NAIOP
COMMERCIAL REAL ESTATE
DEVELOPMENT ASSOCIATION

TAX POLICY

KEY POINTS

- Commercial real estate is an important driver of economic growth, contributing $2.5 trillion to U.S. gross domestic product, $881.4 billion in personal earnings, and supporting 15 million jobs, according to the 2024 NAIOP Research Foundation report.
- 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 and their improvements depreciate and become technologically obsolete. Cost recovery and depreciation rules for structures and improvements should realistically reflect their useful economic lives.
- 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.
- Proposed federal taxation on unrealized capital gains annually, whether an asset is sold or not, would require expansive government monitoring of individual finances, complicated annual reporting, and have far-reaching economic consequences. Such a federal property tax would face constitutional challenge and contravenes more than a century of tax law.

OUR POSITION

Congress will be considering reforms and renewals of expiring tax code provisions over the next few years. Federal tax policy affecting the commercial real estate industry should align with the economics of real estate development and investment, promote capital formation and foster community 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.
- Congress should create tax incentives to spur the conversion of vacant and underutilized commercial buildings to residential use. These adaptive reuse conversions will help increase the supply of housing in many areas and contribute to restoring economic activity in communities negatively affected by hybrid and remote work patterns.

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