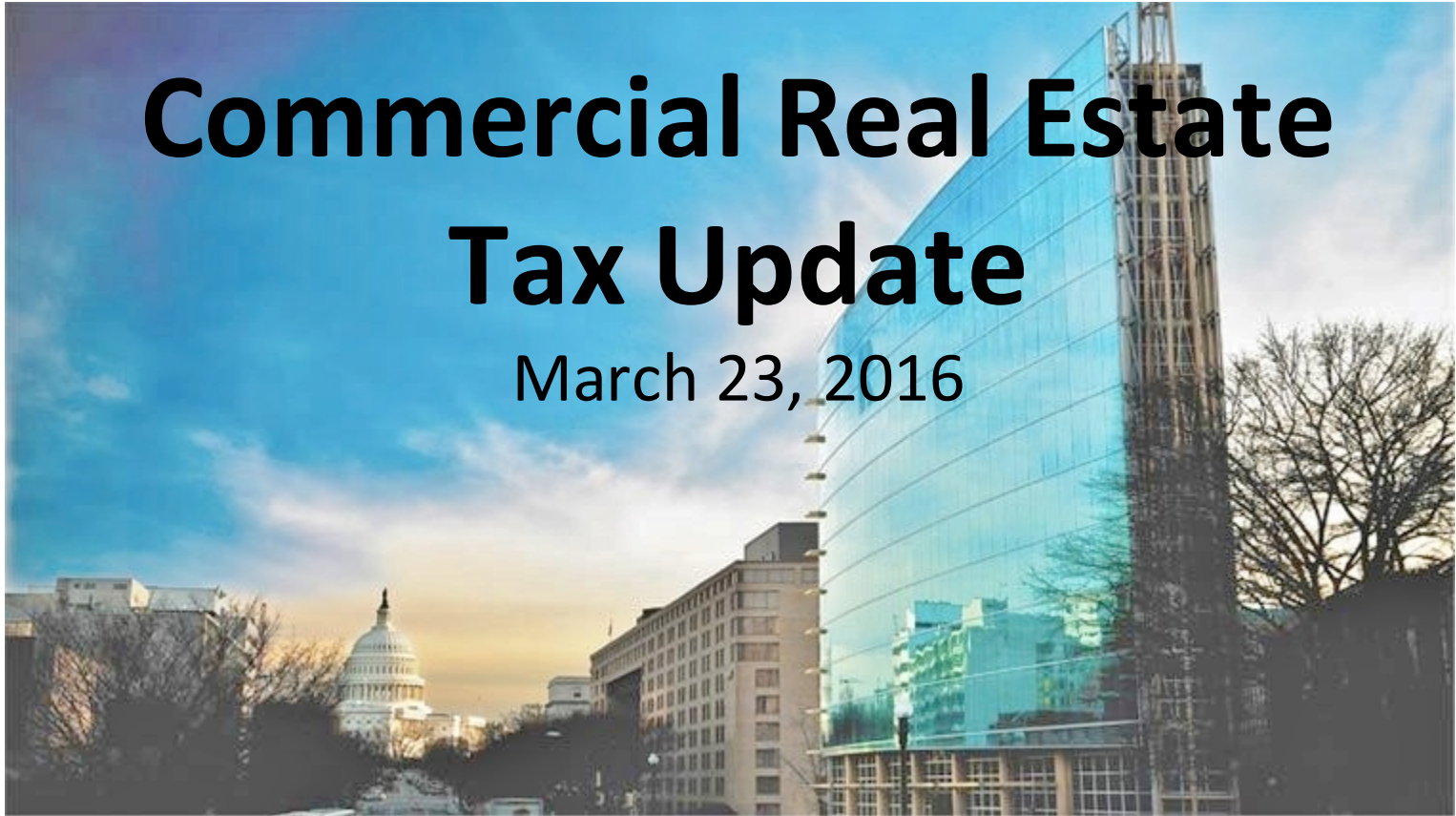


Commercial Real Estate Tax Update

March 23, 2016



Presented by

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National Association of REALTORS®



