Tax Policy

Congressional Action Needed

- The Tax Cuts and Jobs Act, enacted in December 2017, made significant changes to the treatment of residential real estate. Some of the potentially harmful provisions were not enacted.
- As we move toward implementation of the law, it is clear that Congress has more work to do to address significant tax law problems that unfairly inhibit current and prospective homeowners.
- REALTORS® need to remind Members of Congress and their staffs that healthy real estate markets are key to sustained economic growth. Additionally, many benefits come to society, communities and families from sound tax policies that encourage homeownership and real estate investment.

Congressional Actions To Date

- Congress has not yet extended the mortgage debt forgiveness exclusion; this leaves homeowners with short sales in 2018 and beyond vulnerable to paying tax on forgiven mortgage debt.
- The deduction for energy-efficient commercial buildings (179D) also has not been extended to cover 2018.

What To Tell Your Representatives And Senators

The SALT Deduction Limits And Marriage Penalty Harm Current And Prospective Homeowners

- The new $10,000 cap on the deduction for state and local taxes (SALT) harms current and future homeowners in practically every state and congressional district.
- The SALT cap currently provides the same $10,000 limit for both single and joint filers. This can discourage both homeownership and marriage. Urge your Member of Congress to support legislation to eliminate the egregious marriage penalty by doubling the SALT deduction cap to $20,000 for joint returns.
- Even though partisan differences exist on whether SALT payments should be deductible, few Members of Congress can or will defend the marriage penalty.

Support Legislation To Index Tax Limits To Inflation

- Members of Congress should be encouraged to support legislation to adjust homeownership tax incentives (SALT cap, MID loan limit and capital gain exclusions) to future inflation.
- Unindexed limits and thresholds in the tax law slowly but surely steal tax benefits from Americans by failing to keep them even with the effects of inflation. Over time, the effect is dramatic, completely unfair and will reduce the future rate of homeownership.
- Good tax policy demands that tax caps and limits be adjusted to account for inflation.

Make Exclusion For Forgiven Mortgage Debt Permanent

- Co-sponsor H.R. 110 Mortgage Debt Forgiveness Act introduced by Representatives Julia Brownley (D-CA) and Walter Jones (R-NC).
- Since 2007, the tax law has included a temporary provision that excludes from tax the amount of mortgage debt forgiven in a short sale, a mortgage debt restructuring, or when a deed is given in lieu of foreclosure.
- This provision has given vital financial relief to many millions of distraught homeowners who found themselves devastated by not just a reduction in their home equity but another crisis such as a job loss or family illness that caused them to have to sell their home short, default on their loan, or go through a restructuring with their lender. This temporary provision has once again expired, as of December 31, 2017.
- While the housing markets have largely recovered in most parts of the nation, there are still areas with many homes that are under water with respect to their mortgages, and 2.5 million homeowners are currently vulnerable to having tax due on phantom income at a time when they have been financially ravaged.
- Tell your Member of Congress to be proactive by supporting legislation to make this vital relief a permanent part of our tax law.

The Deduction For Energy-Efficient Commercial Buildings Must Be Extended

- The Section 179D deduction for energy-efficient commercial buildings encourages the construction and rehabilitation of new and existing commercial buildings to state-of-the-art efficiency levels. Incentivizing these features improves the environment, optimizes value and encourages economic growth at low revenue costs. The deduction has been a temporary part of the tax law since 2005 but has expired and been reinstated five times, most recently expiring on December 31, 2017.

Issue Background

Since its inception, our income tax system has recognized the favorable effects of homeownership for families, communities and society by incentivizing homebuyers with tax benefits. The result is a home-owning society that is the envy of the world. However, certain features of our tax system partially nullify not only the tax incentives of homeownership, but also insidiously and unfairly harm both current and future taxpayers by eroding present benefits.

Opposing/Supporting Viewpoints

Critics will argue that the state and local tax (SALT) deduction is a subsidy and the $10,000 cap was only included in the new law to make the bill palatable enough to high-tax state Republicans to pass it, and marriage penalties and unindexed limits are fine for an unwarranted tax deduction.

NAR responds that tax filers in 19 states claimed more on average than the $10,000 cap, so this is not an issue affecting a few high-tax or "blue" states. Moreover, both marriage tax penalties and unindexed limits represent poor tax and public policy and are indefensible. Further, any limits on state tax deductions unfairly cause double taxation of the same income.

Some critics may state that unindexed tax limits are minor inconveniences and not worthy of legislative efforts to correct.

NAR replies that without indexing, over just two decades of projected inflation, the thresholds of today's tax incentives for homeownership would be 45 percent lower.

Critics argue that a permanent provision for tax relief on mortgage debt forgiveness will encourage irresponsible behavior by bailing out taxpayers when they have made poor decisions, such as purchasing a more expensive home than they can afford.

NAR counters that studies show 80 percent of homeowners who entered delinquency did so due to negative life events, such as a family illness or a job loss, combined with negative equity in their home.

500 New Jersey Avenue, NW • Washington, DC 20001-2020 • 800.874.6500 • www.NAR.realtor

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