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The President's Better Buildings Initiative

On February 3, 2011, President Obama announced a series of proposals to improve the energy efficiency of commercial buildings. While the federal government has funded other energy efficiency initiatives through the Stimulus Bill, the proposed initiatives, known together as the Better Buildings Initiative (“BBI”), focus exclusively on improving energy efficiency for commercial buildings. The goal is to improve their energy efficiency by twenty percent by 2020. Rather than mandate a new set of efficiency standards, the President has proposed a set of voluntary initiatives to encourage commercial building owners and local governments to invest in energy-saving improvements. The BBI will create tax incentives and financing opportunities for efficiency upgrades to commercial buildings while simultaneously creating programs to encourage businesses and municipalities to adopt energy efficiency policies for commercial buildings. The initiative was sent to Congress as part of the President’s budget for the 2012 fiscal year.

The BBI Initiatives

The BBI proposes to reform the existing building-efficiency tax incentive, Section 179D, by both improving the tax benefit and broadening the types of business entities that can claim the benefit. Currently, Section 179D provides a deduction of up to \$1.80 per square foot for the installation of certain energy-efficient systems that reduce the total energy and power costs of commercial buildings by fifty percent or more. The President has proposed changing the deduction into a tax credit and allowing Real Estate Investment Trusts to take advantage of the credit.

The BBI also includes a new pilot program through the Department of Energy to guarantee loans for energy efficiency upgrades at hospitals, schools and other commercial buildings. The Department of Energy has managed similar loan programs for enterprises developing innovative technologies and commercial transmission projects.

The BBI further includes a “Race to Green” that will encourage states and municipalities, through the use of competitive grants, to reform their building codes and regulations to attract private sector investment in improved commercial energy efficiency. Notably, since the BBI did not propose a federal building code, adopting the BBI will likely result in state or municipality-specific requirements.

Finally, the BBI proposes voluntary energy efficiency standards for the public and private sector. The BBI's Better Buildings Challenge will create a set of voluntary standards that will ask participating entities to pledge to undertake certain efficiency-related actions in return for public recognition, technical assistance and the opportunity to participate in government-coordinated information sharing networks. The BBI will also create programs for workforce training and for assessing the performance of energy-efficient technologies and practices.

Conclusion

The President's budget was released on February 14. If these proposals make it into the final budget, owners of commercial buildings should anticipate opportunities for government-sponsored assistance to improve the energy efficiency of their buildings.

This memorandum is intended only as a general discussion of these issues. It should not be regarded as legal advice. We would be pleased to provide additional details or advice about specific situations if desired.

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