NATIONAL
ASSOCIATION *of*
REALTORS®

Instructor: Evan M. Liddiard, CPA



Senior Policy Representative, Federal Taxation National Association of REALTORS

- 20 years experience on Capitol Hill as Sr. Tax Policy Advisor to Senator Orrin G. Hatch (R-UT)
- Former Partner, KPMG's Legislative Tax Practice
- Tax Manager, Deloitte
- B.S. Accounting, University of Utah
- Masters - Legislative Affairs, George Washington University
- Masters - Taxation, American University
- Adjunct Professor, Kogod School of Business, American University

Erin K. Stackley, Esq.

Legislative Policy Representative, Commercial Real Estate



- Past experience working on Capitol Hill for Congressman Bob Goodlatte (R-VA) and the Senate Environment and Public Works Committee
- Former Law Fellow, National Federation of Independent Business
- B.A., Political Science – James Madison University
- Juris Doctorate – George Mason University School of Law
- Member of the Virginia Bar

Objectives for Webinar

- Understand political changes of past 6 months
- Get acquainted with PATH Act
- Discuss tax plans of leading candidates
- Outlook for tax changes in 2016
- Longer-term outlook for tax reform that could harm CRE



New House Speaker

IN



OUT



New Chairman of Ways & Means Committee

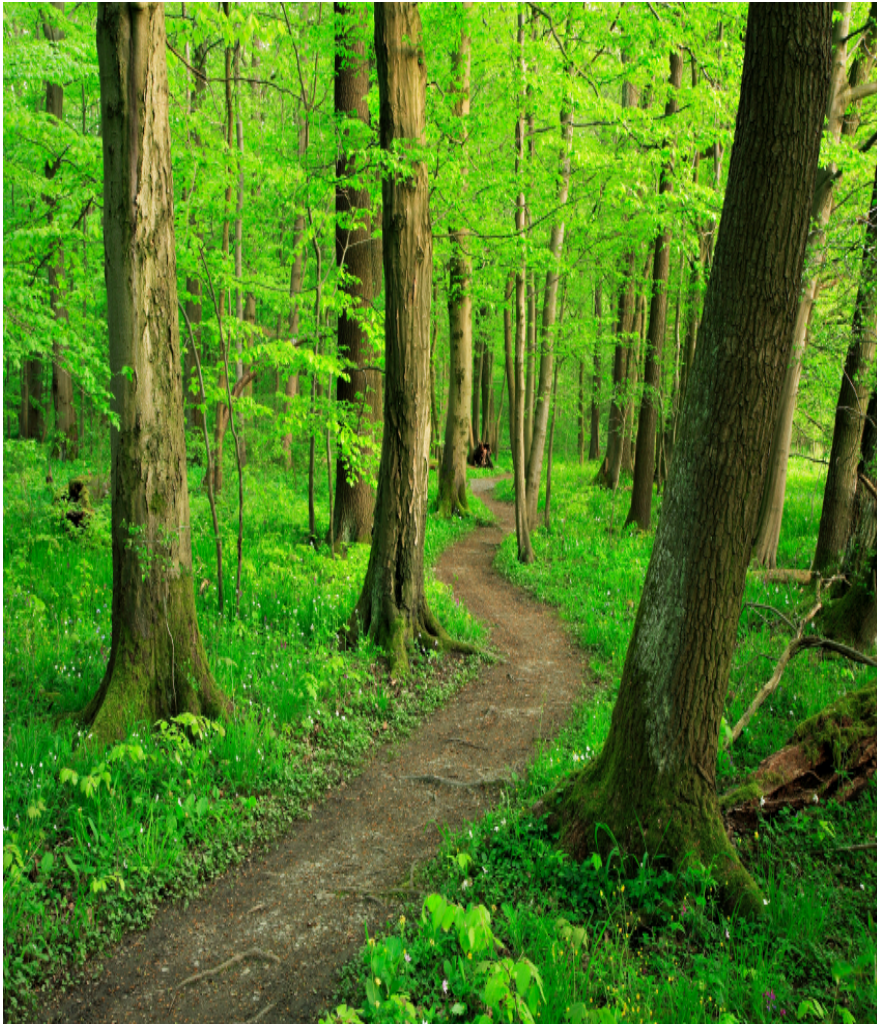
IN



OUT



What is PATH Act?



