PRIORITY ISSUE SUMMARY

QUALIFIED IMPROVEMENT PROPERTY FIX (H.R. 1869, S. 803)

ISSUE: The Tax Cuts and Jobs Act (Public Law No: 115-97) aimed to spur investment in upgrades and improvements to commercial properties by making qualified improvement property or "QIP" (generally, improvements to the interior of existing nonresidential buildings) eligible for accelerated bonus depreciation and subject to a 15-year depreciation recovery period.

The Tax Cuts and Jobs Act (TCJA) mistakenly excludes interior improvements to retail stores and restaurants from 100 percent bonus depreciation and are required to be written off over time periods as long as 39 years. This exclusion is widely believed to have been due to a legislative oversight. Congress seems to have intended for these building improvements to be eligible for 100 percent bonus depreciation, but left them out due to a last-minute drafting error. As a result, the new tax law actually worsens the tax treatment of this type of investment, which previously qualified for bonus depreciation, by reducing the ability of retail businesses to deduct their full building improvement costs.

KEY POINTS:

- <u>Legislative error excludes QIP from 100 percent bonus depreciation</u>. A drafting error in the final version of TCJA excludes QIP from qualifying for 100 percent bonus depreciation.
- <u>Longer cost recovery period</u>. Under prior law, QIP had a 15-year cost recovery period. However, the drafting error in TCJA causes QIP to have a 39-year cost recovery period. Typically, such investments are subject to a 15-year or 20-year cost recovery period.
- <u>Higher tax burden</u>. QIP does not qualify for bonus depreciation, which understates costs and overstates profits, and in turn leads to a greater tax burden that increases the cost of making those types of investments.
- <u>Need for a legislative fix</u>. To correct the error in TCJA, Congress must approve legislation and President Trump must sign it into law.

LEGISLATION: The Restoring Investments in Improvements Act (H.R. 1869, S. 803) fixing the tax treatment for QIP was introduced in the Senate on March 14 by Sens. Pat Toomey (R-PA) and Doug Jones (D-AL). On March 26, Reps. Jimmy Panetta (D-CA) and Jackie Walorski (R-IN) introduced identical legislation in the House.

OPPOSING ARGUMENT: Some lawmakers who opposed TCJA are reluctant to make technical corrections to the law even if they agree that QIP should be treated similarly to other types of investments under the tax code.

ASK: (House/Senate) Sign on as a cosponsor and approve the Restoring Investments in Improvements Act making technical corrections to TCJA so QIP investments are eligible for 100 percent bonus depreciation.

PRIORITY ISSUE SUMMARY

HEALTH INSURANCE TAX RELIEF ACT (H.R. 1398, S. 172)

ISSUE: The Health Insurance Tax (HIT) is currently suspended for 2019 but is set to return in 2020 unless there is congressional action extending the moratorium. According to America's Health Insurance Plans (AHIP), if implemented in 2020, the HIT would levy $16 billion in fees on health insurance, including increases of $479 per family in the small-group market and $458 in the large-group market.

Although health insurance companies offering fully insured health care plans are responsible for paying the HIT, it is ultimately passed along to employers in the form of higher premiums. The tax was included in the Affordable Care Act (ACA) as a way to pay for the expansion of health care coverage, yet it has only made health care less affordable for those in need of relief.

Increased costs, like the HIT, restrict the ability of small and medium-sized businesses to grow and create jobs. Delay of this onerous and unnecessary tax will provide more certainty and affordability to the nation's small and medium-sized businesses.

KEY POINTS:
- <u>Rising costs of employer sponsored health care coverage</u>. According to the Kaiser Family Foundation, for 2018 the average annual premiums for employer-sponsored health insurance was $6,896 for single coverage, of which employers on average paid $5,710. The average premium was $19,616 for family coverage, with employers on average contributing $14,069.
- <u>The HIT disproportionately affect small and medium-sized businesses</u>. According to data from Employee Benefit Research Institute (EBRI), 79 percent of large companies (1,000 or more employees) offer a self-insured health care plan. However, only 29 percent of mid-size companies (100 to 999 employees) offer a self-insured health care plan and it is 17 percent for small companies (25 to 99 employees).
- <u>The HIT is set to return without congressional action</u>. The HIT is currently suspended for 2019 but is set to return in 2020 unless there is congressional action extending the moratorium.

LEGISLATION: The Health Insurance Tax Relief Act (H.R. 1398, S. 172) has been introduced in both chambers and would suspend the HIT through 2021. The legislation has bipartisan support in both the House and Senate. Congress has already suspended the HIT twice since it took effect in 2014. The legislation would provide cost savings to the 142 million Americans forced to pay higher insurance premiums because of the 2020 HIT.

OPPOSING ARGUMENT: Supporters of the ACA have opposed full repeal of the HIT because it would add to the federal deficit. However, small and medium-sized businesses are disproportionately harmed by the HIT and makes it more difficult for employers to offer health care coverage to their employees.

ASK: (House/Senate) NLBMDA encourages the House and Senate to reduce the health care burden on small employers, including lumber dealers, by cosponsoring and approving the Health Insurance Tax Relief Act (H.R. 1398, S. 172) to delay the HIT for 2020 and 2021.

PRIORITY ISSUE SUMMARY

STRENGTHEN THE LOW-INCOME HOUSING TAX CREDIT

ISSUE: Since 1986, the Low-Income Housing Tax Credit (LIHTC) has financed the development of over 3 million apartments, providing affordable homes to roughly 7.2 million low to moderate-income families. The development of these apartments has supported 3.4 million jobs, and generated $323 billion in local income and $127 billion in federal, state and local tax revenues.

