LOCUS | Smart Growth America
Improving lives by improving communities

Federal Tax Code – 2017 House Tax Reform Proposal

Issues Area	Current Law (Section)	Ways and Means Proposal (Section)	Comments (Include Recommendation)
Capital Gains Exclusion	(26 U.S.C. §121) Exclusion of gain from sale of principal residence ● Under current law, a taxpayer may exclude from gross income up to $500,000 for joint filers ($250,000 for other filers) of gain on the sale of a principal residence. The property generally must have been owned and used as the taxpayer's principal residence for two out of the previous five years. A taxpayer may only use this exclusion once every two years.	(Sec. 1402) ● A taxpayer would have to own and use a home as the taxpayer's principal residence for **five out of the previous eight years** to qualify for the exclusion. In addition, the taxpayer would be able to use the exclusion only once every five years. ● The exclusion would be phased out by one dollar for every dollar by which a taxpayer's adjusted gross income exceeds $500,000 ($250,000 for single filers). The provision would be effective for sales and exchanges after 2017.	● Current law requires the taxpayer to lived in their principal residence for two of the previous five years. However, the Tax Cuts and Jobs Act requires homeowners to hold onto their property longer. In order to get the capital gains exclusion, taxpayers are required to have used the home as their principal residence for five out of the previous eight years. This means that speculators and "flippers" would not be rewarded for their activity with tax-exempt income. This provision encourages long term purchases by people who actually want to have a community presence. ● Maintaining the capital gains exclusion at the current level does not spur homeownership or expand housing choices. ● Recommendation: The proposal should be amended to lower the capital gains exclusion limit to $125,000 for single filers and $250,000 for households. This amendment would result in significant revenues for the government.
Mortgage Interest Deduction	(26 U.S. Code § 163) ● Under current law, a taxpayer may claim an itemized deduction for mortgage interest paid with respect to a principal residence and one other residence of the taxpayer. Itemizers may deduct interest payments on up to $1 million in acquisition indebtedness (for acquiring, constructing, or substantially improving a residence), and up to $100,000 in home equity indebtedness. Under the alternative minimum	(Sec. 1302) ● A taxpayer may continue to claim an itemized deduction for interest on acquisition indebtedness. ● For debt incurred after the effective date of November 2, 2017, the $1 million limitation would be **reduced to $500,000**. ● Interest would be deductible **only on a taxpayer's principal residence**.	● The Tax Cuts and Jobs Act allows homeowners to deduct interest payments made on their first $500,000 worth of home loans. ● The benefits of greater mortgage interest deductions are accrued by homeowners who purchase expensive homes, not entry level ones. ● Homeowners with high incomes receive a greater percentage of the benefits from mortgage interest deductions than those purchasing lower cost homes.

	tax (AMT), however, the deduction for home equity indebtedness is disallowed.	• Similar to the current-law AMT rule, interest on home equity indebtedness incurred after the effective date would not be deductible. In the case of refinancings of debt incurred prior to November 2, 2017, the refinanced debt generally would be treated as incurred on the same date that the original debt was incurred for purposes of determining the limitation amount applicable to the refinanced debt. • In the case of a taxpayer who enters into a written binding contract before November 2, 2017, the related debt would be treated as being incurred prior to November 2, 2017.	• Recommendation: LOCUS discourages incentives that steer homeowners towards a particular housing product. The coalition does not favor policies that challenge access to entry level homes. Therefore, LOCUS supports the reduction of the mortgage interest deduction from $1 million to $500,000.
10-percent penalty for first home purchases exception	(26 U.S. Code § 401) • Under current law, an additional 10-percent tax generally is imposed on distributions from retirement plans and Individual Retirement Accounts (IRAs) occurring before the account holder reaches age 59½. This 10-percent tax is in addition to any income tax that may be due on the distribution. There are several exceptions to the early withdrawal penalty, including early distributions of up to $10,000 to pay for first-time homebuyer expenses.	• No change	.
Deductions for soil and water conservation	(26 U.S. Code Section 175) • Under current law, a taxpayer engaged in the business of farming may deduct immediately, rather than recover over time through annual depreciation deductions, costs paid or incurred during the tax year for the purpose of soil or water conservation in respect of land used in farming, for the prevention of erosion	• No Change	• One of the principles of smart growth development is to preserve farmland in critical environmental areas. • Integrating sustainable practices helps to reduce the costs of developing and maintaining communities, citizens, and infrastructure.

