TAX REFORM

Lawmakers are calling for reform of the nation's tax code to foster economic competitiveness and economic growth. Tax reform has the capacity to fundamentally reshape the multifamily industry as it did after the passage of the last comprehensive tax reform law – the Tax Reform Act of 1986. Apartment firms pay tax when they build, operate and sell properties or transfer communities to their heirs. The industry has long supported the following principles for tax reform:

NMHC/NAA Viewpoint

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.

- **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 the company's earnings are passed through to the partners who pay taxes on their share of the earnings on their individual tax returns. **Congress must not reduce corporate tax rates at the expense of flow-through entities**.

- **Like-Kind Exchanges**. Like-kind exchange rules enable property owners to defer capital gains tax if, instead of selling their property, they exchange it for another comparable property. These rules encourage property owners to remain invested in the real estate market. **Tax reform should recognize the current value of like-kind exchanges and retain incentives to invest in real estate.**

- **Deduction for Business Interest**. Multifamily developers generally borrow, in many cases as much as two-thirds of total cost, to finance apartment development. Eliminating the current deduction for business interest expenses is being considered as part of a comprehensive tax overhaul. Such an elimination would greatly increase the cost of debt financing for projects and inhibit development activity when the nation is suffering from a shortage of apartment homes. **Tax reform should recognize the key role that debt financing plays in real estate development.**

More than 75 percent of multifamily firms are flow-through entities that pay taxes under the individual side of the code.

- **Depreciation Rules.** Some have sought to raise revenue by significantly extending the 27.5-year depreciation period of apartments and increasing the 25 percent depreciation recapture tax rate applicable to sales. Cost recovery rules should reflect the life of properties. Extending the depreciation period would reduce development and investment, leading to lower real estate values and stifling the industry's role in job creation. **Tax reform should reflect the critical role cost recovery plays in our ability to create new jobs.**

- **Carried Interest.** Real estate development carries considerable financial risks. In fact, one in 10 multifamily projects never breaks ground. Because of the risks involved, many real estate partnerships use "carried interest" to encourage innovation and entrepreneurship. Carried interest represents a return on an underlying, long-term capital asset, as well as risk. Developers assume responsibility for risks, including recourse debt, litigation risks and cost overruns. **Current tax law properly treats carried interest as a capital gain.**

- **Low-Income Housing Tax Credit (LIHTC).** Reductions in the corporate rate have serious implications for LIHTC program, the major financing incentive for development of lowincome housing. Undermining this public-private partnership would exacerbate the shortage of affordable rental units. **Tax Reform should ensure the viability of and strengthen the LIHTC program.**

Much is at stake for the apartment industry's ability to meet the nation's housing needs. NMHC/NAA support tax reform that promotes economic growth and investment in rental housing without unfairly burdening apartment owners and renters relative to other asset classes.

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