NAIOP
COMMERCIAL REAL ESTATE DEVELOPMENT ASSOCIATION

TAX POLICY

KEY POINTS

- The commercial real estate industry is a major contributor to our nation's economic growth and an important source of job creation and employment.
- Federal tax provisions should continue to support capital investment in long-term real estate assets and facilitate the efficient functioning of modern commercial real estate markets.
- Lower capital gains tax rates provide a reward for those who take the inherent risk in making long-term capital investments.
- Buildings depreciate from physical wear and tear and become technologically obsolete. Cost recovery and depreciation rules for structures and improvements should reflect their useful economic life.
- Congress has long recognized that gain 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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OUR POSITION

Federal tax policy should align with the economics of real estate development and investment, promote capital formation and foster economic development. Lower capital gains tax rates are a critical factor in ensuring sufficient investment for long-term, productive real estate assets. Cost recovery and depreciation rules should reflect the useful economic life of structures and their component parts.

- Federal tax policy should recognize the long-term, capital-intensive nature of real estate assets, and the continued investment needed to maintain vibrant commercial real estate markets that lead to job creation and economic growth in our communities. A lower tax rate on capital gains income is needed to ensure investment in long-lived commercial real estate assets.
- In commercial real estate, like-kind exchanges providing tax deferral under Section 1031 are particularly important. 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.
- 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 maintained.
- Tax policies that incentivize commercial real estate investment in underserved communities, including opportunity zones, the New Markets Tax Credit program, and historic tax credits, should be maintained and improved as important tools for community revitalization and economic development.
- The COVID-19 pandemic and the ensuing remote work transition in labor markets have led to many vacant and underutilized office buildings that are in danger of becoming stranded assets. Decreased asset values and reduced economic activity lower local tax revenues. Coupled with a severe lack of affordable housing, these conditions argue for federal tax policy to incentivize repurposing of underutilized commercial structures to help meet the housing needs of communities.