- Protecting American Taxpayers from Tax Hikes Act of 2015
- Signed into law 12/18/15
- Extends retroactively over 50 expired tax provisions
 - 22 permanently
 - About a dozen affecting RE
- Many new provisions
- Net tax cut of \$622 billion over 10 years

Background & History of Tax Extenders



Political Forces That Shaped PATH Act



PATH Act Provisions Affecting Real Estate



15-year cost recovery of leasehold improvements – permanent



Higher expensing limits of Section 179 – permanent



- Per year expensing limit is \$500K, but is reduced to extent total amount of property purchased exceeds \$2 million
- Includes “qualified real property”:
 - Leasehold improvements
 - Qualified restaurant property
 - Qualified retail improvement property

Minimum 9% tax credit rate for Low Income Housing Credit – permanent



Bonus depreciation, including real property – 5 year extension



- 50% additional 1st-year depreciation (40% in 2018 and 30% in 2019)
- Starting in 2016, includes “qualified improvement property”
 - Any improvement to an interior portion of a building that is nonresidential real property
 - Does not include: elevators/escalators, structural components benefitting common areas, or internal structural framework

Tax relief from mortgage debt cancellation – 2 year extension



Deduction of mortgage insurance premiums – 2 year extension



Credit for residential energy improvements – 2 year extension

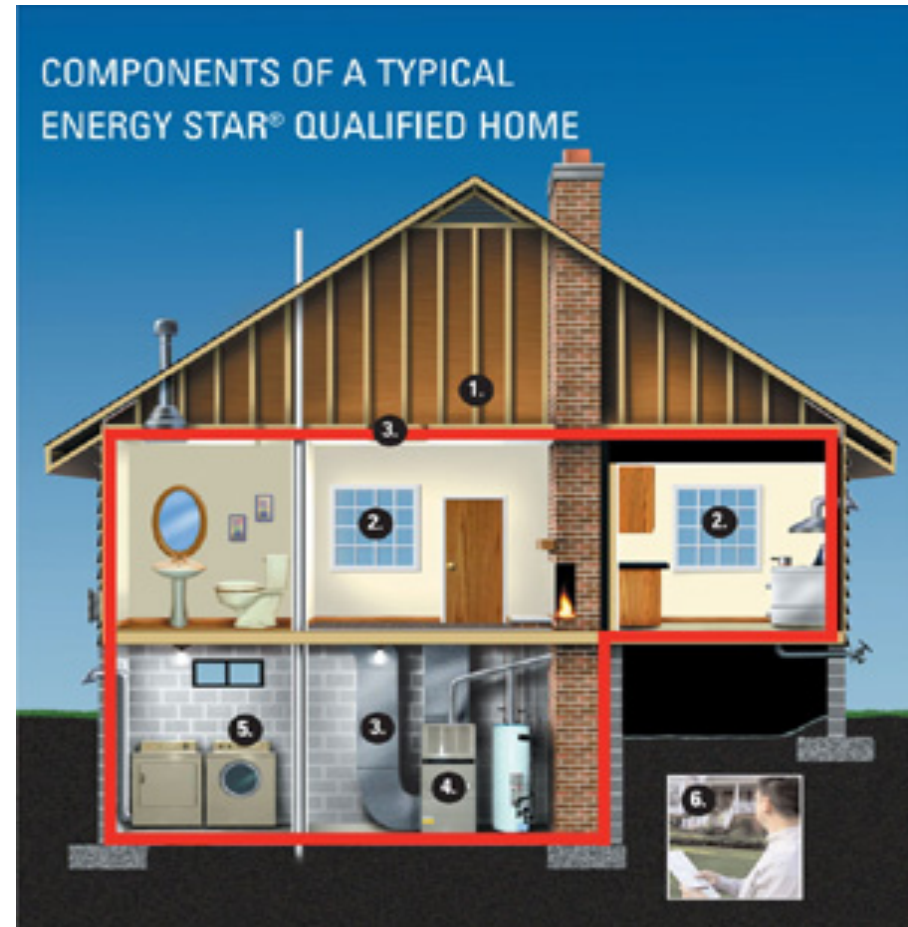


- 10% credit for purchase of qualified energy efficiency improvements to existing homes
- Meets/exceeds 2009 Intl. Energy Conservation Code/Energy Star