	of land used in farming, or for endangered species recovery. Such expenditures are allowed as a deduction, not to exceed 25 percent of the gross income derived from farming during the tax year, with any excess amount carried over to a succeeding year subject to the same percentage limitations.		
Deduction for energy efficient commercial buildings	(26 U.S. Code Section 179D) ● Under current law, a taxpayer could claim a deduction with respect to certain energy-efficient commercial building property expenditures incurred prior to 2014. The deduction was limited to an amount equal to $1.80 per square foot of the property for which such expenditures were made. The deduction was allowed in the year in which the property was placed in service. The deduction expired at the end of 2013.	● No mention of deductions for energy efficient commercial buildings in the Tax Cuts and Jobs Act. ● Note: This tax deduction **expired at the end of 2016**. Any qualified equipment installed prior to January 1, 2017 is eligible for this deduction. Equipment installed on or after January 1, 2017 is not eligible for this deduction. ● The Tax Cuts and Jobs Act allows the deduction to remain expired.	● The Energy-Efficient Commercial Buildings Tax Deduction was a significant financial incentive for designers to meet or exceed an agency's energy reduction requirements for new and existing buildings. ● Recommendation: LOCUS does not support measures that discourage the construction of energy efficient buildings. The deduction should be reinstated and/or combined with another credit to provide incentives for energy efficiency improvements in commercial buildings.
Deduction for taxes not paid or accrued in a trade or business	● Under current law, an individual may claim an itemized deduction for State and local government income and property taxes paid. In lieu of the itemized deduction for State and local income taxes, individuals may claim, for tax years beginning before 2014, an itemized deduction for State and local government sales taxes.	(Sec. 1303) ● Repeal the itemized deduction for State and local income or sales taxes, but continue to allow deductions for State and local income or sales taxes paid or accrued in carrying on a trade or business or producing income ● Allowed to claim deductions for real property taxes paid up to $10,000 ● Effective for tax years beginning after December 31st, 2017	● The provision eliminates a tax benefit that subsidizes high-tax states and cities and increases spending at state and local levels. ● The provision also limits the real estate property tax deduction that is historically utilized by high-income households. ● Recommendation: LOCUS supports the repeal of these deductions that are primarily taken by high-income households and earners. LOCUS encourages access to diverse levels of homeownership.
Low-income housing tax credit	(26 U.S. Code § 42) ● Owners of certain residential rental property may claim a low- income housing tax credit (LIHTC) over a ten-year period for the cost of	● Retains the low-income housing tax credit. Under the proposed provision the volume cap 9 and 4 percent LIHTC for acquisition are retained.	● The Tax Cuts and Jobs Act maintains the low-income housing tax credit (LIHTC) program which encourages businesses to invest in affordable housing so families, individuals, and seniors can find a safe and comfortable place to

	rental housing occupied by qualifying low-income tenants ● However, rental housing must remain qualified low-income housing for a 15-year compliance period, beginning with the first year of the credit period ● The amount of the credit for any tax year in the credit period is the applicable percentage of the qualified basis of each qualified low-income building. ● Buildings subject to the 70-percent rule should yield a 9-percent credit, and buildings subject to the 30-percent rule should yield a 4-percent credit, although the credit amounts depend on the applicable interest rate used for discounting the building's basis for the particular tax year.	● All tax-exempt private activity bonds, including multifamily are repealed. ● Four percent LIHTC generated by multifamily bonds are repealed.	call home. However (Sec. 3601) private activity bonds are terminated. This would therefore cut off the flow of 4% LIHTC bond-financed units. ● The proposal also permanently reduces the corporate tax credit from 35% to 20% (beginning in 2018). ● Without modifying the LIHTC program, this change would make the housing credit worth less and will be less enticing to investors. ● Recommendation: Add value back into the program to make up for the other changes proposed.
Solar Tax Credit		● 30% credit for residential energy efficient property would be extended for all qualified property placed in service prior to 2022, subject to a reduced rate of 26% for property placed in service during 2020 and 22% for property placed in service during 2021. ● The provision would be effective for property placed in service after 2016	
New energy efficient home credit	(26 U.S. Code § 45L) ● Under current law, an eligible contractor could claim the new energy-efficient home credit for the construction of a qualified new energy-efficient home prior to 2014. ● The credit was equal to either $1,000 or $2,000-depending on whether the credit met a	(Sec. 3503) ● No direct mention of energy efficient home credits in the Tax Cuts and Jobs Act ● The Tax Cuts and Jobs Act allows the deduction to remain expired.	● Tax credits that support new energy efficient homes should be addressed by this legislation. ● LOCUS encourages sustainable development that ultimately leads to lesser costs of owning and maintaining a home. ● LOCUS does not support the exclusion of new energy efficient home credits or the phase out of residential energy efficient property credits from the Tax Cuts and Jobs Act.

