

# Congress Should Pass Tax Provisions that Support Economic Growth and Real Estate Finance

## MBA RECOMMENDS

MBA encourages Congress to enact tax laws that support long-term economic growth, which is the foundation of strong residential and commercial real estate markets. An important aspect of this is that tax provisions must be stable, consistent, and predictable over time, so that individuals and companies can make business decisions without fear of an adverse change in tax treatment.

## BACKGROUND

The economy is growing again. However, the persistent and severe weakness in the job market and recurring doubts about the stability of financial markets are likely to keep households and businesses from aggressively increasing their spending. Home sales and construction activity remain well below typical levels, although single-family sales were temporarily boosted last fall by the homebuyer tax credit. Inventories of existing homes continue to fall, although MBA expects that decline will be tempered as additional foreclosed properties are put on the market. Likewise, demand for commercial space has been depressed by job losses and consumer constraint. Depressed cash flows, coupled with increased investor yield requirements, have pushed down the values investors are willing to pay to acquire commercial properties, much as they have for other commercial enterprises. In summary the commercial, multifamily and single-family property markets remain weak and relatively vulnerable to further economic weakness.

In summary, current economic conditions call for caution with respect to any tax changes that could harm the incipient recovery. Over the longer term, the tax system should move in the direction of the principles outlined below in order to foster sustainable economic growth, which benefits everyone, including the real estate finance industry.

## PRINCIPLES OF REFORM

- Tax policies should support home ownership and promote affordable rental housing.

- For owners of commercial real estate, it is critical that tax policies be consistent and stable, guarding against unanticipated losses due solely to changes in tax treatment.
- The tax codes should encourage the attraction of capital to businesses that are the primary source of future economic growth.
- Short-term tax incentives may be required to strengthen the current weak markets for real estate and to encourage new job formation.

## MBA'S TAX POLICIES

### To Stimulate New Jobs and Economic Expansion

- MBA supports tax initiatives that foster new job creation.
- MBA supports the reduction or elimination of estate and gift taxes. These taxes stifle investments in family owned small businesses.
- MBA supports measures that simplify or reduce the Alternative Minimum Tax for individuals and corporations.
- MBA supports a reduction in corporate income tax rates, as this would lead to increased global competitiveness for U.S. companies and would result in increases in employment.
- MBA supports further reductions of capital gains taxes and making these tax cuts permanent. Reductions in capital gains taxes would spur investment activity, create jobs and expand the overall economy.

- To ensure all sectors of the economy are given a chance to use net operating losses (NOLs) to retain jobs and create new ones, MBA seeks to have the existing five-year NOL carryback tax relief expanded to include 2010 losses. Under this proposed change, businesses could choose to carryback losses for tax years 2008, 2009 or 2010.

### **Avoid Punitive Taxes that May Thwart Recovery of the Mortgage-backed Securities Market**

- MBA opposes the proposed Financial Crisis Responsibility Fee, which would tax MBS liabilities that are on the balance sheet as a result of Financial Accounting Standard (FAS) 166 and FAS 167. Such liabilities are not owed by the financial institution, and the proposed fee would be a major impediment to re-starting the now inactive markets for residential and commercial/ multifamily mortgage-backed securities. These markets are critical in the chain of providing affordable housing and in providing commercial space for the growth of commerce.

### **Supporting Home Ownership**

- MBA supports preserving and expanding the deductibility of residential mortgage interest expenses to all taxpayers, including those who do not itemize. This would benefit low-to-moderate income households.
- MBA supports an extension of the existing homebuyer tax credit to the end of 2010 in order to reduce the glut of homes for sale and stabilize housing prices.
- MBA supports extending and making permanent current law that allows low- and middle income homebuyers to deduct their mortgage insurance premiums. This benefits first time homebuyers who generally buy their first home with less than a 20 percent downpayment.

- MBA supports continued lender access to borrower tax returns to assist in underwriting new mortgage loans. MBA requests that the IRS allow e-signatures on Form 4506 to facilitate quick processing of tax return requests for new mortgage transactions and loan modification programs.

### **Supporting Affordable Rental Housing and the Flow of Capital to All Real Estate Markets**

- MBA opposes any legislative initiatives that would tax carried interest as ordinary income. Present tax code allows the entrepreneur in commercial property transactions to earn fees at the lower capital gains tax rate. This adds an incentive that attracts more capital to this industry segment.
- The Low-Income Housing Tax Credit (LIHTC) should be preserved and revised to eliminate the bias toward non-profit sponsors and to encourage mixed-income developments. The LIHTC and Federal Housing Administration (FHA) insurance program requirements should be changed to allow better coordination of the programs.
- The flexibility and broad applicability of the like-kind exchange rule should be preserved.
- MBA supports reform of the tax code to provide maximum support to real estate investment through an efficient Real Estate Mortgage Investment Conduit (REMIC) structure.
- The current entity-level tax treatment of pass-through entities should be preserved including real estate investment trusts (REITs), REMICs, S Corporations, limited liability companies (LLCs), and limited liability partnerships (LLPs). This will promote the flow of capital into the real estate segment and small business segment of the economy.

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