NATIONAL MULTIFAMILY HOUSING COUNCIL

NATIONAL APARTMENT ASSOCIATION

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.

Lawmakers are calling for reform of the nation's overly complex tax code to foster economic competitiveness and economic growth. Much is potentially at stake for the apartment industry and its ability to meet the nation's housing needs given that apartment firms pay tax when they build, operate, sell or transfer communities to their heirs. 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 through subjecting them to a corporate-level tax or by denying credits and deductions.

Maintain Like-Kind Exchanges. Largely unchanged since 1928, 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 while providing them with the flexibility to shift resources to more productive properties, different geographic locations or to diversify or consolidate holdings. Any proposal to revise or restrict like-kind exchanges may have a significantly harmful effect on the value and trading of property, Congress should not change present law.

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

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 when the nation is suffering from a shortage of apartment homes.

Ensure Depreciation Rules Avoid Harming Real Estate. Some have sought to 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 LIHTC, a 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 3.9 million units for extremely low-income households.