MBA Tax Priorities: MAA Talking Points on Key Issues

Issue: Minimum Book Tax & Mortgage Servicing Rights

Ask: **Maintain** the deferred tax treatment of income related to mortgage servicing rights (MSRs).

Additional Talking Points:

- MSR assets, though not universally understood, play a crucial role in the real estate finance system.
- Tax changes that would increase the cost of servicing a mortgage will drive mortgage rates higher and negatively impact LMI borrowers.
- Without an exemption for MSRs under the minimum book tax proposal, a company with $2 billion in annual income that owns MSR would have to pay 15% tax on day one on their MSR book asset, which at that time has a zero-cost basis.
- While it creates a book and tax match, it will create a mismatch between the timing of the taxes paid and the actual income received by the taxpayer on the MSR.
- If lenders are taxed on the book gain from the creation of an MSR, well before they see the cash income from the servicing asset, servicers will retain less and sell more MSRs, putting downward pressure on MSR values.
- The result would be higher costs for consumers, diminished access to credit, and potentially severe dislocations in the mortgage industry — at a time when the housing sector has been one of the bright spots in the overall economy.

Issue: Section 199A Pass-Through Deduction

Ask: **Oppose** any efforts to reduce or repeal the 20-percent deduction for qualified business income (QBI) under Section 199A.

Additional Talking Points:

- Many mortgage banking companies and community banks frequently are organized as pass-through entities.
- Section 199A provides critical tax relief to these businesses, enabling them to keep more of what they earn to reinvest in their employees and the communities they serve.

- Ensuring the continuation of a workable Section 199A will support small lenders, facilitate the availability of mortgage credit, help create jobs, and help strengthen our economic recovery.

Issue: Increase in Capital Gains Rate

Ask: **Maintain** that capital gains continue to receive tax treatment that is distinct from ordinary income, which serves as a key stimulant to investment in a variety of capital-intensive industries, especially real estate.

Additional Talking points:

- Separate and distinct tax treatment for capital gains is a key stimulant to investment in a variety of capital-intensive industries, especially real estate.

- Any changes to the relative taxation of capital gains could significantly disrupt investment and the multi-trillion-dollar markets they support.

- The current capital gains tax regime encourages taxpayers to engage in short or long-term asset holding, which is beneficial for MSRs.

- Any capital gains tax increase would result in a highly illiquid MSR marketplace, which would mean fewer mortgages for first-time and low-income borrowers, higher costs for consumers, and diminished access to credit.

- Under current law, passing down a family business to the next generation does not impose a capital gains tax burden on the business or its new owners.
    - Rather, the decedent's tax basis in the business is "stepped-up" to fair market value, preventing a large capital gains tax bill on the growth in the business's value.

- If the functional benefit of the step-up in basis were eliminated and transfers subject to the estate tax also become subject to income tax, many businesses would be forced to pay tax on appreciated gains, including simple inflation, from prior generations of family owners—despite not receiving a penny of actual gain-creating a new backdoor death tax on Americans.

- These changes are a significant tax increase that would hit family-owned businesses, farms, and ranches hard, particularly in rural communities.

- Making these changes could force business operators to sell property, lay off employees, or close their doors just to cover these new tax obligations.

Issue: Tax Treatment of Gain on Sale of Home:

Ask: **Maintain** the current law provision, but if the current tax code must change, allow homeowners to continue to exclude a portion of the gains on the sale of a home.

Additional Talking Points:

- Homeownership is a key component of wealth creation for the working and middle-class in the United States, which has historically been supported by an exclusion of housing-related capital gains on the sale of a home.

  - That accumulated wealth allows families to sustain homeownership through various stages of career and family events, and ultimately into retirement.

- Any change in this exclusion would act as a disincentive for many homeowners to move up or move down as life events occur – expanding family, medical issues, job changes, and other life contingencies.

- Changes are likely to unnecessarily damage the undercurrents of economic growth: taxpayers will experience less economic and geographic mobility.
  - This will discourage mobility at a time when we need to encourage mobility to better match skills with jobs.
  - Those who are employed in jobs that are subject to relocation will be less likely to purchase a home.
  - Any change will be hard on members of the military who are frequently asked to move every two-three years.
  - Remove this exclusion and many will likely choose to delay homeownership.

Issue: Housing Access/Affordability Provisions:

Ask: **Support** proposals that reduce down payment barriers for first-time, first-generation, and minority homebuyers, such as the Downpayment Toward Equity Act, and **support** tax credit programs that increase affordable housing supply and benefit individual buyers and the housing market, such as the Neighborhood Home Investment Tax Credit, Middle Income Housing Tax Credit, and expanding the Low-Income Housing Tax Credit program.

Additional Talking Points:

- Congress should ensure ease of access to down payment assistance (DPA) funding for borrowers and efficient program implementation parameters for lenders and DPA providers with uniform eligibility, standards, forms, and requirements.

- The simpler the DPA the better — ease of execution and the ability for consumers to access and understand it will greatly enhance utilization.

  - The *Downpayment Toward Equity Act* takes a big step towards closing the racial homeownership gap with this approach in mind and we support this effort.

- There is a dire shortage of affordable housing in this country and a record low inventory of homes on the market.

- These tax credit programs (such as the proposed Neighborhood Home Investment Tax Credit, a proposed Middle Income Housing Tax Credit, and expanding and improving the Low-Income Housing Tax Credit program) can help support an increase in affordable housing supply, which would benefit individual buyers and the housing market.

- These proposals would benefit low- and middle-income individuals and help enhance existing affordable housing programs and initiatives.