- Includes: insulation, exterior windows/doors, certain roofs, fans, furnaces, A/C, etc.
- For 2016, must meet Energy Star 6.0 standards
- Max lifetime credit is \$500 & no more than \$200 for windows

Credit for energy-efficient new homes – 2 year extension

Credit to contractor for each qualified new energy-efficient home sold

- \$1,000 for 30% reduction in energy usage
- \$2,000 for 50% reduction



Deduction for energy-efficient commercial buildings



- Immediate deduction for up to \$1.80/sq.ft. of cost of energy-efficient expenditures on any U.S. commercial building
- Must meet certain standards & be part of interior lighting, HVAC, hot water, or building envelope
- Must be certified as part of plan to total energy costs by 50% or more
- Partial deduction of 60 cents/sq.ft. allowed in certain circumstances

FIRPTA Changes



FIRPTA Policy Changes to Increase Foreign Investment in U.S. Commercial RE

- Increase max holdings of foreign investor in U.S. REIT from 5% to 10% (without triggering FIRPTA)
- Allow foreign pension funds to invest in U.S. real estate without triggering FIRPTA



Increase Rate of FIRPTA Withholding

New General Withholding Guidelines:

- If sales price < \$300,001, AND property will be used by buyer as residence, no withholding required
- If sales price > \$300,000 but not > \$1,000,000, AND property will be used by buyer as residence, withholding rate is 10%
- If sales price > \$1,000,000, withholding rate is 15% on entire amount, regardless of use by buyer

Implications of PATH Act on Tax Reform



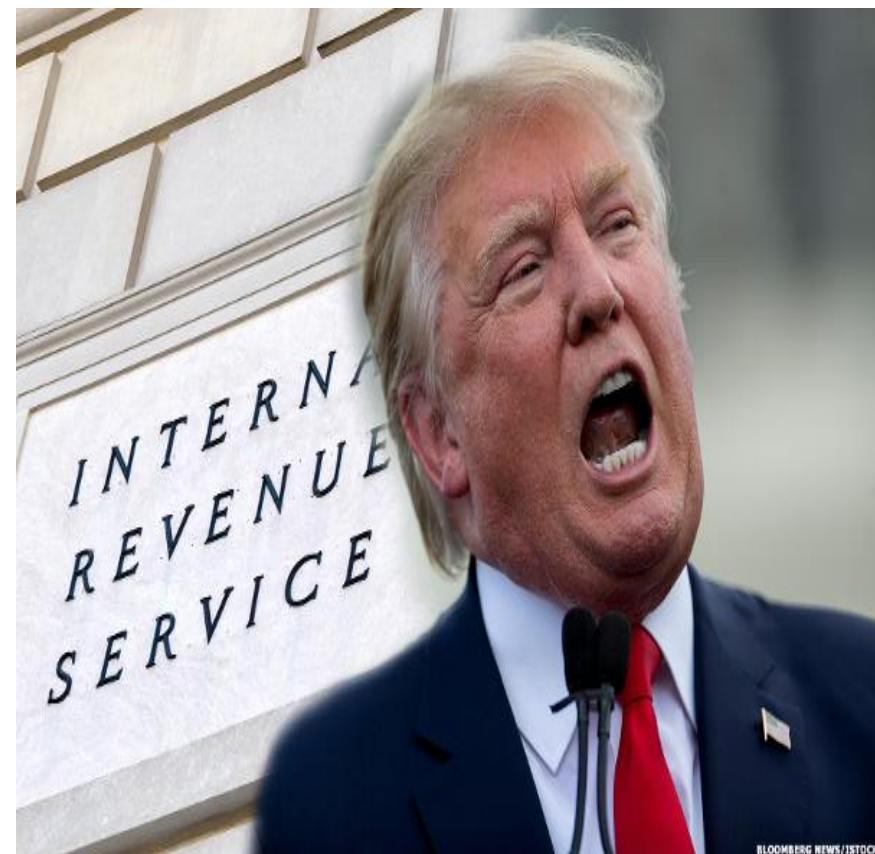
Narrowing the Field of Candidates What it Means for Tax Reform