	30-percent or 50-percent reduction in heating and cooling energy consumption ● NOTE: The credit expired at the end of 2013.		
Rehab Tax Credit	(26 U.S. Code § 47) ● Taxpayer may claim a credit to rehabilitate old and/or historic buildings. ● A 20-percent credit is allowed for qualified rehabilitation for a certified historic structure ● A 10-percent credit is allowed for qualified rehabilitation for a qualified rehabilitated building ● To qualify for the 10-percent credit, the rehabilitation expenditures during the 24-month period selected by the taxpayer and ending within the tax year must exceed the greater of the adjusted basis of the building (and its structural components) or $5,000.	(Sec. 3403.) ● Repealed the tax credit. Under a transition rule: 1. The credit would continue to apply to expenditures incurred through the end of a 24-month period of qualified expenditures, which would have to begin within 180 days after January 1, 2018.	● Rehabilitating existing buildings can reduce costs for municipalities and add to the local tax base. Instead of repealing and phasing out the credit, LOCUS recommends converting the Rehabilitation Tax Credit to a Neighborhood Rehabilitation and Investment Credit that includes entire redevelopment projects and private investment in public infrastructure, expands to residential and mixed-use, and is scalable from 15-35% based on the amount of attainable housing provided. ● Expanding the rehabilitation tax credit will help revitalize entire neighborhoods, not just individual buildings.
New Markets Tax Credit	(26 U.S. Code § 45D)(Sec. 3406) ● Certain qualifying taxpayers may claim a 5-percent credit per year for the first three years of investments in, and a 6-percent credit per year for the next four years of investments in qualified community development entities, which generally intend to serve low-income communities and low-income individuals.	(Sec. 3406) ● Terminate new market tax credits ● No additional new markets tax credits would be allocated after 2017 ● Credits that would have already been allocated may be used over the course of up to seven years as contemplated by the credit's multi-year timeline.	● LOCUS does not support the termination of new market tax credits. These credits bring private capital into low-income communities and encourage the rebuilding and revitalization of America's neighborhoods by private capital.
Private Activity Bonds	(26 U.S. Code § 141) ● Private activity bonds (PABs) are excluded from gross income (and thus exempt from tax).	(Sec. 3601) ● Termination of private activity bonds ● Interest on newly issued PABs would be included in income and thus subject to	● LOCUS does not support the termination of private activity bonds. ● PABs are a major source for financing affordable multifamily and the Low Income Housing 4% Credit.

