Tax Policy

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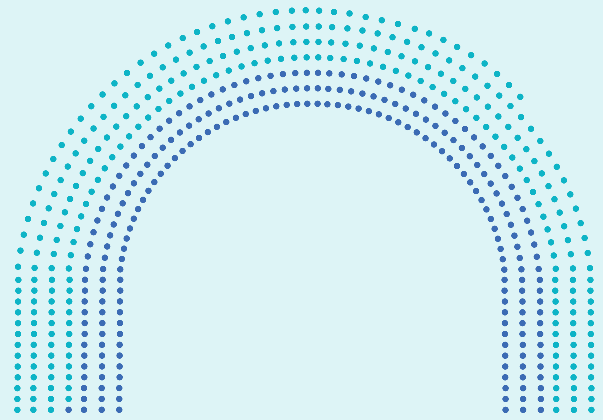
The Roundtable focuses on maintaining a competitive U.S. tax code that encourages capital formation, rewards entrepreneurial risk-taking, and supports jobs and communities.

At the end of 2025, many provisions of the Tax Cuts and Jobs Act (TCJA) of 2017 will expire. As such, The Roundtable has continued educating lawmakers regarding the importance of long-standing tax rules related to capital gains, interest deductibility, like-kind exchanges, carried interest, partnerships and REITs, foreign investment, and much more.

The Roundtable will continue to advocate for the passage of a House-approved bipartisan tax legislative package that includes many Roundtable-supported measures affecting real estate, including measures on business interest deductibility, bonus depreciation, and the low-income housing tax credit (LIHTC).

While our industry is preparing for another wide-ranging and consequential tax bill, The Roundtable is working to advance changes aimed at specific and immediate concerns, such as housing affordability, commercial-to-residential property conversions, Opportunity Zone tax incentive deadlines, REIT-related party rules, and others. The Roundtable is also challenging misguided regulatory actions that threaten to reduce access to foreign capital for U.S. real estate and infrastructure investments. Our external research and analysis, the gathering and synthesis of credible data from industry leaders, and our continuous engagement with members of Congress and the administration will lay the foundation for another successful tax debate.

Chairman of the House Ways and Means Committee Rep. Jason Smith (R-MO) outlines the committee's tax agenda, including proposals impacting commercial real estate.



Over 240 Members of Congress (45%) were elected to office after enactment of the *Tax Cuts and Jobs Act (TCJA)*, and thus were not present for the extensive and historic tax debate that addressed several critical real estate tax issues.

● = Members elected after the TCJA

● = Members who were present for the enactment of the TCJA

Capital Gains/Unrealized Gains

How a country taxes capital and capital formation has enormous consequences for its long-term economic growth, including its ability to create jobs and support durable wage gains. The United States has traditionally taxed long-term capital gains at a lower rate than ordinary income (wages, rent, and other compensation). Maintaining a reduced tax rate on capital gains decreases the cost of capital, drives long-term investment, encourages productive entrepreneurial activity, draws investment from around the world, and increases U.S. workforce productivity and competitiveness.

Today, long-term capital gains are taxed at a top rate of 20%, but the rate rises to 23.8% if the income is subject to the 3.8% tax on net investment income. Currently, the net investment income tax applies to real estate gains earned by passive investors and not the income earned from the active conduct of professionals in real estate.

The administration has proposed nearly doubling the long-term capital gains rate and adding a new retroactive, annual 25% minimum tax on the unrealized gains of wealthy taxpayers. Senate Finance Committee Chairman Ron Wyden (D-OR) and other members of Congress have introduced similar measures.

The Roundtable is working to raise awareness of the risks of these proposals and the importance of preserving a meaningful capital gains incentive.

