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Provisions Most Detrimental to Home Ownership Aren't in the Final Tax Bill

REAL ESTATE TODAY

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In my Dec. 7th column, I sounded the alarm about certain provisions of the House and Senate tax bills which were particularly detrimental to the real estate market. Well, lobbyists from the National Association of Realtors (NAR) swung into action, and the worst of those provisions are not in the final conference committee bill — even though some of them were in ***both*** the Senate and House versions.

The greatest sigh of relief was heard when the exemption from capital gains on the sale of one's primary residence (up to $500,000) was retained for sellers who have lived in their homes more than two but less than five years prior to selling their home. Both versions of the tax bill had increased the qualifying period to five of the past eight years, negatively impacting nearly 20% of potential sellers. It would have only further exacerbated the current shortage of active listings.

Despite the fact that both the House and Senate versions had that provision, the conference committee, whose job it is to reconcile ***different*** provisions, got rid of this one. We can probably credit the lobbying by NAR, reinforced by over 300,000 emails and phone calls made by NAR members like myself. There is no better example of the way NAR serves not only its members but also the industry as a whole and the general public in the protection of property rights. Those real estate agents who have chosen not to join a brokerage firm like Golden Real Estate, where every agent is a Realtor, should consider that NAR is serving their interests, too. Indeed, those non-Realtors benefit from the dues paid by us Realtors. ***This is another reason you should ask if your agent is a Realtor.***

The mortgage interest tax deduction was saved entirely, unless your mortgage is in excess of $750,000. The prior limit was $1 million. This change won't affect taxpayers in the metro area to the degree it will, say, in Aspen. Mortgage interest is also deductible on second-home mortgages up to the same limit — of particular interest to upper-income taxpayers.

The deductibility of state ***income taxes*** and local ***property taxes*** is another matter. The limit is $10,000 on those taxes ***combined***. (This is one provision that disproportionately impacts the wealthy.) Thus, if you owe $10,000 in income taxes and $5,000 in property taxes (which includes, I believe, the ownership tax on your cars), only $10,000 of that $15,000 will be deductible for tax year 2018, compared to all of it being deductible for 2017. Don't forget that the limit applies to ***all taxes paid during 2018***, so if you make estimated tax payments during 2018, those are added to what you pay with your 2017 state return in April. The combination could easily push you over the $10,000 limit.

For this reason, it may make sense for you to ***pre-pay your state income tax*** (postmarked by Dec. 31st), in ***excess*** of what you'll owe in April. Then on your 2017 return have the excess applied to your 2018 taxes instead of being refunded to you.

Mind you, I am speaking as a layman, not as any kind of tax advisor, based solely on my understanding of what I have read in the coverage of the tax bill and what my tax accountant has told me.

I heard on National Public Radio that, according to the Washington Post, 83% of the tax benefits will go to the top 1%, and only 17% of the tax benefits will go to the rest of us. It's hard to escape the conclusion that the tax cuts for the bottom 99% were merely window dressing — in effect, the price paid for passing a tax bill whose real purpose was to benefit the millionaire and billionaire class of which virtually every Congressman and Senator — and the President — is a member. As an aspiring member of that class myself, I find the process and the final bill offensive. Judging from the unpopularity of the final bill among voters, that ruse is not working as well as it could. ***When, if ever, has a tax cut been disliked by two-thirds of the voters?*** The GOP's hope is that when the new withholding tables take effect in February, voters will forget that they were manipulated in this manner. We'll see!

One way the top 1% will benefit from the new tax bill is from an all-new tax deduction of 20% of "pass-through income" from certain entities, including S corporations and LLCs. I'm told, however, that middle class people can also take advantage of that deduction to save a significant amount on their taxes.

I'm advising my broker associates to create such entities instead of being paid directly by Golden Real Estate. And, because our brokerage is an S Corporation, our tax accountant is telling Rita and me that we can expect to have over $50,000 of next year's income go un-taxed — money that would have been taxable under 2017's tax provisions.

In other news for real estate owners, the 1031 tax deferral program for investment properties was not eliminated.

Again, this is all second-hand information from a layman (me), and it is certainly possible that it is not entirely accurate or may not apply to you. Therefore, I encourage you to consult your own tax advisor to see what specific tax strategies you should consider.

The only action you might want to take ***today***, as mentioned above, is the pre-payment of state income tax, and also property tax, if it is not escrowed and paid by your mortgage lender.

Mortgage Credit Certificate Program Saved

Two other real estate programs killed in the House version of the tax bill but revived by the conference committee are the private activity tax-exempt bonds, including single-family and multifamily Housing Bonds, and the Low Income Housing Tax Credit. The Mortgage Credit Certificate program, administered by the Colorado Housing Finance Authority, depends on the issuance of those bonds.

Federal Tax Credit for EV's Also Saved

In an earlier column I reported that the $7,500 tax credit for purchasing electric vehicles was killed in both the House and Senate versions of the tax bill, but, lo and behold, the conference committee deleted all mention of that tax credit in the final tax bill, meaning that it remains in place. It has been speculated that the big automobile companies like GM, which are just now getting into making electric cars, are probably responsible for preserving the credit. The tax credit applies only to the first 200,000 EVs sold by a manufacturer, so its retention is less significant for Tesla and Nissan, which are already approaching that limit.

Why Do Property Taxes Vary So Much?

A reader recently asked why property taxes vary so much, particularly since the state constitution requires that all property taxes be based on full valuation based on actual sales of comparable properties.

The biggest discrepancy arises from the taxing of ***non-residential*** property at four times the rate of ***residential*** property.

Let's say you buy a vacant lot valued by the assessor at $200,000. Until that lot has a house on it, the ***assessed*** (i.e., taxable) valuation is ***29%*** of $200,000, or $58,000. At 100 mills, (a typical mill levy), the annual tax on that vacant land would be ***$5,800***.

Now let's say you build a house on the lot, increasing the market value by an additional $200,000, for a total of $400,000. Because it's now considered a residential parcel, the assessed valuation is only ***7.2%*** of $400,000, or $28,800. At 100 mills, the annual tax on that ***residential*** parcel would now be only ***$2,880***.

The other big discrepancy is in new subdivisions where the developer creates a "metropolitan tax district" which issues bonds to pay for infrastructure work – sewers, sidewalks, streets, gutters, etc. To pay off those bonds, a mill levy, typically about 50 mills, is assessed on all the parcels in that subdivision. If the usual tax is 100 mills, that's a ***50% increase*** in property taxes compared to homes not in that tax district.

Promoting and Modeling Environmental Responsibility

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