	• The proceeds of PABs finance the activities of, or loans to, private parties, with indirect benefits accruing to the State or locality that issues the bond. • Most PABs are subject to a single, aggregate national volume cap that is allocated annually among States by population, while other PABs have separate volume caps. For calendar year 2017, the per-State volume cap is the greater of (1) $100 multiplied by the State population, or (2) $305,315,000. These amounts are indexed for inflation. • Some State and local governments issue PABs to finance owner-occupied residences.	tax. The provisions would be effective for bonds issued after 2017. • Considerations: ○ The Federal government should not subsidize the borrowing costs of private businesses,allowing them to pay lower interest rates while competitors with similar credit worthiness but that are unable to avail themselves of PABs must pay a higher interest rate on the debt they issue. ○ The provisions would not apply to any previously issued bond, nor would the provisions prevent State and local governments from issuing PABs in the future; the provisions would merely remove the Federal tax subsidy for newly issued bonds.	
Empowerment zones and enterprise communities.	The tax benefits available to designated zones included: 1. A 20-percent wage credit available to employers for the first $15,000 of qualified wages paid to an employee who was a resident and performs substantially all employment services within the Empowerment Zone; 2. Expanded tax-exempt financing by State and local governments for certain zone facilities as well as zone academy bonds for certain public	• No mention of empowerment zones and enterprise communities in the Tax Cuts and Jobs Act • **Note:** **The HUD/ USDA Community Renewal Initiative that included the upkeep of empowerment zones and enterprise communities has been closed. No new zones have been designated by HUD since 2003, and no designation boundaries have been altered since**	• **These initiatives seek to reduce unemployment and generate economic growth through the designation of Federal tax incentives and award of grants to distressed communities.** • Recommendation: LOCUS encourages initiatives that promote local economic growth and development. Provisions relating to empowerment zones and enterprise communities should be reinstated or consolidated into other community development incentives.

	schools located in an Empowerment Zone; and 3. Deferred recognition of gain on the sale of qualified Empowerment Zone assets held for more than one year and replaced within 60 days by another qualified asset the same zone. ● The Enterprise Community designations generally expired at the end of 2004. ● The Empowerment Zones designation expired after 2013.	**2009. No zone changes of any type will be made by HUD in the future. (per HUD)** ● The Tax Cuts and Jobs Act allows the deduction to remain expired.	
Renewal Communities	(26 U.S. Code § 1400E) The tax benefits included: (1) up to $12 million to be allocated by a State to each Renewal Community for commercial revitalization expenditures for which the taxpayer may elect either to deduct one-half of the commercial revitalization expenditures for the tax year the building is placed in service or amortize all the expenditures ratably over a 120-month period; (2) (2) a zero-percent capital gains rate with respect to gain from the sale of certain Renewal Community assets for gains attributable to the period between 2002 and 2014 (inclusive), provided that the property was held for more than five years; and (3) Access to zone academy bonds for certain public schools located in an Empowerment Zone.	● No mention of Renewal Communities in the Tax Cuts and Jobs Act ● **Note:** **The HUD/ USDA Community Renewal Initiative that included the upkeep of empowerment zones and enterprise communities has been closed. No new zones have been designated by HUD since 2003, and no designation boundaries have been altered since 2009. No zone changes of any type will be made by HUD in the future. (per HUD)** ● The Tax Cuts and Jobs Act allows the deduction to remain expired.	● **These initiatives seek to reduce unemployment and generate economic growth through the designation of Federal tax incentives and award of grants to distressed communities.** ● Recommendation: LOCUS encourages initiatives that promote local economic growth and development. Provisions relating to renewal communities should be reinstated or consolidated into other community development incentives.

Short-term regional benefits	(26 U.S. Code Chapter 1) The tax benefits for the Liberty Zone included: (1) Additional 30-percent first-year depreciation for qualified Liberty Zone property placed in service before 2006 (2009 for certain real property); (2) Enhanced tax- exempt bond financing for New York Liberty Bonds issued before 2014; and (3) Five-year replacement period for compulsory or involuntarily converted Liberty Zone assets as a result of the terrorist attacks. The Gulf Opportunity Zone (GO Zone) was designated to provide relief for areas damaged by Hurricanes Katrina, Rita, and Wilma. The primary tax benefits for these areas included: (1) enhanced tax-exempt bond financing for Gulf Opportunity Zone Bonds issued before 2012; (2) five-year carryback of certain losses resulting from GO Zone damages; (3) increased rehabilitation credit for qualifying expenditures before 2012; (4) special education tax benefits for individuals attending educational institutions in the GO Zone in 2005 and 2006; and (5) certain housing tax benefits for residents of the GO Zone in 2005 and 2006.	• No mention of short-term regional benefits in the Tax Cuts and Jobs Act	• As man made and natural disasters continue to plague the country, it is imperative that federal legislation helps to facilitate the timely economic recovery of these affected regions. • Special tax benefits should be made available to recovering regional economies that subsidize redevelopment costs after specific disasters. • LOCUS encourages the Tax Cuts and Jobs Act to consider short-term regional benefits as an important economic and development tool.