Republicans and Tax Reform

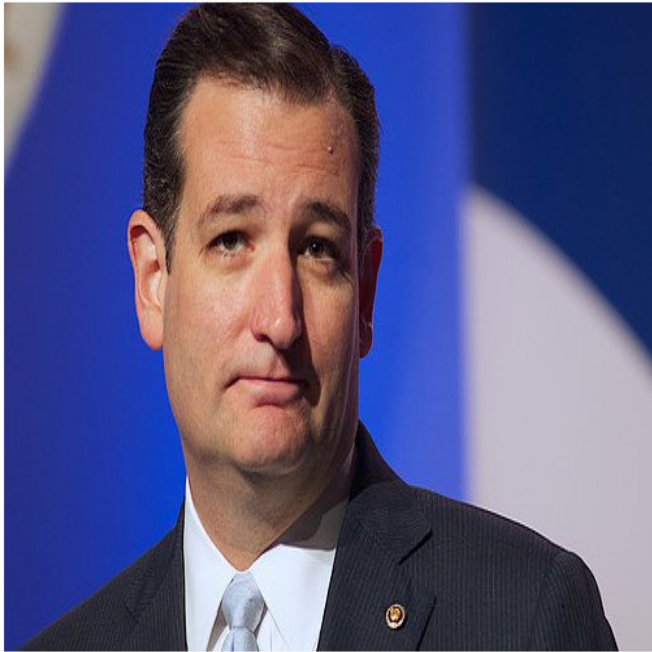


Trump Tax Plan



- Top rate of 25%
- Top rate on cap gains of 20%
- Eliminates 3.8% surtax
- Treats carried interest as ordinary income
- Caps deductibility of interest deduction
- Would lower govt. revenue by > \$10 trillion over 10 yrs

Cruz Tax Plan



- 10% flat tax & 16% Business Transfer Tax (VAT)
- Eliminates all itemized deductions but MID & charitable contributions
- Eliminates payroll tax & corporate income tax
- No deduction for wages or interest expense
- Immediate expensing of business assets
- Would lose \$768 billion over 10 yrs

Kasich Tax Plan



- 3 tax brackets: top at 28%
- Top tax rate for capital gains would be 15%
- Simplifies deductions, but retains charitable & MID with current limits
- Immediate expensing of business assets

Democrats and Tax Reform



Clinton Tax Plan

- 4% surcharge on high incomes
- Includes “Buffet Rule” or 30% minimum tax on AGI > \$1 mill.
- Caps itemized deductions at 28% value
- Raises cap gains tax to 27.8% - 47.4% for medium-term
- Taxes carried interest at ord. income rates
- Would raise govt. revenue by \$191 billion over 10 yrs.



Sanders Tax Plan



- Adds 4 new income tax brackets for high-income (37%, 43%, 48%, 52%)
- Taxes cap gains/dividends at ord. income rates for those making >\$250K/yr.
- Limits value of itemized deductions to 28%
- Creates new 6.2% employer payroll tax & raises income cap for Social Security to \$250K
- Increases estate taxes
- Creates financial services tax
- Limits like-kind exchanges
- Would raise \$9.8 trillion in revenue over 10 years

Outlook for Tax Changes in 2016



What is Possible in an Election Year?



International Tax Reform?



Extension of Expiring Provisions?



