between December 31, 2005 and January 1, 2009. IRS guidance for certifying compliance with the legislative requirements can be found at <http://www.irs.gov/pub/irs-drop/n-06-52.pdf>.

Several bills have been introduced that would extend and expand the CBTD. The House passed legislation (HR 2776) that provided for a simple extension through 2013. In 2007, the Senate Finance Committee offered an extension through 2013 coupled with an increase to \$2.25 per square foot but it failed to overcome a filibuster against other included tax provisions. The House and Senate are expected to address this issue when they consider “tax extenders” legislation early in 2008. ICSC supports extension and expansion of the existing law.

### **Our Position:**

ICSC believes elements of a comprehensive energy policy should consist of, but not be limited to, the following:

- Modernization and expansion of existing power transmission capabilities;
- Increasing domestic energy supplies, including renewable sources;
- Incentives to improve energy efficiency such as tax credits, lower cost loans, equipment upgrade benefits;
- Increased R&D on renewable energy sources and new technologies;
- Vigilant regulatory protection against undue market power that negatively influences pricing;
- Comprehensive application of “full net metering” of alternative and renewably generated electricity produced on commercial property sites (such as solar power and co-generation).

ICSC also believes that its members with operations in multiple locations should be able to aggregate power among these locations without regulatory restrictions. Load aggregation by multiple operators, whether in the shopping center industry or other commercial/industrial sectors, will increase efficiency for individual interests and promote an overall efficiency increase to the benefit of all suppliers and users of energy.

### **Opposing Arguments:**

Much of the paralyzing struggle over energy policy has involved issues in which ICSC has no direct stake, such as ethanol subsidies and liability issues. However, when opponents argue against expanded domestic production of energy resources, ICSC points out that affordable energy is essential to economic growth. ICSC supports environmentally and economically sound approaches to expanding domestic energy production and efficiency.

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