The Roundtable and its Tax Policy Advisory Committee are also preparing for the potential consequences of a landmark Supreme Court case—Moore v. The United States—that challenges the federal government's right to tax unrealized gains. The outcome could have far-reaching implications for both the existing tax code and pending legislative proposals. A Supreme Court decision in favor of the petitioners could also undercut President Biden's proposal to tax the unrealized real estate and other gains of wealthy taxpayers. We will keep our members informed as the case moves forward.

Like-Kind Exchanges

Like-kind exchange (LKE) rules allow taxpayers to defer tax when they exchange one property held for investment or business use for another property of a "like kind." The ability to defer a capital gain through an LKE is an essential element of the current tax system—dating back to 1921.

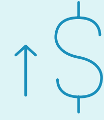
Close to 20% of all commercial real estate transactions involve an LKE.[7]

These exchanges are fundamental to the health and financing of our industry. They lower the cost of capital and spur investment, particularly during times of market volatility.

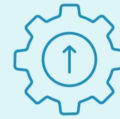
A Nov. 2023 Marcus & Millichap analysis found that between 2019 and 2023, despite a 22% decline in commercial real estate transactions, the number of like-kind exchanges initiated increased by nearly 15%, underscoring the importance of like-kind exchanges in periods of real estate stress.[8]

Roundtable-commissioned research has found that LKEs:

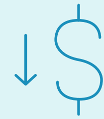
Increase net investment



Boost tax revenue



Stimulate capital expenditures leading to job growth



Reduce leverage and financial risk

Lower rents for households

Support healthy property values

In 2023, members of The Roundtable's Tax Policy Advisory Committee met with White House officials to share our research and findings. Unfortunately, the President's budget continues to propose severe restrictions on section 1031. In April, The Roundtable led a letter to Congress with 35 other national organizations urging that lawmakers retain like-kind exchanges in their entirety. The Roundtable will continue promoting the understated contribution of like-kind exchange rules to jobs and business growth, housing affordability, and the economic well-being of local communities.

House Ways and Means Committee member Rep. Brad Schneider (D-IL) discusses tax policy with members of The Roundtable's Tax Policy Advisory Committee.

Estimated Employment, Income, and Output Effects of Real Estate Industry Partnerships and LLCs in the U.S.[9]

9,044,356

Workers Employed

$518.5B

Labor Income

$896.8B

Value Added

$1,272.2B

Output

Real estate partnerships have contributed to the employment of over **9 million workers, $518 billion of labor income, and $897 billion of value added to U.S. GDP.**

Nearly **2 million** U.S. partnerships with more than **8 million** partners are engaged in leasing and other real estate-related activities, such as brokerage and construction.

Partnerships & Pass-Through Taxation

Real estate is typically owned through "pass-through" entities that allow income to pass through to individual owners. Half of the 4 million partnerships in the U.S. are real estate partnerships, and real estate activity constitutes a large share of pass-through business activity. Pass-through tax rules support jobs and economic growth by encouraging business formation and creating an effective way for entrepreneurs and investors to pool business expertise with outside capital.

Congress is considering several critical changes in the taxation of pass-throughs. These include fundamental reforms that would reduce the flexibility of partnerships (Senate Finance Chairman Wyden), a 5% tax that would apply to all pass-through business income (President Biden), and the potential expiration of the 20% deduction for pass-through business income (section 199A).

The Roundtable is focused on preserving and improving the U.S. system of pass-through taxation, which has helped make U.S. entrepreneurs the most successful and envied in the world. The Roundtable strategy involves organizing interested parties, collecting relevant data on the economic contributions of pass-through businesses, and developing effective approaches for communicating and engaging with lawmakers.

Carried Interest

A "carried" interest is the interest in partnership profits a general partner receives from the investing partners for successfully managing the investment and bearing the entrepreneurial risk of the venture. Carried interest may be taxed as ordinary income or capital gain, depending on the type of revenue the partnership generates.

Members of Congress have regularly introduced legislation to re-characterize carried interest as ordinary income or to treat the grant of a carried interest as a taxable, interest-free loan from the limited partners to the general partner. President Biden's 2025 budget would similarly end capital gains treatment for carried interest.

