



Dr. Bart A. Basi is an attorney, CPA, and the President of The Center for Financial, Legal & Tax Planning, Inc, a full service company specializing in financial, legal & tax matters. Basi is a nationally recognized author, lecturer, and advisor on how to structure deals to minimize taxes. Tax structure makes the difference between getting the deal done and watching the deal fall apart. Many of you may be familiar with Basi and the topics he covers in the *Financial, Legal & Tax Advisory* which may be read in various industry-specific trade publications.

State Fuel Tax Credits; Part II

Introduction

This is part two of a three part advisory on state level energy credits. Taxpayers who are taking advantage of the federal tax incentives may be equally as interested in taking advantage of state energy incentives as well. Twenty-two states have incentives for taxpayers to follow regarding energy efficiency and independence. This advisory will discuss seven of the state incentives.

Kentucky has a personal and corporate level income tax credit for the purchase of recycling or composting equipment. The credit is equal to 50% of the cost of the installed equipment. The credit allowable is limited to 25% of the tax liability for the tax year. The credit for a major recycling operation, as opposed to one lesser in scope, is 50% of the year's tax liability. Bio-diesel fuel production and blending activity have a corporate and personal

level tax credit. The credit is \$1 for each gallon of bio-diesel fuel manufactured. To develop coal power, there is also a \$2 tax credit for each ton of coal that is purchased and used to generate electricity. The purpose of these credits is to encourage alternative energy both in vehicles and for homes.

Since hurricane Katrina, there has been much effort on the part of the government to encourage rebuilding. **Louisiana** has an alternative fuel corporate and personal level tax credit equal to 20% of the cost of clean burning fuel. Recycling equipment has a personal and corporate level tax credit equal to 20% of the cost of new recycling manufacturing or process equipment or qualified service contracts to be used or performed exclusively within Louisiana.

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A CASE STUDY

In a Revenue Ruling the IRS has changed its official position regarding its treatment of replaceable parts. In the case, the taxpayer had an obligation to service a customer's machine with parts which were changed out in order to make the repair. The parts looked much like inventory but were classified as equipment. Initially the IRS argued that these parts were not depreciable

items, but instead were inventory. The taxpayer argued they were not inventory, because the parts were in their final usage form by the taxpayer and would not be sold, only used for repair. In the end, the IRS agreed these parts were not inventory, because the characteristics of their use resembled equipment more than inventory.

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Maryland has a multitude of tax credits for energy. Green space and green building credits are allowed generally for 6 – 8% of the costs allowable for tenant improvements. There is also a fuel cell corporate and personal tax credit for building owners and tenants equal to 30% of the costs associated with the installation of a fuel cell that is a qualifying alternate energy source for a green building. Additionally, there is also a wind turbine corporate or personal tax credit or 25% of the costs paid or incurred in installing a wind turbine.

Massachusetts has a tax credit for owners and tenants of property in Maryland for solar and wind powered energy equipment equal to the lesser of \$1000 or 15% of the net expenditure.

Montana has a personal income tax credit for non-fossil fuel energy systems used in principal dwellings equal to the cost of the system up to \$500. There is also a recycling corporate and personal income tax credit for 25% of the first \$250,000 invested, 15% on the next \$250,000 invested, and 5% on the next \$500,000 invested, not to exceed \$1,000,000. There is also a low emission wood or biomass device personal tax credit for Montana residents equal to the cost of the system up to \$500.

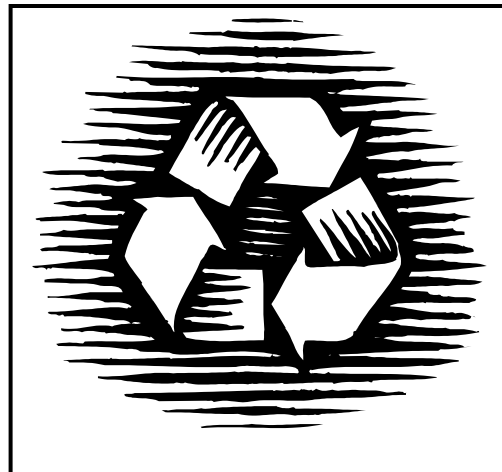
New Mexico has a renewable electric energy production corporate income tax credit for taxpayers that hold title to equipment that generates electricity using sun, heat, wind, or biomass. The amount of the credit of \$.01 per kilowatt hour for the first 400,000 megawatts of electricity produced.

