APARTMENTS
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TAX REFORM

Lawmakers are calling for reform of the nation's overly complex tax code to foster economic competitiveness and economic growth. Given that owners, operators and developers of multifamily housing pay tax when they build, operate, sell, or transfer communities to their heirs, much is at stake. The apartment industry favors pro-growth reform that does not disadvantage multifamily housing relative to other asset classes. However, we believe that any tax reform legislation must:

Protect Flow-Through Entities. The multifamily industry is dominated by "flow-through" entities (e.g., LLCs, partnerships, S Corporations, etc.) instead of publicly held corporations. This means that the company's earnings are passed through to the partners, who pay taxes on their share of the earnings on their individual tax returns. Accordingly, Congress must not reduce corporate tax rates financed by forcing flow-through entities to pay higher taxes by subjecting them to a corporate-level tax or by denying credits and deductions.

Maintain Current Tax Treatment of Carried Interest. Certain lawmakers have sought to reign in high-flying hedge fund managers by proposing to tax carried interest as regular income instead of applying lower capital gains rates. This proposal would affect all investment partnerships (not just hedge funds), 48% of which are real-estate related. Commercial real estate has used a carried interest structure for several decades, and it is not a "tax loophole." Raising taxes on carried interest is bad for the entrepreneurs and small businesses that need capital to innovate, grow, build and create jobs.

Retain the Deduction for Business Interest. Efforts to prevent companies from overleveraging are leading to calls to scale back the current deduction for business interest expenses. Unfortunately, reducing this deductibility would greatly increase the cost of debt financing necessary for large-scale projects, curbing development activity.

Ensure Depreciation Rules Avoid Harming Real Estate. Some have sought raise revenue by significantly extending the 27.5-year depreciation period of multifamily buildings and increasing the 25% depreciation recapture tax rate applicable to sales. By creating a discriminatory cost recovery system that is detached from the life of multifamily buildings, these proposals would reduce development and investment, result in lower real estate values and stifle the industry's ability to create new jobs

Protect the Low-Income Housing Tax Credit (LIHTC). The push for a simplified tax code is threatening this major financing incentive for low-income housing development. Any downsizing of the program would exacerbate the shortage of affordable rental units, which Harvard University estimates to be 5.3 million units.

NMHC/NAA Viewpoint

Congress should enact pro-growth tax reform that protects the flow-through entities that dominate the apartment industry. We support tax reform that promotes economic growth and investment in rental housing without unfairly burdening apartment owners and renters relative to other asset classes.

MORE THAN 75% OF MULTIFAMILY FIRMS ARE FLOW-THROUGH ENTITIES THAT PAY TAXES UNDER THE INDIVIDUAL SIDE OF THE CODE.

NMHC NATIONAL MULTIFAMILY HOUSING COUNCIL

NAA NATIONAL APARTMENT ASSOCIATION