Marketplace Fairness Act?



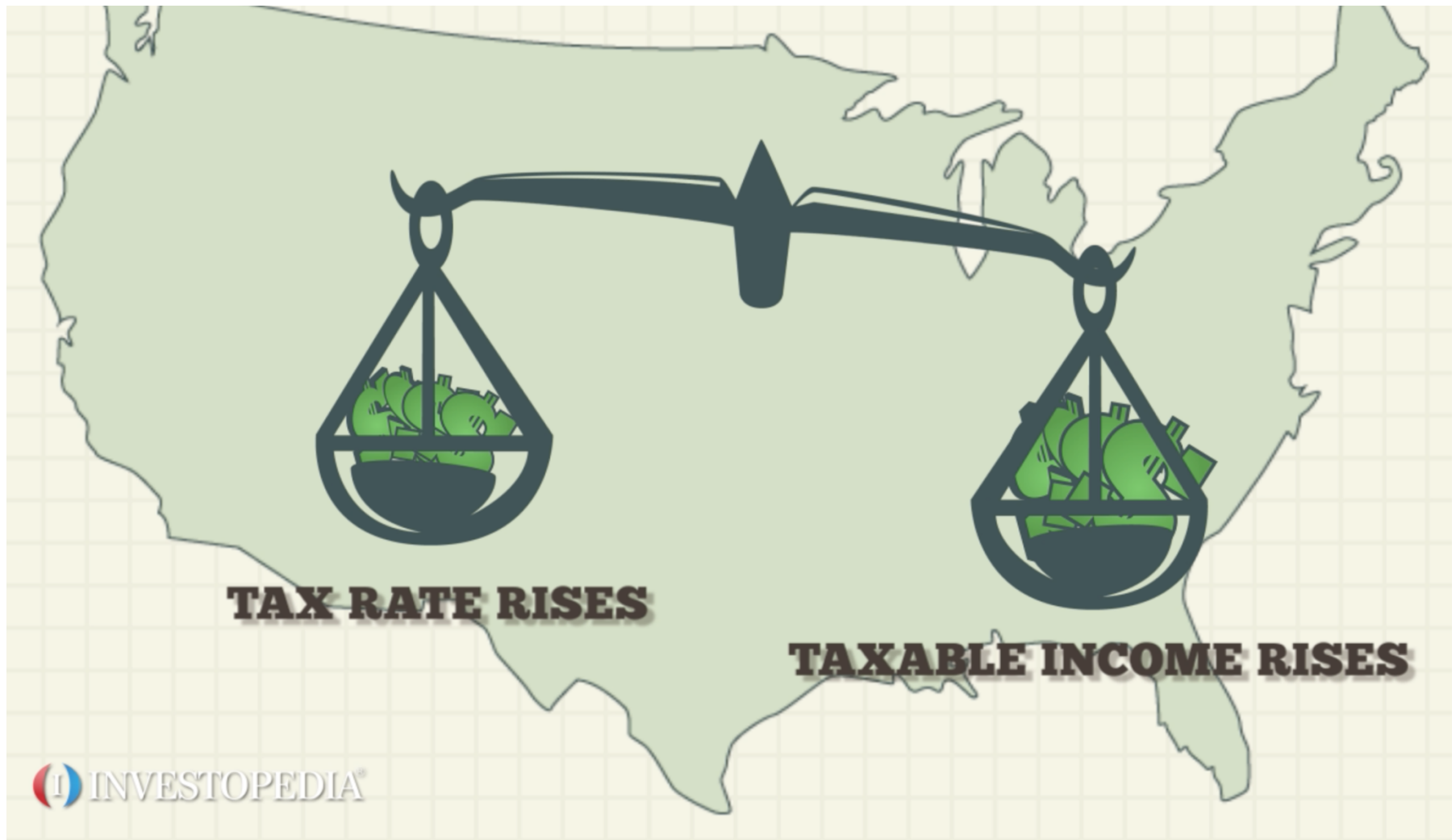
Laying the Groundwork for Future Tax Reform?