Without LIHTC, there would be virtually no private investment in affordable housing. It is fundamentally uneconomic to build housing that very low-income people can afford. In order to develop new apartments that are affordable to renter households earning the full-time minimum wage, the construction cost would have to be 72 percent lower than the current average.

Traditionally families qualify to rent LIHTC apartment units if their income is at or below 60 percent of the area median income (AMI) and their rent payments are capped at 30 percent of their total income. However, thanks to the changes in the law made in 2017, families making up to 80 percent AMI can now qualify to rent LIHTC units as long as the total affordability of the entire apartment complex averages to 60 percent AMI. This change now allows teachers, police officers, fire fighters, and civil servants to rent LIHTC apartment units since these groups have traditionally been income overqualified at the 60 percent AMI ceiling.

KEY POINTS:
- <u>Congress has already established a credit rate floor for the 9% LIHTC</u>. Congress permanently enacted a minimum 9 percent credit rate floor in 2015 to attract additional investment for affordable housing.
- <u>Need to establish a 4% LIHTC Rate Floor</u>. Combined with tax-exempt private activity bonds, more equity in 4 percent credit developments would help close the gap between the costs of developing homes and the financing available to provide affordable rents to low and moderate-income families.
- <u>Enhanced 4% LIHTC would support construction of additional units</u>. Novogradac & Company LLP estimates that 65,000 additional rental homes could be financed over the next 10 years if a minimum 4 percent floor is established for low-income housing tax credits (LIHTCs), in combination with tax-exempt private activity bonds.

LEGISLATION: Reintroduction of the Affordable Housing Credit Improvement Act is expected in April. In the last Congress, both the House and Senate introduced the legislation (H.R. 1661, S. 548), which enjoyed broad bipartisan support with 182 House cosponsors and 45 Senate cosponsors. NLBMDA supports the inclusion of a provision that would establish a 4% LIHTC rate floor. Rep. Susan DelBene (D-WA) will lead the House bill, and work is still being done to secure a lead Republican on the bill. The Senate bill is expected to be introduced by Sens. Maria Cantwell (D-WA), Ron Wyden (D-OR), Johnny Isakson (R-GA), and Todd Young (R-IN).

OPPOSING ARGUMENT: Establishing a 4% LIHTC rate floor would result in the federal government forgoing too much revenue during a period of rising deficits and debt.

ASK: (House/Senate) Lawmakers should cosponsor and approve the Affordable Housing Credit Improvement Act—that includes a 4% LIHTC rate floor--once it is introduced in April.

PRIORITY ISSUE SUMMARY

RENEWAL OF THE U.S. – CANADA SOFTWOOD LUMBER AGREEMENT

ISSUE: The most recent Softwood Lumber Agreement (Lumber IV) between the U.S. and Canada expired on October 12, 2015. There was a one-year cooling off period where neither country was allowed to take administrative actions or engage in litigation regarding the dispute. The modern softwood lumber dispute between the two countries began in 1982 with the current dispute (Lumber V) starting once the last agreement expired in 2015.

At the center of the dispute is the claim from U.S. lumber producers that the Canadian lumber industry is *unfairly subsidized*, as federal and provincial governments administer 94 percent of timberlands in Canada. The Canadian government and lumber industry disputes this assertion based on a number of factors, including that Canadian timber is provided to a wide range of industries, and the lack of specificity make it ineligible to be considered a subsidy under U.S. law.

Over the nine years of the 2006 agreement, Canadian share of the U.S. market averaged 28 percent annually. U.S. market share during that period averaged 71 percent annually. There is relatively little softwood lumber imported into the U.S. comes from countries other than Canada.

KEY POINTS:

- NLBMDA supports the countries reaching a new agreement. The U.S. and Canada must reach a new agreement that brings stability and predictability to the pricing and availability of softwood lumber without the imposition of duties.
- Congressional support for a new agreement. In June 2018, 171 House lawmakers sent a letter to Trump Administration trade officials supporting a new agreement between the two countries.
- Current duties on Canadian imports. Most Canadian firms are paying a combined antidumping duties (AD) and countervailing duties (CVD) rate of 20.83%. For the five companies directly involved in the investigation, the rates vary between 9% and 23%.
- Duties have been extended to shakes and shingles. Duties were placed on Canadian cedar shakes and shingles in March 2018. It is the first time duties have applied to shakes and shingles since 1991.
- NAFTA panel is reviewing the duties. On November 28, 2018, a binational NAFTA panel was formed to review the duties and whether the U.S. industry is injured by lumber exports from Canada. The panel is comprised of three Canadian trade experts and two American trade experts.

CURRENT STATUS: Duties currently apply on Canadian softwood lumber imports to the U.S. The duties also apply to Canadian cedar shakes and shingles for the first time since 1991. Duties do not apply to softwood lumber harvested in the Atlantic Provinces of Newfoundland and Labrador, Nova Scotia, and Prince Edward Island. The two countries are not close to reaching a new agreement. In November 2018, a NAFTA dispute resolution panel was formed to determine the extent of harm to U.S. softwood lumber industry and the level of duties on Canadian imports.

OPPOSING ARGUMENT: American lumber producers argue that Canadian softwood lumber is sold for less than fair market value, and duties must be imposed to offset the harm caused to U.S. mills and workers.