



The Real Estate Roundtable

Federal Tax Update

2019 Metro DC Appraisal Conference

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Potential Federal Tax Legislation

1. Taxpayer First Act (IRS reform)
2. Retirement savings / SECURE Act
3. Tax relief for disaster areas
4. Tax extenders
5. Tax reform technical corrections
6. Opportunity Zones
7. Affordable housing
8. Infrastructure investment
9. Health care tax
10. Tax reform extension/revision



Tax extenders: real estate

Tax Extender and Disaster Relief Act of 2019 (S. 617):

- Credit for residential energy efficiency improvements (sec. 25C)
- Credit for construction of new energy efficient homes (sec. 45L)
- Exclusion of mortgage debt forgiveness (sec. 108(a)(1)(E))



Tax extenders: real estate

Tax Extender and Disaster Relief Act of 2019 (S. 617):

- Deductibility of mortgage insurance premiums (sec. 163(h)(3)(E))
- Energy efficient commercial buildings deduction (sec. 179D)
- Empowerment zone tax incentives (sec. 1391-97)



Tax extenders - *is there a path?*

Legislative vehicles for tax extenders:

- 2018: 2-year budget caps agreement
- 2015: Omnibus spending agreement
- 2014: Dedicated tax extenders/technical corrections bill (*exception to the norm*)
- 2013: Fiscal cliff #2
- 2010: Fiscal cliff #1
- 2008: Financial bailout / TARP

Potential vehicles in 2019: appropriations,
debt ceiling



Tax extenders - *further out*

Real estate-related provisions:

- New markets tax credit (sec. 45D) - 2019
- Credit for residential energy property (solar power, small wind, etc.) (sec. 25D) - 2021
- 100% expensing of qualified property (sec. 168(k)) - phased out between 2023-2027
- Designation of Opportunity Zones - 2028



Tax extenders - *further out*

Real estate-related provisions:

- After 2021, the limitation on the deductibility of business interest (section 163(j)) is further tightened
 - deductible business interest is generally limited to 30% of modified adjusted taxable income
 - beginning in 2022, the definition of modified adjusted taxable income will include deductions for depreciation and amortization
- Individual provisions in *TCJA* - 2025



Tax technical corrections

Potential real estate provisions:

- 15-year recovery period for qualified improvement property (*Restoring Investment in Improvements Act*, S. 803 / H.R. 1869)
 - Eligible for bonus depreciation
 - 20-year ADS recovery period for electing real property trade or business (163j)
- 30-year ADS recovery period for residential rental property placed in service before 2018



Affordable housing

- Value of LIHTC adversely affected by tax reform
- Mar. 2018: LIHTC allocation increased by 12.5% through 2021; income averaging permitted
- Affordable Housing Credit Improvement Act
 - S. 584/H.R. 1661 (115th)
 - Gradually increase LIHTC allocation by 50%
 - Permanent 4% minimum credit for affordable housing acquisitions and housing bond-financed developments
- Middle-Income Housing Tax Credit Act
 - S. 3365 (115th), Sen. Ron Wyden (D-OR)
 - Incomes up to 100% of area median
 - 15-year credit period, 30-yr afford. commitment



Infrastructure investment

- What role for private capital, public-private partnerships, and innovative financing?
 - Increase in gas tax?
 - Bond financing - private activity bonds, “Move America” bonds, tax credit bonds
 - Foreign investment - removing tax obstacles to inbound investment in US infrastructure
 - *Invest in America Act* (H.R. 2210)
- What “pay-fors”?
- Requires Presidential leadership



Infrastructure/energy efficiency

Roundtable initiative - build on the TCJA/tax reform shift towards immediate expensing of capital investment by accelerating depreciation of qualified energy-efficient improvement property

Focus - three categories of expenditures: (1) HVAC, (2) lighting, and (3) building envelope

Objective - reduce the after-tax cost of improving a building's energy efficiency



Infrastructure revenue proposals

Senate Democratic infrastructure plan *pay-fors* (115th Congress):

- 25% corporate tax rate
- Reinstatement of 39.6% top individual rate
- Repeal of AMT changes
- Reinstatement of estate tax thresholds
- Tax carried interest at ordinary rates



Tax policy as 2020 election nears

➤ Issues to watch:

- Marginal rates
- Wealth tax proposals
- Rental assistance tax credits
- Carried interest
- SALT
- Application of trade debate to tax
- PAYGO and deficit



Regulatory landscape

- More than half-way through Treasury implementation of key *TCJA* real estate issues
 - Final pass-through business deduction regulations (sec. 199A)
 - Proposed business interest regulations (sec. 163(j))
 - Proposed Opportunity Zone regulations with more proposed rules to come (sec. 1400Z)





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