New York has a solar energy personal income tax credit for New York residents who install solar energy equipment on their primary residence in New York. The credit is for 25% of the cost of the equipment up to \$3750. Fuel cell electric generating equipment is subject to a 20% personal income tax credit up to \$1500. Corporate and personal tax credits are available for “Green Space” construction for varying amounts.



Conclusion

As you can see, many states have fuel efficiency credits to encourage people and corporations to make use of alternative fuels and efficient use of fossil fuels. The policies benefit the taxpayer not only through the tax credit and reduced expense, but also mean less strain on the power grid and a cleaner environment. If you are interested in the following said credits, call The Center for more detail.



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Editor's Comment: Replaceable parts are parts a dealer must keep in order to fulfill a service obligation on a machine that rapidly goes obsolete and the same parts must be swapped out and repaired with parts in stock. A good example of this is a computer. In the current case, the taxpayer was the end user of the product. Its use was to be recycled again and again. Because the part would grow into obsolescence, it was not saleable in the end. If your firm is doing similar service with similar parts, it may be advisable to review your accounting method to adopt this treatment as opposed to classifying parts as inventory. The classification as equipment would allow you to obtain a depreciation, tax deduction on the items in question

Points of Interest

- **Taxpayers who are taking advantage of the federal tax incentives may be equally as interested in taking advantage of state energy incentives as well.**
- **Many states have fuel efficiency credits to encourage people and corporations to make use of alternative fuels and efficient use of fossil fuels.**
- **Since hurricane Katrina, there has been much effort on the part of the government to encourage rebuilding**

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Making an Offer:

You Can Set the Price If I Can Set the Terms

Oftentimes as a Buyer, a critical component of your success in acquiring and prospering in a new business venture can be the continued cooperation and goodwill of the Seller.

But IF you don't need the Seller's continuing cooperation after closing to teach you the business, or to retain his key customers, suppliers, and employees, or to use his license(s) to qualify the business until you can secure your own license(s);

And IF, through a combination of personal equity and bank financing, you can afford to pay 100% cash at closing and don't require any Seller financing;

And IF there's nothing unique about this business that makes it particularly well suited to your needs & your future business plans, i.e., any other competing business would fit just as well;

And IF time is not of the essence in getting this deal closed;

THEN by all means consider making an offer below the Seller's Asking Price, and be prepared to spend some time negotiating a mutually acceptable selling price and terms.

ON THE OTHER HAND, IF, as a Buyer, you've determined based on an analysis of market comparables & sold comparables that the Seller's Asking Price is in the range of fair market value, and is not unreasonably overpriced;

And, IF ANY of the above conditions are NOT met, THEN I recommend that the sum of ALL of the elements of your offer, including cash down, assumed liabilities, Seller financing, and Seller's compensation package, should at least equal - if not exceed - the Seller's Asking Price.

If you know of a business owner who's thinking of selling or buying a business and who might benefit from a free consultation with us, have them contact me, or any of the M&A professionals at www.bradwaygroup.com

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▶▶▶ Frequently Asked Questions...

Q: I am the owner of a business. Is there anyway I can cut down the amount of Social Security and Medicare taxes that I pay?

A: Generally yes. Depending on the type of business, owners can weight their compensation to lean more on distributions, dividends, and rents in order to avoid or reduce Social Security and Medicare taxes. However, the amount of salary must still be reasonable to the IRS.

Q: Given that I can reduce my Social Security and Medicare taxes, theoretically to zero, is there any reason I would want to forgo the strategy and still pay Social Security and Medicare taxes like usual?

A. Absolutely. Many people's retirements are based upon Social Security. In this situation, it is wise to take salary ample enough to fund your Social Security benefits. Too often, people go their entire life, bypassing Social Security taxes only to regret it in their retirement when they need the money and have no opportunity to generate income.

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