

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.

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## 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

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## 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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