Outlook for Comprehensive Tax Reform



What is Tax Reform Anyway?



Can Tax Reform Succeed if it Raises Deficits?



Does Tax Reform Require a President to Lead the Way?



What's at Stake for Commercial Real Estate?



1031 Like-kind Exchanges



Depreciation



Carried Interest



Capital Gains and Losses

Attach to Form 1120, 1120-A, 1120-E, 1120-MPC, 1120-REIT, 1120-SF, 990-C, or certain forms for:

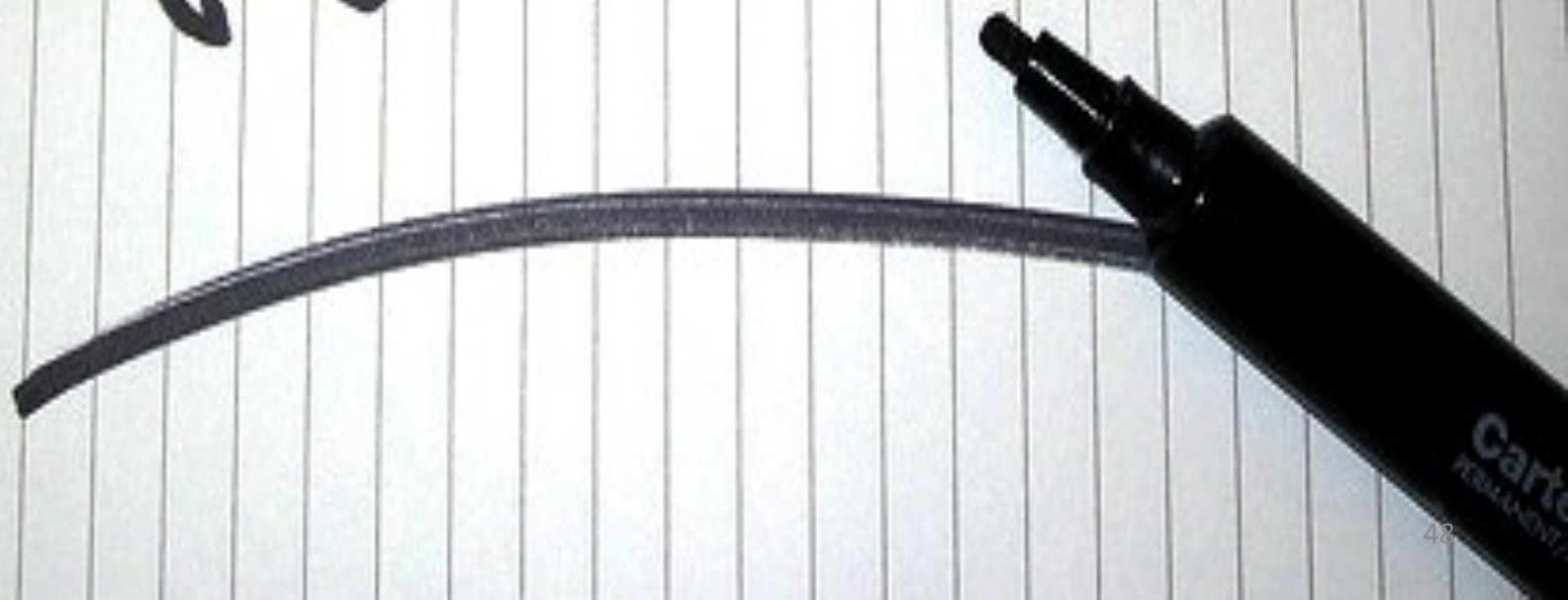
1120-DISC, 1120-L, 1120-ND, 1120-SEC, 1120-T, 1120-TRUST, 1120-INTL, 1120-RIC, 1120-SF, 990-C, or certain forms for:

Gains and Losses—Assets Held One Year or Less	
(a) Description of asset	(c) Date sold (mo., day, yr.)

Repeal Deduction for Interest Expense?



Questions?



Contact Us With Questions

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