The Roundtable opposes these proposals and, over the years, has successfully brought attention to the breadth and importance of carried interest in real estate markets.

A 2021 study by USC Professor Charles Swenson drew on Roundtable-provided data and estimated the economic damage caused by increasing taxes on carried interest:

Long-Run Economic Impact of Carried Interest Legislation[10]

1.77M	Real Estate-Related Job **Losses**
$11.22B	**Reduction** in Federal Tax Revenue
$26.74B	**Reduction** in State/ Local Tax Revenue

New restrictions on carried interest would slow housing production, discourage the capital needed to reimagine buildings to meet post-pandemic business needs, hamper job creation, and create added uncertainty in an already confusing economic environment.

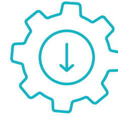
Step-Up In Basis

The United States levies a comprehensive estate tax at rates as high as 40% on a decedent's wealth and assets, including unrealized gains. Separately, for income tax purposes, the basis of assets in the hands of an heir is "stepped up" to fair market value at the time of the decedent's death.

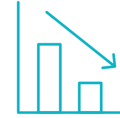
President Biden and some lawmakers have proposed adding a second layer of taxation at death in the form of a capital gains tax on a decedent's unrealized gains, effectively repealing the current law's step-up in basis. The Roundtable opposes these efforts.

The Roundtable and other members of the Family Business Estate Tax Coalition commissioned Ernst and Young in 2021 to evaluate the economic consequences of eliminating the step-up in basis in their research. The report concluded that if step-up in basis were repealed, 40,000 jobs would be lost every year in the first 10 years after enactment, and GDP would decrease by $50 billion over the same period.

Impact of Repealing Step-Up in Basis[11]



40,000 jobs would be lost every year in the first 10 years since enactment



GDP would decrease by **$50 billion over 10 years**

The Roundtable will continue to collaborate with key stakeholders to advocate for and support the fair and reasonable taxation of inherited wealth.

Taxation of Foreign Capital

The *Foreign Investment in Real Property Tax Act (FIRPTA)* of 1980 imposes a discriminatory capital gains tax on foreign investments in U.S. real estate that does not apply to any other asset class. The *FIRPTA* regime discourages capital formation and investment that could be used to create jobs and improve U.S. real estate and infrastructure. It should be repealed.

In 2023, Roundtable members met with Treasury officials and lawmakers after the administration released expanding the reach of *FIRPTA* in situations involving domestically controlled REITs. Roundtable comments urged Treasury to reconsider its proposal to create a new corporate "look-through" rule. While the final regulations retain the look-through rule, they also include a 10-year transition period, and the Roundtable is currently evaluating ways to clarify and improve the transition relief.

Senate Assistant Minority Leader John Thune (R-SD) discussed the Finance committees legislative goals with Roundtable members.

Opportunity Zones[12, 13]

Opportunity Zones (OZs) are targeted low-income, economically distressed census tracts where new, long-term investments may qualify for capital gains tax relief. By channeling investment where it is most needed and prioritized by states and local communities, OZs help stimulate job creation and economic growth in low-income communities.

Opportunity Zones have already made a tremendous impact in the short period since their enactment:

In 2020, the Council of Economic Advisors estimated that Opportunity Funds had raised

↑$75 B

in private capital in the first two years following the incentives' enactment, including

$52 B

that would not have otherwise been directed to these communities. The Council projected this capital could lift

1 M

people out of poverty and decrease poverty in OZs by 11%.

