

NAR Issue Summaries

Federal Tax / Depreciation of Real Property

NAR Committee:

Federal Taxation Committee

What is the fundamental issue?

The current law depreciation rules are out of date and do not reflect the actual economic life of structures. The 27.5- and 39-year cost recovery periods for real property should be shortened.

I am a real estate professional. What does this mean for my business?

A more realistic rate of return on depreciable assets would make real estate a more attractive investment.

NAR Policy:

NAR supports a depreciable life for real estate that accurately reflects the economic life of the property. A 2001 NAR Working Group determined that a more realistic life would be about 22 to 24 years.

More recently, a 2015 study by the MIT Center for Real Estate concluded that both nonresidential and residential properties net of land depreciate at about 7 percent per year on average. This is significantly faster than previous estimates. In analyzing the MIT study, PricewaterhouseCoopers (PwC) equated the annual depreciable life suggest by the study to be about 20 years for nonresidential property, and about 19 years for residential property.

It is important to note that economic depreciation is more than just physical wear and tear, but also includes adjustments to the value of real property caused by changes in tastes, new technology, and by improvements in the quality of new assets relative to old assets (known as obsolescence).

Opposition Arguments:

Opponents of NAR policy will generally be looking at maintaining or lengthening the depreciable period for real property for purposes of raising revenue that can be used to pay for other changes in the tax law, such as lowering tax rates.

Legislative/Regulatory Status/Outlook

While lengthening recovery periods for real property was considered in early debates over tax reform before the enactment of the Tax Cuts and Jobs Act of 2017, this concept did not make it into the final version of the bill that was enacted and depreciation for real estate remains much as it has been since 1987.

More recent discussion among policy makers about tax reform has largely been limited to debates over whether tax rates should be raised or not and little discussion has taken place about depreciation.

Current Legislation/Regulation (bill number or regulation)

No legislation has been introduced in the 117th Congress that would lengthen or shorten the recovery period for general real property. However, a bill has been introduced in the House of Representatives that would allow straight line depreciation over a 10-year period of energy efficient qualified improvement property. The bill defines energy efficient qualified improvement property as any improvement to a building that is nonresidential real property, or multifamily residential rental property, first placed in service more than 10 year before the enactment of this bill, and that is installed as part of the lighting system, the heating, cooling, ventilation, or hot water systems, or the building envelope. The improvement must meet specified performance and other requirements.

H.R. 2346 - Energy Efficient Qualified Improvement Property Act of 2021 or the E-QUIP Act

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