

The EPA Act Tax Aspects of the U.S. Food Processing Industry

By Charles R. Goulding, Charles G. Goulding and Jacob Goldman

Charles R. Goulding, Charles G. Goulding and Jacob Goldman look at how food processing facilities can use the movement toward healthier, more organic products, in conjunction with energy-efficiency initiatives, to realize sizeable EPA Act tax deductions for qualifying energy-saving equipment.

The food processing industry, one of the largest in the United States, is quickly becoming more energy efficient. Both stiffer competition and supply-side pressures are contributing to this trend. The energy-efficient revolution in food is happening in tandem with a major movement towards healthier, more organic products. Many of the nation's most prestigious brands blend these two revolutions—energy and health—into an overall message of sustainability for customers and investors alike. Because of their size, food processing facilities are ideal candidates for sizable EPA Act tax deductions for qualifying energy-improving equipment.

EPA Act Tax Opportunity

Code Sec. 179D, enacted as part of the Energy Policy Act of 2005 (EPA Act),¹ provides an immediate tax deduction of up to \$1.80 per square foot for

building investments that achieve specified energy-cost reductions beyond the American Society of Heating and Air-Conditioning Engineers (ASHRAE) 90.1-2001 building energy code standards. A one-time \$1.80-per-square-foot deduction is the maximum tax deduction available, but deductions of up to 60 cents per square foot are also available for the three types of building systems: lighting, including lighting controls; HVAC; and the building envelope, which includes roof, walls, windows, doors and floor/foundation (everything on the perimeter of a building that “touches” the outside world). To obtain a tax deduction of 30 cents per square foot for lighting, the wattage must be reduced by 25 percent from ASHRAE 90.1-2001 levels. The maximum allowable tax deduction of 60 cents per square foot requires a 40-percent reduction in wattage for lighting.

Facilities Go on a Diet

The push toward healthier, more natural products has presaged the food industry's own diet with respect to energy efficiency. Now more than ever, food processing plants are reducing energy usage, becoming greener and are tying improved facility health into a larger message of sustainability. A 2011 report by Campbell's Soup, *Nourishing Our Consumers, Neighbors, Employees, Our Planet*, is an example of this new, holistic approach to sustainability.²

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Meanwhile, Frito-Lay's Casa Grande plant made news recently by nearing net zero status for carbon emissions through a combination of renewable energy usage, energy efficiency, recycling water and eliminating landfill waste. These efforts resulted in the first LEED Gold certification for an existing building within the food processing industry.

The Walmart Effect

An additional pressure contributing to the sustainability movement comes from buyers like Walmart. In accordance with its own sustainability goals, Walmart requires that its suppliers meet specific sustainability criteria in order to partner with them. Walmart assesses its suppliers on a 15-point sustainability questionnaire with the goal of using 100-percent renewable energy across the board.³

Super-Sized Potential

While not the first movers, food processing plants have unique EAct potential with regard to EAct. Their unique potential is due to the large size of the typical processing facility as well as the achievability of Code Sec. 179D benefits as they relate to the warehouse building class. EAct benefits derive from square footage; the larger the building, the larger the deduction. This makes warehouses of all stripes ideal EAct candidates, especially those with large open spaces that can drive major energy reductions by lighting alone.⁴

Below is a table showing the potential EAct opportunity for a number of the largest food

manufacturers in the United States. Benefits are presented for some companies on a firm-wide level and for others, on individual plants that have garnered attention for their energy-efficient improvements.

The table summarizes the potential deductions available to some of America's largest players in the food industry. Opportunities are presented for both individual facilities with documented energy achievement and on a companywide basis.

LED Lighting and Large Tax Deductions for Cold Storage

The exponential growth in fresh and organic products is driving a corresponding growth in large cold storage facilities.

Historically, these facilities used energy-inefficient metal halide lighting that had to be kept on all day due to the length of time it took these products to start up each day. These facilities weren't able to upgrade to energy-efficient fluorescent lighting, because fluorescent lighting doesn't perform well in cold temperature environments. However, new technology in the form of instant-start, very efficient, low wattage LED lighting is enabling these facilities to save as much as 90 percent on their current lighting-related electricity bill.

These LED lighting projects often qualify for very large tax deductions sometimes at the \$1.20- to 1.80-per-square-foot level.

Conclusion

As the drive toward sustainability continues to impact food processing facilities themselves, managers of

Property	Total Square Footage	Lighting		HVAC Maximum Deduction	Building Envelope Maximum Deduction	Total
		Minimum Deduction	Maximum Deduction			
Kraft Foods, Chicago, IL	800,000	\$240,000	\$480,000	\$480,000	\$480,000	\$1,440,000
Campbell Soup, Camden, NJ Campus	750,000	\$225,000	\$450,000	\$450,000	\$450,000	\$1,350,000
Pepperidge Farm, Richmond, UT	319,000	\$95,700	\$191,400	\$191,400	\$191,400	\$574,200
Nestle Domestic LEED Facilities	2,500,000	\$750,000	\$1,500,000	\$1,500,000	\$1,500,000	\$4,500,000
General Mills, Social Circle, GA LEED Plant	1,500,000	\$450,000	\$900,000	\$900,000	\$900,000	\$2,700,000
Heinz*	3,600,000	\$1,080,000	\$2,160,000	\$2,160,000	\$2,160,000	\$6,480,000
Kellogg's	30,000,000	\$9,000,000	\$18,000,000	\$18,000,000	\$18,000,000	\$54,000,000
General Mills*	11,000,000	\$3,300,000	\$6,600,000	\$6,600,000	\$6,600,000	\$19,800,000
Smuckers*	2,550,000	\$765,000	\$1,530,000	\$1,530,000	\$1,530,000	\$4,590,000
US Foods*	9,450,000	\$2,835,000	\$5,670,000	\$5,670,000	\$5,670,000	\$17,010,000

* Square footage estimated using an average of 150,000 s.f. per processing facility

those facilities should be aware of the tax benefits attached to energy-efficient improvements.

ENDNOTES

¹ Energy Policy Act of 2005 (P.L. 109-58) ("EPAAct").

² *Campbell's Soup, Nourishing Our Consumers, Neighbors, Employees, and Our Planet*, 2011 Update of the Corporate Social Responsibility

Report, available online at <http://www.campbellsoupcompany.com/csr/pages/resources/reports-and-data.asp>.

³ Charles R. Goulding, Jacob Goldman and Christopher Winslow, *The EPAAct and Alternative Energy Tax Aspects of Walmart's Supplier Sustainability Program*, CORP. BUS. TAX'N MONTHLY, Jun. 2011, at 13.

⁴ Charles R. Goulding, Jacob Goldman and Joseph Most, *Complete Warehouse Tax-Enhanced Energy-Efficient Design*, CORP. BUS. TAX'N MONTHLY, Aug. 2010, at 11.



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