NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION

TAX POLICY 2025

OUR POSITION

Congress should pass comprehensive tax legislation that renews expiring provisions of the Tax Cuts and Jobs Act of 2017 (TCJA) and maintains long-standing tax policies that support an economically vibrant commercial real estate industry. The tax code should promote capital formation, reward entrepreneurship and long-term-investment, support housing production, and foster community and economic development.

Tax policies and provisions of the Tax Cuts and Jobs Act (TCJA) important to the commercial real estate industry will soon expire or be reconsidered. Specifically regarding TCJA, as part of comprehensive tax legislation, Congress should:

- **Continue lower capital gains tax rates:** Federal tax policy should recognize the long-term, capital-intensive nature of real estate assets and the inherent higher investment risk involved. A lower tax rate on capital gains income is needed to ensure continued investment in long-lived commercial real estate assets that leads to job creation and economic growth in our communities.
- **Extend the deduction for partnerships and pass-through businesses:** Real estate partnerships and other pass-through businesses drive job growth and are an important source of entrepreneurial activity. The current 20% deduction for pass-through income in Section 199A of the tax code is designed to ensure that pass-through entities are not disadvantaged compared to corporations that are taxed at lower rates and should be extended.
- **Extend certain deadline dates for opportunity zones:** Tax policies that successfully incentivize investment in underserved communities, such as those in the opportunity zones program, should be maintained. Investment deadlines in the program should be extended.

Comprehensive tax legislation should maintain Section 1031 providing for tax-deferred, like-kind exchanges. Real estate assets are long-lasting, and past depreciation increases the tax burden of transferring property, creating a lock-in effect. Limiting the availability of tax deferral under Section 1031 would severely undermine modern commercial real estate markets, threatening their liquidity and resulting in reduced investment and transactions.

Congress should include tax incentives to encourage conversion of buildings left vacant or underutilized by pandemic remote work patterns to much needed housing. The *Revitalizing Downtowns and Main Streets Act*, bipartisan legislation introduced last Congress by Representatives Mike Carey (R-OH) and Jimmy Gomez (D-CA), would create a temporary tax credit to offset conversion costs and help increase the supply of affordable housing.

KEY POINTS

- The commercial real estate industry is a major contributor to our nation's economic growth, responsible for $1.1 trillion to U.S. gross domestic product, $384.1 billion in personal earnings, and supporting 5.3 million American jobs, according to the most recent "Economic Impacts of Commercial Real Estate" report from the NAIOP Research Foundation.
- Federal tax policy should align with the economics of real estate development and investment, continuing to support capital investment in long-term real estate assets.
- Lower capital gains tax rates provide a reward for those who take the inherent risk in making long-term capital investments in commercial real estate.
- Cost recovery and depreciation rules for buildings and their improvements should realistically reflect their useful economic lives.
- Congress has long recognized that gains should not be taxed when property held for trade or business use or for investment is exchanged for like-kind property, a principle embodied in Section 1031 of the tax code.
- Tax incentives that foster increased commercial real estate investment in underserved communities and support the creation of affordable housing should be maintained and improved.

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