MORTGAGE BANKERS ASSOCIATION

June 13, 2023

The Honorable Jason Smith
Chairman
House Committee on Ways and Means
1139 Longworth House Office Building
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
House Committee on Ways and Means
1129 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Smith and Ranking Member Neal:

On behalf of the Mortgage Bankers Association (MBA)[1], I wish to offer the real estate finance industry's comments on the recently released text of H.R. 3936, H.R. 3937, and H.R. 3938 – Chairman Smith's combined economic growth and tax package – scheduled for markup in the House Ways and Means Committee today.

Our members strongly support the goal of enacting tax provisions designed to spur job creation and economic growth, while maintaining appropriate incentives for the efficient financing of real estate transactions – for both renters and homeowners alike. Beyond our members' concern regarding changes that impact their families and individual business operations, they also remain keenly interested in the potential for consideration of any tax changes specifically designed to address our nation's housing affordability crisis.

<u>H.R. 3936</u>

In building on the *Tax Cuts and Jobs Act of 2017* ("TCJA"), H.R. 3936 would give (within its limitations for adjusted gross income) both owners and renters more "take-home" pay by providing a bonus "guaranteed" deduction for taxable years 2024 and 2025 (adjusted for inflation).

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[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 390,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: www.mba.org.

In 2017, the MBA and its members were especially focused on the positive cumulative impact of the "grossing-up" of the standard deduction for both individual and joint filers – and, in the years that followed, the corresponding diminished utilization of the mortgage interest deduction (MID) and property tax deductibility in individual housing markets around the country.

Consequently, we would urge the Committee to think creatively about the potential for homeownership incentives that are targeted more efficiently to low- to moderate-income residential borrowers – as this bill (and overall package) moves forward.

H.R. 3937

Section 4. Modifications to exclusion for gain from qualified small business stock.

This section modifies the amount of gain a taxpayer is allowed to exclude from the sale of qualified small business stock, depending on the holding period. The provision reduces the applicable holding periods, increases the amount of gain that could be excluded, and extends the application to stock in an S corporation. **MBA supports this section of the bill** as it would encourage investments in the stock of small corporations.

H.R. 3938

TITLE I - Section 102. Extension of allowance for depreciation, amortization, or depletion in determining the limitation on business interest.

This section extends the TCJA method of calculating adjusted gross income for the purpose of applying the limitation on business interest deductibility. **MBA supports this section of the bill.** MBA was pleased that the tax changes in 2017 preserved business interest deductibility for real estate, as that provision has helped the cost of financing for commercial real estate activity remain affordable.

Potential Amendments and Future Considerations

Should amendments be made in order during the markup (or considered in future negotiations), and, as many of our member firms are small businesses and structured as "pass through" entities, **MBA strongly supports permanency for the Section 199(a) 20 percent qualified business income (QBI) deduction** that is scheduled to expire in 2025. Enactment of this bipartisan, bicameral proposal for permanency would add certainty – and maintain continued parity – for millions of Main Street employers, including many residential and commercial/multifamily mortgage lenders, who are organized as S corporations, partnerships, and sole proprietorships.

MBA has long supported the Low-Income Housing Tax Credit (LIHTC) program, given its history since 1986 to incentivize the use of private equity in the development of affordable housing units for low- to moderate-income American families. The bipartisan, bicameral legislation re-introduced this year by Reps. Darrin LaHood and Suzan

DelBene would build upon LIHTC's proven success by: (1) increasing allocation authority by 50 percent (phased in evenly over two years); (2) lowering the so-called "50 percent test" required of LIHTC properties to access 4 percent credits to 25 percent; and, (3) adding basis boosts for rural developments, Tribal communities, and for units dedicated to extremely low-income tenants who earn 30 percent or less than the area median income (in addition to a state-determined boost for bond-financed developments). **MBA encourages the Committee to include this proposal in any evolving tax package.**

MBA also supports the *Neighborhood Homes Investment Act (NHIA)*, a new federal tax credit that parallels the LIHTC program and is designed to increase single-family housing supply. The legislation, a bipartisan, bicameral proposal re-introduced last week by Reps. Mike Kelly and Brian Higgins, would: (1) provide tax credits for the rehabilitation of owner-occupied single-family homes, potentially attracting $100 billion in development activity to underserved rural and urban communities across the country; and, (2) support the development of homes in rural communities struggling with the costs of new construction, as well as the rehabilitation of homes in blighted communities, where vacant homes depress property values and thwart broader revitalization efforts**. MBA encourages the Committee to also include this proposal in any evolving tax package**.

MBA also supports the *Revitalizing Downtowns Act,* a "refurbishment" tax credit to repurpose properties for affordable housing and encourage the distribution of capital to underserved areas and outdated real estate properties. The legislation was re-introduced this year by Rep. Jimmy Gomez and would provide a 20 percent tax credit for qualified property conversion expenditures. The credit is modeled on the historic rehabilitation tax credit and can be used for office buildings that are at least 25 years old at the time of the conversion. Under the bill, a conversion to housing may qualify for the credit if the project provides at least 20 percent affordable housing (i.e., housing dedicated to households whose income does not exceed 80 percent of the Area Median Income (AMI) and offered at a rent affordable to such households) or is subject to an alternative affordable housing arrangement under relevant state or local policies**. MBA encourages the Committee to also include this proposal (or one substantially similar) as part of any evolving tax package.**

MBA also encourages the Committee to continue discussions regarding targeted new housing programs, such as proposals designed to encourage the construction of affordable housing for middle income Americans (so-called "MIHTC" credits).

MBA also supports the proposal to increase the maximum amount of capital gains a homeowner can exclude from the sale of a principal residence. Bipartisan legislation offered by Reps. Mike Kelly and Jimmy Panetta would double the maximum exclusion amounts enacted in 1997, as well as indexing them for future inflation. We believe such a change has the potential to increase the velocity of residential sales transactions over time, particularly given the current housing supply constraints and affordability challenges in so many markets across the country.

Finally, should the Committee decide to consider a package containing certain so-called tax “extenders**,” MBA supports the inclusion of the bipartisan, bicameral proposal to make permanent the mortgage insurance premium tax deduction,** coupled with an increase in the provision’s Adjusted Gross Income phaseout.

<u>Conclusion</u>

We recognize this package of bills is the first step in a much lengthier discussion between the House, Senate, and the administration on tax matters this year (and the remainder of this Congress). We look forward to working with you during these ongoing discussions to ensure that Americans, whether they own or rent, continue to have sustainable access to the housing choices that best meets their needs.

Sincerely,

Bill Killmer
Senior Vice President
Legislative and Political Affairs

cc: All Members, House Committee on Ways and Means