Housing is Leading the Way: Through March 2023, Opportunity Funds focused on building much-needed housing—either entirely or as a component of their business strategy—have raised over

$28 B

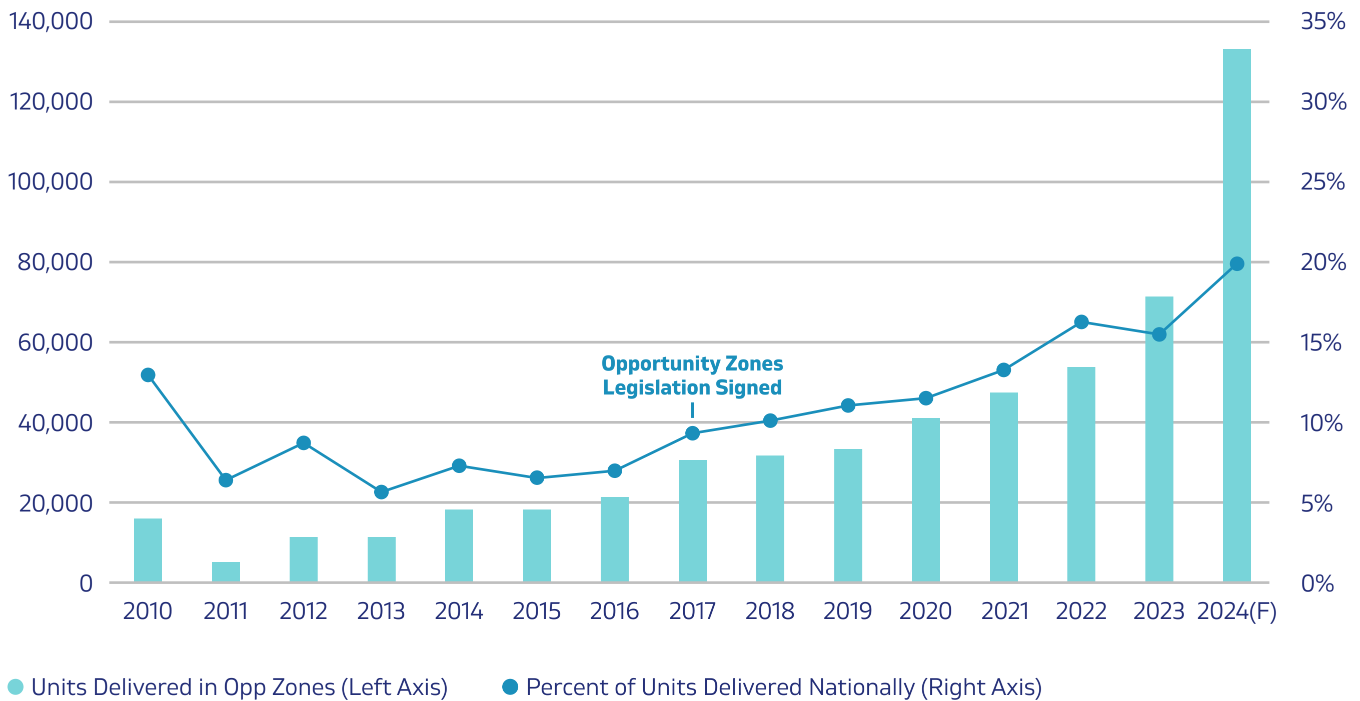
in equity from investors, outraising other categories such as commercial, hospitality, and renewables.

OZs accounted for

20%

of all new multifamily apartment units built nationwide in 2023.[14]

Market-Rate Multifamily Units Delivered in Opportunity Zones[15]
Total Number and Share of U.S. Overall



Source: RealPage Market Analytics

Roundtable members and others have raised billions in capital and formed Opportunity Funds to develop new housing supply, mixed-use properties, and other productive assets in areas in OZs. The Roundtable has collected and aggregated data on its members' OZ activities and is urging lawmakers to enact the *Opportunity Zones Improvement, Transparency, and Extension Act*, a bipartisan House bill to extend and improve the OZ incentives.

Senate Finance Committee Chairman Ron Wyden (D-OR) discussed expansion of the low-income housing tax credit (LIHTC), business interest deductibility, and bonus depreciation.