

Numerous business tax provisions that enjoy bipartisan support expired at the end of 2011 when Congress failed to agree on legislation extending the provisions. Passage of this “tax extenders” legislation was made more complicated in 2011 by the establishment of the Joint Select Committee on Deficit Reduction, which was given a goal of finding an additional \$1.5 trillion in deficit reduction. The work of the Supercommittee, which involved potential changes to tax law and ended in late November, prevented Congress from negotiating a separate tax extenders bill in time to pass legislation prior to the end of 2011.

Provisions that expired as a result of the failure to enact tax extenders legislation include many important to the economic health of the commercial real estate industry. Of primary concern are the provisions allowing for 15-year leasehold improvements depreciation, and provisions regarding the expensing of costs involved in the remediation of brownfields.

### **NAIOP Supports Passage of Tax Extenders Legislation Important to Commercial Real Estate:**

**Leasehold Improvement Depreciation** is the ability to deduct the cost of the customized improvements a building owner makes to a rental space to configure it for a tenant’s needs. The current 15-year depreciation schedule for qualified leasehold improvements must be reauthorized yearly or it automatically reverts to a 39-year depreciation schedule. Because Congress failed to pass tax extenders legislation at the end of 2011, the provision must be extended in 2012 and made retroactive. Failure to extend 15-year leasehold improvement depreciation this year will result in higher capital costs, creating disincentives for building owners to upgrade and modernize the space for their tenants.

- Leasehold improvement depreciation of 15-years more closely reflects the economic reality of the modern commercial real estate market.
- Increased investment in leasehold improvements has substantial positive impacts upon economic growth.
- The provision should be made permanent. Having to each year extend 15-year qualified leasehold improvement depreciation creates needless uncertainty for the commercial real estate industry, and creates disincentives for owners to upgrade tenant space.

**Brownfields Remediation Expensing** allows for the expenses incurred in the cleanup of a brownfield site to be immediately expensed by a developer. Brownfields remediation expensing provides an important incentive to revitalizing contaminated properties across the country. As in leasehold improvements depreciation, the provision expired at the end of 2011 when the House and Senate failed to pass a tax extenders bill.

- There are an estimated 500,000 brownfield sites in the United States that need to be redeveloped.
- On average, \$1 of public investments in brownfields leverages \$8 in total investments.
- As much as \$2 trillion of real estate may be undervalued due to the presence of contamination.
- Congress should add a "carry forward" provision to allow the expensing deduction to be used in future years, when taxable income from many of these redevelopments is earned.
- Brownfields remediation expensing should be made a permanent feature of the tax code.